

INDEPENDENT INQUIRY COMMITTEE
INTO
THE UNITED NATIONS OIL-FOR-FOOD PROGRAMME

**MANIPULATION OF THE OIL-FOR-FOOD
PROGRAMME BY THE IRAQI REGIME**

Oil Transactions and Illicit Payments
Humanitarian Goods Transactions and Illicit Payments
The Escrow Bank and the Inspection Companies
Other UN-Related Issues

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REPORT ON PROGRAMME MANIPULATION

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CHAPTER ONE

SUMMARY OF REPORT ON PROGRAMME MANIPULATION

SUMMARY OF REPORT

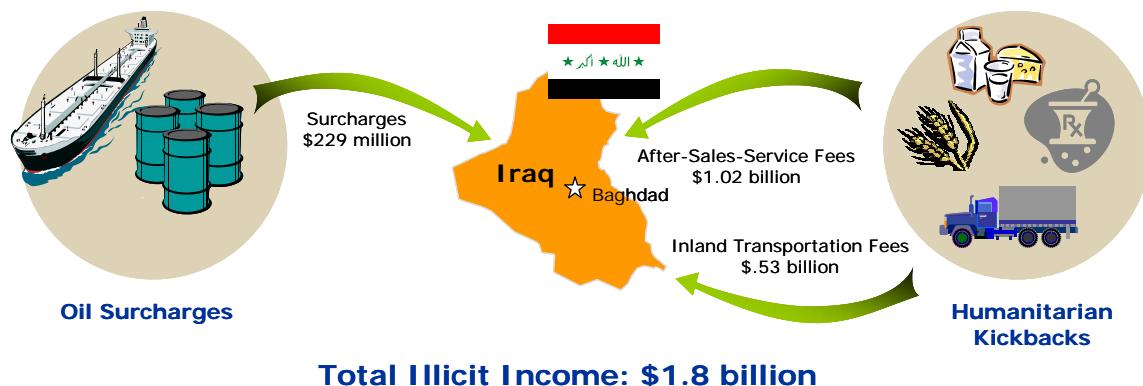
Today, the Independent Inquiry Committee (“the Committee”) issues its fifth and final substantive report concerning the United Nations Oil-for-Food Programme (“the Programme”). This Report illustrates the manner in which Iraq manipulated the Programme to dispense contracts on the basis of political preference and to derive illicit payments from companies that obtained oil and humanitarian goods contracts. Today’s Report complements the Committee’s recent report addressing the adequacy of the Programme’s management by the United Nations.

Under the Programme, the Government of Iraq sold \$64.2 billion of oil to 248 companies. In turn, 3,614 companies sold \$34.5 billion of humanitarian goods to Iraq. Beyond the narrative set forth in this volume, the Committee releases today a set of eight comprehensive tables identifying contractors under the Programme and other actors of significance to Programme transactions (such as non-contractual beneficiaries of Iraqi oil allocations and parties that financed oil transactions). These tables can be accessed at the Committee’s website: <http://www.iic-offp.org>.

Several of the tables identify specific illicit payments made in connection with oil and humanitarian contracts under the Programme. Oil surcharges were paid in connection with the contracts of 139 companies, and humanitarian kickbacks were paid in connection with the contracts of 2,253 companies. The tables identify whether and, if known, how much was paid to the Government of Iraq with respect to particular Programme contracts. The principal basis for this illicit payment data is information received from various ministries of the Government of Iraq, as well as data retrieved from numerous banking institutions and, in some cases, from the company contractors themselves.

A preface to the tables explains the basis for the Committee’s calculations. The Committee emphasizes that the identification of a particular company’s contract as having been the subject of an illicit payment does not necessarily mean that such company—as opposed to an agent or secondary purchaser with an interest in the transaction—made, authorized, or knew about an illicit payment.

Chart A – Illicit Income Received by Iraq under the Programme



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SUMMARY OF REPORT ON PROGRAMME MANIPULATION

Today's report includes the following chapters that are summarized below:

- Oil Transactions and Illicit Payments
- Humanitarian Goods Transactions and Illicit Payments
- The Escrow Bank and Conflicting Interests
- Oil and Goods Inspection Companies
- Conduct of Two Humanitarian Coordinators
- Financial Review of the Former Secretary-General

Chapter Two: Oil Transactions and Illicit Payments

Following six years of international economic sanctions, Iraq resumed its export of crude oil in December 1996 under the Oil-for-Food Programme. Under the rules of the Programme, Iraq was free to sell its oil so long as it was sold at what the United Nations decided was a fair market price and the proceeds of each sale were deposited to a UN-controlled escrow account to be used only for humanitarian and other purposes allowed by the Security Council.

It was a basic assumption of the Programme that Iraq—not the United Nations—would choose its oil buyers. Yet the decision to allow Iraq to choose its buyers empowered Iraq with economic and political leverage to advance its broader interest in overturning the sanctions regime. Iraq selected oil recipients in order to influence foreign policy and international public opinion in its favor. Several years into the Programme, Iraq realized that it could generate illicit income outside of the United Nations' oversight by requiring its oil buyers to pay “surcharges” of generally between ten to thirty cents per barrel of oil. As described more fully below, the surcharge policy started in the autumn of 2000 and lasted through the autumn of 2002. Payments flowed mostly to Iraqi-controlled bank accounts in Jordan and Lebanon, as well as by cash deposit to Iraqi embassies in Moscow and elsewhere. The Iraqi regime ultimately derived \$228.8 million of illicit income from the payment of surcharges in connection with oil contracts under the Programme.

At the outset of the Programme, Iraq preferred to sell its oil to companies and individuals from countries that were perceived as “friendly” to Iraq, and, in particular, if they were permanent members of the Security Council in a position potentially to ease the restrictions of sanctions. Russian companies received almost one-third of oil sales under the Programme. Through its Ministry of Fuel and Energy, Russia coordinated with Iraq on the allocation of crude oil to Russian companies. French companies were the second largest purchaser of oil under the Programme.

Correlatively, the Government of Iraq denied or reduced allocations of oil for companies from countries in disfavor. At the beginning of the Programme, Iraqi Vice President Taha Yassin Ramadan and Oil Minister Amer Rashid convinced Saddam Hussein to give allocations to United

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States companies in an effort to persuade the United States government to soften its attitude toward Iraq. According to Mr. Ramadan, when there was no perceived change, the oil allocated to United States companies was given to Russian companies. Iraq's explicit policy of favoring companies from certain countries did not prevent companies from disfavored countries from obtaining Iraqi crude oil. A substantial volume of oil under contract with Russian companies was purchased and financed by companies based in the United States and other countries.

Iraq dispensed oil allocations to and on behalf of a wide array of individuals and groups whom it considered influential in their respective countries and who espoused pro-Iraq views or organized anti-sanctions activities. Many instances of these allocation decisions are discussed throughout Chapter 2 of this Report.

Iraq's political beneficiaries often used little-known intermediary companies to enter into oil contracts for oil allocated to them, and then the oil was sold to an established oil company or trader. Oil companies and traders paid the intermediary company a premium above the United Nations official selling price. The premium was used by the intermediary in turn to pay the beneficiary or another person or entity who was designated to receive those funds.

These layers of individuals and companies between the allocation and end-use of Iraq's crude oil resulted in transactions where the United Nations could not determine from the face of the contract who actually was benefiting from or controlled the purchase of oil. This lack of transparency took on added significance in the autumn of 2000 when Iraq initiated its policy of collecting illicit surcharges on every barrel of oil sold under the Programme.

During the two years that the illicit surcharge scheme persisted, Iraq's State Oil Marketing Organization ("SOMO") assessed surcharges of between ten and thirty cents per barrel. Every contracting customer, if not each beneficiary, was advised of the requirement. Surcharges were levied on each barrel lifted, that is, loaded by a tanker at the port.

Iraq's attempt to impose a fifty-cent surcharge rate at the end of 2000 sparked a crisis in the market for Iraqi crude oil as the United Nations oil overseers warned traders and companies that such payments were illegal. After many of Iraq's regular customers balked at buying Iraqi oil, a group of four oil traders took a much greater role in the market during Phase IX of the Programme from December 2000 to July 2001. These four companies were Bayoil Supply & Trading Limited ("Bayoil"), the Taurus Group ("Taurus"), Glencore International AG ("Glencore"), and the Vitol Group ("Vitol").

All four had had limited access to direct contracts under the Programme, and had used intermediaries to maintain their access to Iraqi crude. In Phase IX, these companies purchased crude oil through intermediary entities: Bayoil mainly through Italtech SRL, an Italian-based company; Taurus mainly through Fenar Petroleum Ltd. ("Fenar") and Alcon Petroleum Ltd. ("Alcon"), Liechtenstein-based companies; Glencore through its own Swiss-based company, and Petrogaz Distribution S.A.; and Vitol mainly through Mastek Sdn. Bhd., a Malaysian-based company, among others.

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Two more companies—Trafigura Beheer BV and Ibex Energy/Multi-Prestation SARL—devised a plan in 2001 to smuggle oil by “topping off” tankers with additional oil not authorized for sale under the Programme. This plan relied on bribing a United Nations oil inspector to look the other way, but happened only twice because of an alert issued to authorities by the captain of the oil tanker involved.

Companies often disguised surcharge payments by funneling them through offshore bank accounts or labeling them as legitimate oil-related expenses. For example, Taurus-controlled entities were advised by one bank official to change their references on payments from “commissions” to “loading fees.”

Oil companies and oil traders began including a standard disclaimer in their contracts to provide that the seller had not paid surcharges. This was done notwithstanding the near-universal market recognition that Iraqi oil could not be purchased without payment of a surcharge. Yet the inclusion of contractual disclaimers did not appear to dampen the incidence of surcharge payments; and, in one instance, an agent for Bayoil admitted to fabricating an after-the-fact disclaimer to help disguise the payment of surcharges.

Labels and disclaimers aside, oil companies and traders were saddled with higher premiums over the official selling price to account for the payment of the illicit surcharge at some level in the contractual chain. When contacted by the Committee, companies often attributed the premium they paid to ordinary market forces and not a deliberate attempt to pay surcharges through another party. However, most participants involved in the Iraqi crude oil market admitted awareness of Iraq’s surcharge demands. Some participants have candidly conceded arranging with oil companies to use a portion of the premium payments for the payment of surcharges.

By the autumn of 2002, the Government of Iraq decided to discontinue its surcharge policy because of the decrease in demand due to the continued imposition of “retroactive pricing” by members of the 661 Committee. By that time, of course, the Government of Iraq had effectively succeeded in using the sale of oil under the Programme as a tool of foreign policy and a sizeable source of illicit revenue.

Chapter Three: Humanitarian Goods Transactions and Illicit Payments

Iraq’s largest source of illicit income from the Programme came from “kickbacks” paid by companies that it selected to receive contracts for humanitarian goods under the Programme. These payments to the Iraqi regime were disguised by various subterfuges and were not reported to the United Nations by Iraq or the participating contractors. As set forth in the Committee’s recent Programme Management Report, available evidence indicates that Iraq derived more than \$1.5 billion in income from these kickbacks.

As with its selection of oil purchasers, political considerations influenced Iraq’s selection of humanitarian vendors. For the first several years of the Programme’s operation, however, Iraq did not have in place a formal kickback policy. The kickback policy emerged only over time as the Programme extended for a longer period and involved larger amounts than anticipated. The policy began in mid-1999 from Iraq’s effort to recoup purported costs it incurred to transport

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goods to inland destinations after their arrival by sea at the Persian Gulf port of Umm Qasr. Rather than seeking approval from the United Nations for compensation of such costs from the Programme's escrow account, Iraq simply required humanitarian contractors to make such payments directly to Iraqi-controlled bank accounts or to front companies outside Iraq that, in turn, forwarded the payments to the Government of Iraq. Not only were these side payments not authorized under the Programme, but it was an easy matter for Iraq to impose "inland transportation" fees that far exceeded its actual transportation costs.

By mid-2000, Iraq instituted yet a broader policy to impose generally a ten percent kickback requirement on all humanitarian contractors—including contractors shipping goods by land as well as contractors shipping to Umm Qasr. This broader policy was in addition to the requirement for contractors to pay inland transport fees. Iraq dubbed its more general kickback requirement as an "after-sales-service" fee. After-sales-service provisions often were incorporated into contracts as a basis to inflate prices and permit contractors to recover from the United Nations escrow account amounts they had paid secretly to Iraq in the form of kickbacks. Contractors ordinarily made these payments before their goods were permitted to enter Iraq. For ease of reference, this form of kickback is referred throughout as an after-sales-service fee, although Iraq often collected a ten percent fee without labeling it an "after-sales-service" fee or without inserting an after-sales-service provision in the applicable contract.

Many companies freely went along with Iraq's demands. Others made payments to third parties or agents while disregarding the likely purpose of these payments or perhaps unwittingly. Kickbacks were paid in connection with the contracts of more than 2,200 companies in the form of inland transportation fees, after-sales-service fees, or both.

This Report provides case studies of twenty-three companies (or related company groups) for which kickbacks were paid in connection with one or more of their contracts for humanitarian goods under the Programme. These companies fall roughly into four groups: (1) *Iraqi front companies* (i.e., companies that were controlled covertly or owned in part by the Government of Iraq); (2) *major foodstuff providers* that ranked at the top of the list in terms of the total value of contracts obtained under the Programme; (3) *major trading companies* that specialized in obtaining contracts from Iraq to sell goods that they acquired from other companies and countries; and (4) *major industrial and manufacturing companies*—mostly from Europe and North America—that did not necessarily have large numbers of contracts, but that apparently paid or caused a third party to pay kickbacks and did so despite organizational resources that might be expected to safeguard against such practices.

The sample of companies that are discussed in this Report accounted for \$7.86 billion of humanitarian sales—approximately twenty-three percent of Iraq's purchases under the Programme. The Committee estimates that more than \$500 million in illicit payments were made in connection with these companies' contracts, accounting for approximately one-third of all illicit payments made to the Iraqi regime in connection with Iraq's humanitarian purchases under the Programme. Moreover, several of these companies also bought oil from Iraq and paid illegal surcharges.

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The larger number of companies that were contacted by the Committee and confronted with the evidence of illicit payments generally offered one of four justifications. First, some suppliers asserted that they had been unaware of any side payments to the Iraqi regime and that any such payments were made by employees or agents based in Iraq that acted without authorization. Second, some suppliers stated their belief that inland transportation and after-sales-service fees involved legitimate expenses that could be paid to the Iraqi regime. Third, some suppliers denied paying kickbacks and questioned the authenticity or reliability of the Committee's evidence. Fourth, some suppliers acknowledged paying kickbacks, noting that they were a cost for all companies of doing business with Iraq under the Programme.

Chapter Four: The Escrow Bank and Conflicting Interests

In 1996, the Secretary-General selected Banque Nationale de Paris S.A. ("BNP"), a French banking corporation, to serve as the escrow bank under the Programme. Under its banking services agreement with the United Nations, the provisions of Resolution 986 and the Iraq-UN MOU were "essential and fundamental terms and conditions" governing its provision of services. The banking services agreement required BNP to confirm all letters of credit issued by other banks under the Programme. However, the banking services agreement also allowed BNP, including its branch, subsidiary, and affiliate banks, principally in Geneva, Switzerland, to issue letters of credit on behalf of private party oil purchasers. The agreement did not otherwise restrict BNP's relations with companies that furnished financial backing for letters of credit issued from BNP and its affiliates under the Programme. Ultimately, BNP or one of its affiliates issued approximately three-fourths of the letters of credit that financed oil purchase transactions under the Programme.

Once it chose to issue letters of credits for oil transactions, BNP's loyalties were divided between serving the interests of the United Nations to promote the transparency of transactions conducted under the Programme and serving the interests of its private clients to maintain the confidentiality of their business and financing arrangements. These competing interests clashed with the advent of Iraq's oil surcharge scheme and the scheme's reliance on financing arrangements to conceal the true nature of oil purchase transactions.

The United Nations and its overseers were aware in a general sense of the prevalence of shell company purchase arrangements. BNP, however, had unique access to such information through its privity with parties engaged in such transactions. In some instances, BNP's private party financing relationships accompanied the assignments of rights and resale of oil among corporate entities. In these transactions, a typically larger, more significantly capitalized corporate entity sought to finance letters of credit in the name of a shell company. Often, these third party financing arrangements were presented to BNP's Geneva component, and the financing entity specifically requested that the Bank not disclose its participation in the transaction. Therefore, such transactions were not called to the attention of the United Nations, conflicting with provisions of the banking services agreement and SOMO's approved standard sales contract that prohibited unapproved assignments of rights and the resale of oil.

In the midst of well-publicized allegations of payments of illicit surcharges, BNP was inhibited from taking steps to review its practices to prevent such payments. Customer accounts were used

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by some of its more thinly capitalized customers, often entities with little history with the Bank, to make more than \$10 million in illegal surcharge payments. Such entities included Italtech, Alcon, Fenar, and Glasford Shipping Limited, as well as one customer (Augusto Giangrandi of Italtech) who was known by the bank to be suspected of money laundering activity. Although there is no evidence that BNP knew of or approved of the use of its own facilities to pay illegal surcharges, BNP was uniquely positioned to probe such payments—and failed to do so.

Chapter Five: The Oil and Goods Inspection Companies

The Programme’s integrity rested in part on the performance of its inspection contractors that monitored the export of Iraqi oil and the import of humanitarian goods. The United Nations selected a Dutch company, Saybolt Eastern Hemisphere BV (“Saybolt”), to conduct inspections of oil exports; and it selected a British firm, Lloyd’s Register Inspection Ltd. (“Lloyd’s”), to conduct inspections of humanitarian goods imports. Lloyd’s was later replaced by a Swiss company, Cotecna Inspection S.A. (“Cotecna”). Because of time and resource limitations, the Committee has not undertaken a full-scale performance review of all aspects of these contractors’ activities; it has focused on allegations of significant wrongdoing and corruption.

With respect to Saybolt, the available evidence does not establish that it systematically failed to perform in accord with its contractual obligations. This conclusion is based on a review of records and interviews of non-Saybolt employees, but is qualified by the fact that Saybolt declined to cooperate with the Committee’s requests to interview its inspectors. More significantly, Saybolt’s performance was marred by two instances of improper conduct by Saybolt employees. The first is the acceptance of a bribe by a Saybolt employee to allow the “topping off” of an oil tanker at Mina al-Bakr without the approval of the United Nations. The second instance involved a decision by Saybolt’s managing director, Peter Boks, to recommend to Iraq’s Minister of Oil an allocation of oil for a Dutch company that was also a client of Saybolt. SOMO records reflect several allocations of oil to this company and reflect the name of Saybolt and Mr. Boks on its allocation lists. The Committee does not have evidence that Mr. Boks financially benefited from his recommendation of Petroplus or that, in return for the Ministry of Oil’s allocations to Petroplus, he compromised performance of his duties under Saybolt’s contract with the United Nations.

As to Lloyd’s and Cotecna, the Committee’s review has not disclosed systematic non-performance of their contractual obligations. Two investigative matters remain open with respect to Cotecna, and these will be referred for further review by the United Nations Office of Internal Oversight Services, Investigations Division. This includes information concerning payments made by Cotecna for the benefit of its officer Michael Wilson and an official of a United Nations specialized agency, the World Intellectual Property Organization. These payments occurred shortly after Cotecna was awarded its United Nations inspection contract. The Committee draws no conclusions concerning these allegations.

Chapter Six: Conduct of Two Humanitarian Coordinators

The Programme’s field activities were supervised by a Humanitarian Coordinator, who was the most senior-level United Nations official stationed in Iraq and reported directly to the Executive

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SUMMARY OF REPORT ON PROGRAMME MANIPULATION

Director of the Office of the Iraq Programme. The Committee has investigated allegations concerning the conduct of two former Humanitarian Coordinators—Hans von Sponeck and Tun Myat—with respect to their dealings with certain contractors under the Programme. The Committee does *not* find that the interactions of Mr. von Sponeck and Mr. Myat with Programme contractors violated existing United Nations Staff Regulations and Rules. However, their activities illustrate two distinct ethical dilemmas confronted by United Nations staff members—one involving post-employment business activities (Mr. von Sponeck) and another involving responses to requests for official assistance from persons of their home countries (Mr. Myat). These activities suggest the need for further personnel policy reforms to redress the appearance and possibility of conflicts of interest. In addition, Mr. Myat failed for five years to file required financial disclosure forms. This omission—unrealized and unredressed by the United Nations at the time—underscores the need for rigorous monitoring and enforcement of the Organization’s existing ethical standards for senior-level officials.

Chapter Seven: Financial Review of the Former Secretary-General

Prior reports of the Committee have detailed corruption schemes involving persons that associated with former Secretary-General Boutros-Ghali. This includes not only the Iraqi scheme in 1996 to bribe Dr. Boutros-Ghali through Samir Vincent, but also Benon Sevan’s corrupt receipt of oil allocations from 1998 to 2001, which involved diversion to Mr. Sevan of oil sales proceeds through a Swiss bank account controlled by Fred Nadler (Dr. Boutros-Ghali’s brother-in-law). The Committee does not have evidence that Dr. Boutros-Ghali took part in or was aware of any of this corrupt activity. Moreover, as detailed below, a review of the known bank accounts controlled by and/or associated with Dr. Boutros-Ghali and his spouse, Leia Boutros-Ghali, has not revealed evidence that these accounts were used to receive or transfer any illicit funds provided by the former Iraqi regime. Although there were financial transactions with Fred Nadler and an account of Fred Nadler that received proceeds from Iraqi oil sales, no evidence has been found that Dr. Boutros-Ghali knowingly received proceeds of oil sales under the Programme or was in any way involved with these corrupt activities.

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I. INTRODUCTION AND SUMMARY

On December 10, 1996, after six years of facing export prohibitions as a result of sanctions, Iraq was authorized to sell its crude oil under the Oil-for-Food Programme. Iraq sold approximately \$64.2 billion of Iraqi crude oil during the Programme. Summary listings of oil buyers are provided on the Committee's website, www.iic-offp.org, in Table 1 (entitled "Oil Allocations and Sales Summary by Contracting Company") and Table 2 (entitled "Oil Sales Summary by Contracting Company and Contract").¹

Under Resolution 986 and the Iraq-UN MOU, Iraq could choose to whom it sold oil. It exercised its discretion to award oil contracts to its significant advantage. Two overriding factors determined Iraq's choice of oil recipients. The first factor was influencing foreign policy and international public opinion in favor of ending sanctions against Iraq. Later in the Programme, Iraq sought to generate illicit income outside of the United Nation's oversight. One source of illicit income was from so-called "surcharges" paid on crude oil contracts under the Programme. The Iraqi regime demanded that payments be made to Iraqi-controlled bank accounts and Iraqi embassies abroad. Iraq earned \$228.8 million of income from these surcharges. Table 3 (entitled "Surcharge Payments Associated with a Contracting Company") provides a listing by company of the vast majority of contracts that had been assessed surcharges.²

In allocating its crude oil, Iraq instituted a preference policy in favor of companies and individuals from countries that, as Tariq Aziz described, were perceived as "friendly" to Iraq, particularly those that were members of the Security Council. Russian companies purchased almost one-third of the oil sold under the Programme. The Russian Ministry of Fuel and Energy and the Iraqi Ministry of Oil coordinated the allocation of oil to Russian companies. French companies were the second largest purchasers of oil under the Programme overall. The Iraqi oil trade with French companies dropped significantly after Iraq imposed surcharges.³

¹ Throughout this Report, Table 1 is referenced as "Committee oil summary table," and Table 2 is referenced as "Committee oil company table."

² Throughout this Report, Table 3 is referenced as "Committee oil surcharge table."

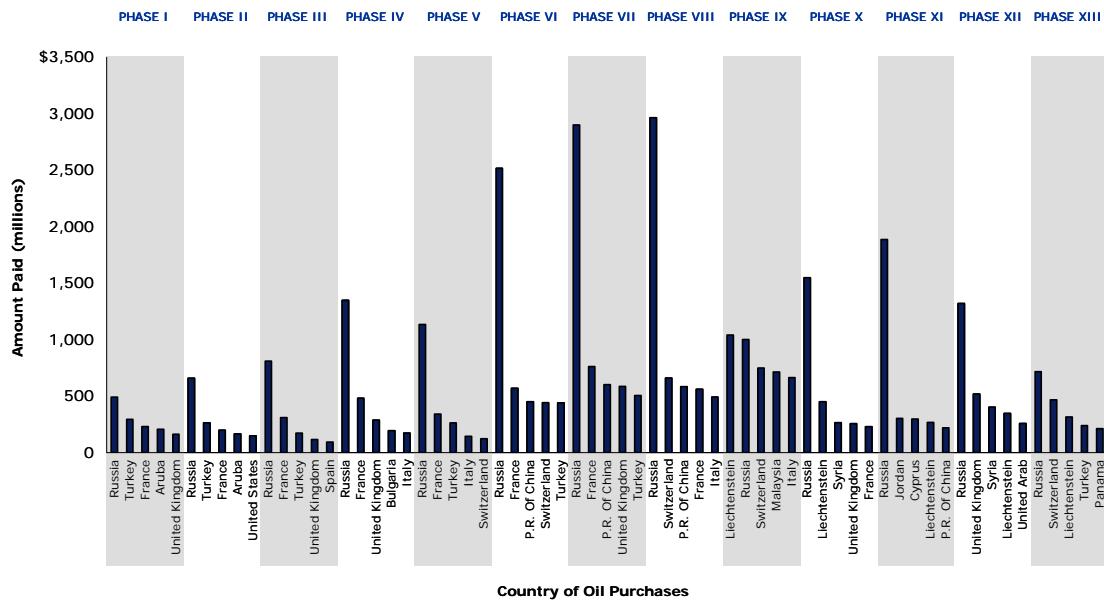
³ "Programme Management Report," vol. II, p. 29.

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Chart A – Top Five Country Oil Purchasers by Programme Phase⁴



If Iraq was dissatisfied with the political positions of a country, it stopped selling oil to that country's companies. Initially, Iraqi Vice President Taha Yassin Ramadan and Minister of Oil Amer Rashid convinced Saddam Hussein to allocate oil to companies based in the United States in an effort to persuade the United States government to soften its attitude toward Iraq.

According to Mr. Ramadan, Iraq shifted the oil to Russian companies when there was no perceived change in United States policies.⁵ Iraq's policies did not prevent companies from disfavored countries from obtaining Iraqi crude oil. A substantial volume of oil under contract with Russian companies was purchased and financed by companies based in the United States and elsewhere. Many of the letters of credit executed under the Programme were financed by non-contracting companies. Table 4 (entitled "Known Underlying Oil Financiers") provides a listing of the underlying financiers of oil contracts that the Committee was able to identify. The

⁴ TaR (Dec. 1996 to Mar. 2003). TaR is an analytical database maintained by the Committee that contains information gathered in the course of its investigation, including data from the United Nations Treasury database of payments, the Office of the Iraq Programme ("OIP") database of contracts, correspondence and data from Iraqi files, data from third-party sources such as Dun & Bradstreet and Platts, correspondence and records from certain companies involved in the Programme, and records from selected banks. Under the Programme, it sometimes occurred that companies did not lift the oil in the phase that the contract had been executed. The data in this chart reflects the cost of contracts executed in each phase—regardless of the phase in which the oil effectively was lifted. This explains the difference in rank of certain countries indicated in previous Committee reports, where the analysis has been made based on the quantity of oil lifted by phase.

⁵ Taha Yassin Ramadan interview (Aug. 18, 2005); Committee oil beneficiary and company tables.

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names of these companies typically did not appear on SOMO contracts or United Nations records.⁶

Iraq awarded “special” allocations not only to companies, but also to individuals and their representatives. These individuals were influential in their respective countries, espoused pro-Iraq views, or organized anti-sanctions activities. They included present and former government officials, politicians and persons closely associated with these figures, businessmen, and activists involved in anti-sanctions activities. Iraq also allocated oil to political parties and organizations. Instances of oil allocations to these individuals and parties are discussed in this Chapter. Table 5 (entitled “Summary of Oil Sales by Non-Contractual Beneficiary”) provides a list of oil allocations to “non-contractual beneficiaries” (i.e., individuals and entities other than the named contracting party).⁷

Iraqi officials awarded these “special” allocations without regard to the beneficiary’s familiarity with the oil trading market. Some beneficiaries sought the assistance of intermediaries to arrange for oil sales. Others used front companies to enter into United Nations contracts and then sold the oil to established oil companies or traders who bought the oil for a premium over the United Nations official selling price for the oil. The premium covered the commissions owed to intermediaries and beneficiaries.

These layers of individuals and companies between the allocating and lifting of the crude oil resulted in transactions in which the United Nations could not determine from the face of the contract who was benefiting from or purchasing the oil. This lack of transparency took on added significance when Iraq instituted a policy to collect an illicit surcharge on every barrel of oil sold under the Programme.

Beginning in the fall of 2000, in the middle of Phase VIII, Iraq ordered its Ministry of Oil to collect surcharges. The surcharge phases ultimately extended until the fall of 2002, in the middle of Phase XII. Iraq initially set surcharges at \$0.10 per barrel. At the end of 2000, Iraq tried to impose a surcharge of \$0.50 per barrel, but soon reduced it to \$0.25 to \$0.30, and ultimately lowered it to \$0.15 before the scheme ended. The Iraqi State Oil Marketing Organization (“SOMO”) ran a highly organized system to collect oil surcharges and maintained an extensive database to keep track of the payments. Every contracting customer, if not each beneficiary, was advised of the requirement. Surcharges were levied on each barrel lifted, that is, loaded by a tanker at the port. Surcharge payments were generally due within thirty days of the oil lift.

Unless a higher official had given a company dispensation, SOMO prohibited a company from loading additional oil when surcharges were overdue. Surcharges owed on a contract were not always paid in full in one payment. Partial surcharge payments often were made in an effort to ensure that SOMO did not stop or delay future oil lifts. For this reason, payments to Iraqi-

⁶ Throughout this Report, Table 4 is referenced as “Committee oil financier table.”

⁷ Throughout this Report, Table 5 is referenced as “Committee oil beneficiary table.”

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controlled accounts may not correspond to surcharges assessed on an entire contract or may be applied to surcharges owed on a number of lifts under more than one contract.

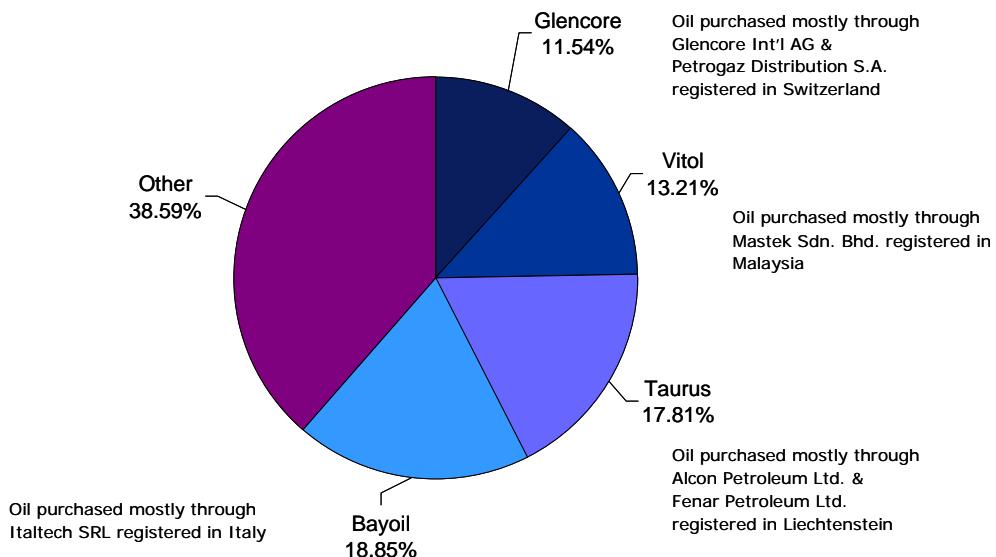
Iraq's unrealistic expectation that the market would bear a \$0.50 surcharge in Phase IX caused an oil exporting crisis in Iraq. At that time, the oil overseers also warned traders and companies that it was illegal to pay surcharges or otherwise make payments to Iraq outside the United Nations escrow account. Customers dropped out of the market. The Minister of Oil made personal efforts to persuade oil traders and companies to help Iraq by promising them substantial oil contracts.

Ultimately, four traders and companies financed and lifted over 60 percent of the Iraqi crude oil during the exporting crisis in Phase IX. The top financiers of Iraqi crude oil in that phase were Bayoil Supply & Trading Limited (“Bayoil”), the Taurus Group (“Taurus”), Glencore International AG (“Glencore”), and the Vitol Group (“Vitol”). None of these traders had been given the significant direct access to oil contracts that they sought under the Programme. In Phase IX, these companies purchased substantial amounts of crude oil through intermediary entities: Bayoil mainly through Italtech SAR, an Italian-based company; Taurus mainly through Fenar Petroleum Ltd. and Alcon Petroleum Ltd, Liechtenstein-based companies; Glencore through its own Swiss-based company, and Petrogaz Distribution S.A.; and Vitol mainly through Mastek Sdn Bhd, a Malaysian-based company, among others.

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Chart B – Top Financiers of Oil Purchases in Phase IX⁸

Iraq's decision to value illicit income over political influence in Phase IX altered the typical distribution of Iraqi oil to companies which had been principally based on nationality in prior phases. The four traders and the companies they used to purchase oil were not from the countries most favored by Iraq. As illustrated above in Chart A, Liechtenstein, Italy, Malaysia, and Switzerland replaced countries like France and China.

Surcharges were assessed and paid on contracts financed by Bayoil, Taurus, Glencore, and Vitol in the surcharge phases. All four traders had some of the surcharges paid to Iraqi-controlled bank accounts through other entities and agents. Taurus and Vitol also paid certain surcharges directly to Iraqi-controlled bank accounts. All of these oil traders and companies deny knowingly making surcharge payments to the Government of Iraq.

Certain practices developed to cope with the surcharges. Companies used a disclaimer in their contracts providing that the party to the contract was not involved in paying surcharges. The inclusion of the disclaimer did not appear to prevent the payment of surcharges. In one instance, an agent for Bayoil admitted to including the disclaimer in fabricated, after-the-fact agreements created to disguise the payment of surcharges. Companies sometimes attempted to disguise

⁸ Committee oil financier table. Some companies lifted the oil contracted under previous phases in Phase IX. This Chart reflects only contracts executed in Phase IX, as opposed to the quantity of oil lifted in Phase IX, as mentioned in other parts of the Report.

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surcharge payments by labeling them as “loading fees” or “port fees.” In one instance, a bank official advised Taurus to switch the term “commissions” on certain money transfers to “loading fees.” Payments labeled as “loading fees” and discussed in this section were applied uniformly to the payment of surcharges on oil contracts.

Oil companies paid high premiums to intermediaries and beneficiaries on Iraqi oil purchases to cover surcharges. When interviewed, companies claimed that market forces, not any deliberate attempt to pay surcharges through another party, caused the increase in premiums. Yet, most of the participants in Iraqi oil sales have admitted that everyone was aware that Iraq demanded surcharges on oil exports. Some participants have admitted to agreeing with oil companies and traders that the premium covered their commission, as well as the surcharges owed on the contract. As described in this Chapter, the premium split was particularly apparent when Glencore paid the commission directly to the contracting company and the surcharge to another entity.

By the fall of 2002, the Government of Iraq decided to discontinue its surcharge policy because of the decrease in demand due to the continued imposition of “retroactive pricing” by members of the 661 Committee. By then, of course, the Government of Iraq effectively had succeeded in using the sale of oil under the Programme as a tool of foreign policy and a sizeable source of illicit revenue.

Part II of this Chapter reviews the administration of Iraqi oil exports under the Programme. Parts III and IV describe the preferential treatment of companies and individuals based in Russia and France, respectively. Part V examines other political beneficiaries of oil allocations. Part VI examines the major oil traders and companies that emerged as significant purchasers of crude oil when surcharges initially were imposed by the Iraqi regime.

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II. IMPLEMENTATION OF THE OIL-FOR-FOOD PROGRAMME

Previous Committee reports have discussed the background to the introduction of surcharges and the effect of the surcharges on the Iraqi oil market, together with the efficacy of measures taken by the United Nations to combat them.⁹

A. THE INITIAL PHASES

Although the sale of crude oil was to be monitored and approved by the 661 Committee, the Iraqi Ministry of Oil and its marketing arm, SOMO, were given the discretion to choose its customers and the amount of oil to be sold to each one. As an initial matter, SOMO contracted with oil companies without regard to the nationality of the owner or the location of their corporate base. According to an Iraqi official, when the Programme began, the Ministry of Oil was concerned about attracting customers given the risk associated with purchasing oil from a deteriorated Iraqi oil industry and under an untested United Nations program. During the first phase, Amer Rashid, then serving as Iraqi Minister of Oil, conveyed to SOMO employees that he was anxious to sell oil to any company prepared to arrange for a vessel to load it. An American, Oscar Wyatt, was the first person who agreed to purchase oil. Mr. Wyatt arranged for a vessel to load the oil through his United States-based company, Coastal Petroleum Company. Other established oil companies followed suit, including: A.S. Tupras (Turkey), Alfa Eco (Russia), BP (United Kingdom), Chevron Products Company (United States), Lukoil Petroleum Ltd. (Russia), Machinoimport (Russia), Repsol Petroleo S.A. (Spain), Shell (United Kingdom/Netherlands), SOCAP International (France), Total International Limited (France), and Zarubezhneft (Russia).¹⁰

B. THE POLITICIZATION OF OIL ALLOCATIONS

As early as Phase II of the Programme, the Government of Iraq began directing oil allocations to particular countries and individuals. Iraqi officials took the position that it was within their discretion to sell oil to countries “friendly to Iraq” and individuals perceived as being able to

⁹ “Programme Management Report,” vol. II, pp. 32-34, 121-150.

¹⁰ Ibid., vol. I, pp. 18, 27-28 (discussing oil sales under the Programme and the respective role of SOMO, the 661 Committee, and the oil overseers); SOMO allocation table for Phase II (translated from Arabic); Iraq officials interviews. The SOMO Crude Oil Division was responsible for selling oil and executing contracts with purchasers. During the Programme, the division was divided into the Crude Oil Departments I, II, and III to deal with companies from different regions. SOMO sales contract no. M/01/01 (Dec. 8, 1996) (contracting with Coastal Petroleum); Committee oil company table. Each phase lasted approximately six months, and each year—starting in 1997—held two phases of the Programme. Thus Phase I started at approximately the end of 1996 and continued until mid-1997, and Phase II started in mid-1997 and continued until approximately the end of 1997. “Programme Management Report,” vol. I, pp. 18, 27-28.

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influence public opinion in favor of Iraq. The Government of Iraq also believed it had the discretion to cease oil sales to companies based in countries perceived as less friendly to Iraq.¹¹

Subsequent oil allocations fell into two categories, which appear in SOMO allocation tables beginning in Phase II. “Regular” oil allocations were given to established oil companies, many of which regularly had purchased Iraqi oil prior to the imposition of sanctions and had proved to be reliable purchasers. “Special” allocations were given to individuals, organizations, and political parties considered to be “friends” of Iraq or perceived as holding political views supportive of Iraq. Sometimes, to cover all bases, oil allocations were granted to members of the opposition parties as well as the ruling political party.¹²

As its interest in directing oil allocations grew, the Government of Iraq developed an established procedure for distributing oil exports during each phase of the Programme. Beginning in Phase IV, the allocation of oil became highly politicized. A “Command Council,” headed by Vice President Taha Yassin Ramadan, and including Deputy Prime Minister Tariq Aziz, the Minister of Oil, and Minister of Finance Hikmat Al-Azzawi, was created to determine the distribution of oil contracts to companies and individuals of interest. Mr. Ramadan was in charge of allocations to individuals and companies in Arab and Islamic countries as well as in Russia and China; whereas Mr. Aziz handled the French and Italian allocations. Mr. Al-Azzawi was responsible for Belarus and Ukraine. As of Phase IV, Iraqi leaders decided to deny American, British, and Japanese companies direct oil allocations because of their opposition to the lifting of the sanctions against Iraq. On the other hand, Iraqi leaders gave preferential treatment to French, Russian and Chinese companies, because these countries were permanent members of the Security Council and strong advocates of lifting the sanctions.¹³

At the beginning of each phase, SOMO officials revised the list of beneficiaries and oil allocations from the preceding phase based on instructions from Iraqi regime leaders. The proposed allocation list was submitted to the Minister of Oil, who, in turn, submitted it to the

¹¹ SOMO oil allocation table for Phase II (June 19, 1997) (translated from Arabic); Iraq officials interviews; Tariq Aziz interview (Mar. 1, 2005).

¹² Committee oil beneficiary table. The SOMO oil allocation table for Phase II comprised three categories: “friendly countries,” “special requests,” and “others.” Only five entities were included under special requests “Dutch Trafigura (France),” “Samir Vincent,” “Addax (French Deputy/Switzerland),” “Italian Costieri,” and “Turkish Delta Petroleum (or Erdem)”. Tariq Aziz interview (Mar. 1, 2005); Iraq official interview; SOMO allocation table for Phase II (June 19, 1997) (translated from Arabic).

¹³ SOMO oil allocation table for Phase IV (June 11, 1998) (translated from Arabic); Iraq officials interviews; Amer Rashid interview (Oct. 9, 2004); Tariq Aziz interview (Mar. 1, 2005); Taha Yassin Ramadan interview (August 17, 2005) (recalling that, as a result of the United States’ failure to change its attitude toward Iraq early in the Programme, allocations to American companies were reduced quickly and then phased out, and allocations to Russian companies correspondingly increased).

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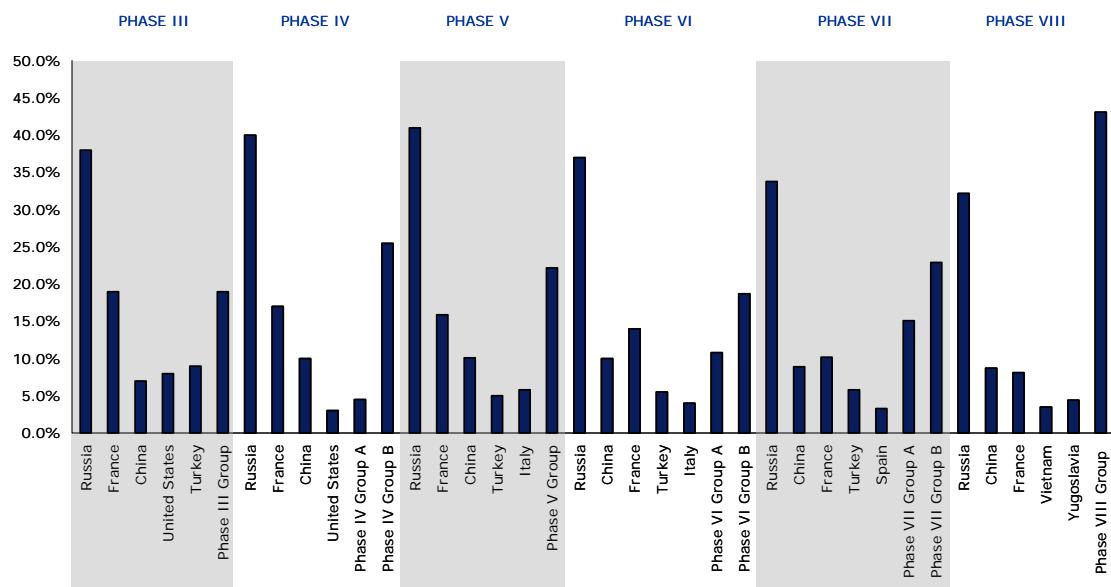
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Command Council, which made adjustments based on political criteria. Final oil allocation lists were approved by Saddam Hussein.¹⁴

According to a former Iraqi official involved in the allocation process, a beneficiary was not required to provide a specific favor to Iraq in exchange for oil. Often, it was sufficient that the beneficiary express or support Iraq or political positions favorable to Iraq. According to Iraqi officials, beneficiaries normally took the initial step of requesting oil from an Iraqi leader. Occasionally, a senior Iraqi official granted an allocation to an individual who had not requested one. When a quantity of oil was allocated to an individual, the beneficiary was notified by the office of the Minister of Oil, Tariq Aziz, or Taha Yassin Ramadan. Sometimes, the beneficiaries contacted SOMO directly to follow up on their allocation. A beneficiary or a named representative was introduced to the Crude Oil Department and then nominated a company to contract with SOMO. The nomination could be made orally or in writing.¹⁵

Chart C – Oil Allocations by Nationality of Beneficiaries for Phases III to VIII¹⁶



¹⁴ Iraq official interview; Amer Rashid interview (Oct. 9, 2004); Tariq Aziz interview (Mar. 1, 2005).

¹⁵ Tariq Aziz interview (Mar. 1, 2005); Amer Rashid interview (Oct. 29, 2004); Iraq officials interviews; Saddam Z. Hassan interview (Mar. 9, 2005); Iraq official interview.

¹⁶ SOMO allocation tables for Phase III through Phase VIII (each translated from Arabic) (listing contractual and non-contractual beneficiaries of oil allocations by country); Committee oil beneficiary table.

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C. IMPOSITION OF SURCHARGES

In the early autumn of 2000, the Government of Iraq ordered that surcharges be imposed on every barrel of oil sold under the Programme. The scheme lasted for over two years from the middle of Phase VIII in late 2000 through the middle of Phase XII in late 2002. A committee formed by Saddam Hussein and composed of Taha Yassin Ramadan, Tariq Aziz, Amer Rashid, Hikmat Al-Azzawi (Minister of Finance), Mohammed Mehdi Saleh (Minister of Trade), and Abd Al-Tawab Abdullah Al-Mullah Al-Hwaish (Minister of Military Industrialization) set the surcharge amount for each phase. The Ministry of Oil, along with SOMO, was directed to implement it. The first step taken by SOMO employees was to inform each beneficiary that a surcharge was imposed on each barrel of oil sold under the Programme and was to be collected directly by the Government of Iraq.¹⁷

The amount of surcharge varied throughout the Programme. When surcharges were first imposed in the middle of Phase VIII, SOMO was directed to collect \$0.10 per barrel. Because the surcharges were being forced on oil purchasers in the middle of a phase, after many of them already had entered into oil contracts, the Ministry of Oil was not as stringent about collecting the surcharges as it would become, beginning in Phase IX in early 2001. In many cases, SOMO required a company or beneficiary to pay an outstanding surcharge imposed during Phase VIII to continue receiving Iraqi crude oil. For contracts in Phase IX, the surcharge initially was increased to \$0.50 per barrel, but then immediately dropped when no customers would pay it. The surcharge was lowered to \$0.30 per barrel for oil bound for North America and \$0.25 for all other destinations. During the course of Phase XI in early 2002, the surcharge decreased to \$0.15 per barrel. Beginning in the autumn of 2001, some 661 Committee members adopted a “retroactive pricing” policy that ultimately contributed to the Government of Iraq’s decision to cancel the imposition of surcharges in the autumn of 2002.¹⁸

D. THE PHASE IX CRISIS

The imposition of mandatory surcharges in Phase IX created a crisis in the Iraqi oil industry. In December 2000, the United Nations warned traders and companies by letter that surcharge payments were illegal. After collecting surcharges in Phase VIII, however, the Government of Iraq was confident that a surcharge scheme was feasible and unrealistically increased the surcharge to \$0.50. Customers refused to pay the higher surcharge, and, even after it was decreased, customers remained unwilling to purchase Iraqi crude oil. Unlike other phases of the Programme, as a result of this drop in demand, the Ministry of Oil and SOMO were unable to

¹⁷ Ministry of Oil record, Shamkhi H. Faraj report to the Minister of Oil (hereinafter “SOMO Summary Report”), pp. 4-5 (Feb. 19, 2004) (summary by SOMO officials of Iraq’s oil allocation and sales practices during the Programme) (translated from Arabic); Iraq officials interviews; Amer Rashid interview (Oct. 9, 2004); Saddam Z. Hassan interview (Mar. 9, 2005).

¹⁸ Amer Rashid interview (Oct. 9, 2004); Iraq officials interviews; “Programme Management Report,” vol. II, pp. 150-54.

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propose an oil allocation list prior to the phase's beginning. Some officials within the ministry and SOMO worried that the Oil Minister's life would be in danger if SOMO could not impose the payment of surcharges. The Ministry of Oil and SOMO scrambled to find customers willing to pay the surcharges—either directly or through other companies.¹⁹

E. THE COLLECTION OF SURCHARGES

The primary responsibility for tracking the surcharges imposed and collected fell on the SOMO Accounting Department. Its employees created invoices for all oil shipments with a corresponding debit note recording an internally assigned serial number, the amount of oil lifted, and the surcharge owed on each shipment. They also maintained an electronic database that kept track of surcharge payments collected. The database reflected the amount of the surcharge paid, how it was paid, the name of the contracting company, and the name of the individual or entity making the payment. Often partial payments, which did not necessarily correspond to any one surcharge assessment, were made on a surcharge balance to keep it current. The Committee has obtained a copy of this database.²⁰

Most surcharges were paid through deposits in designated SOMO bank accounts in Jordan and Lebanon or through cash payments made at Iraqi embassies abroad. With a few exceptions, the two banks used by SOMO to collect the surcharge amounts were Fransabank in Lebanon and Jordan National Bank (Ahli Bank) in Jordan. Upon the instructions of the Economic Affairs Committee, SOMO opened its accounts at Fransabank and at Jordan National Bank under the names of two SOMO employees, the Executive Director of SOMO and the Director of the Financial Department. According to a Jordan National Bank official, when individuals and companies came to the bank to make their payments, they provided the bank agent with a copy of the oil contract signed by SOMO and approved by the United Nations. For the bank, this was an indication that the payments were occurring in conformity with the United Nations regulations.²¹

¹⁹ Oil overseers fax to “Buyers of Iraqi Crude Oil” (Dec. 15, 2000) (informing oil purchasers that “1) The sanctions committee has not approved a surcharge of any kind on Iraqi oil; 2) Payments for purchasing Iraqi crude oil cannot be made to a non-UN account; 3) Therefore, buyers of Iraqi oil shall not pay any kind of surcharge to Iraq”); Iraq officials interviews.

²⁰ Iraq official interview; SOMO commercial invoices (1997-2003); Iraq official interview; Ministry of Oil record, SOMO ledger of surcharge payments (translated from Arabic); Committee oil company table.

²¹ Iraq officials interviews; Ministry of Oil record, SOMO ledger of surcharge payments (translated from Arabic); Committee oil company table; Jordan National Bank record, SOMO bank accounts, account statements and advices (Sept. 9, 2001 to Mar. 10, 2003) (hereinafter “Jordan National Bank statements and advices for SOMO accounts”); Fransabank record, SOMO bank accounts, account statements and advices (Sept. 2, 2000 to Aug. 2, 2002) (hereinafter “Fransabank statements and advices for SOMO accounts”); Saddam Z. Hassan interview (Sept. 29, 2005). The Economic Affairs Committee, headed by the Minister of Finance and comprising all Ministers, was created to design the implementation of the surcharge and kickback schemes. Ibid; Jordan National Bank official interview (Sept. 29, 2005).

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Normally, when an individual or company deposited a surcharge payment in one of the SOMO accounts, a bank advice was generated that recorded the name of the depositor and amount of the deposit. These bank advices, as well as monthly bank statements, were sent regularly to the SOMO Accounting Department, and the relevant payment information was recorded in its electronic database. The Committee has reviewed bank records supporting the payment information recorded in the SOMO database.²²

Once the surcharge amounts were deposited or transferred to these accounts (also referred to as bridge accounts), the funds were then transferred to accounts of the Central Bank of Iraq (“CBI”), held at the same bank. From there, CBI employees withdrew the funds in cash and transported it to the CBI in Baghdad.²³

²² Iraq official interview; Jordan National Bank statements and advices for SOMO accounts; Fransabank statements and advices for SOMO accounts; Ministry of Oil record, SOMO ledger of surcharge payments (translated from Arabic); Committee oil company table; Iraq officials interviews. There were four accounts at the Jordan National Bank with sub-accounts for different currencies. These accounts were used to deposit surcharge and “border trade” revenues. Jordan National Bank record, SOMO accounts (Sept. 2000 to Oct. 2003). Two accounts were opened at Fransabank (one dollar and one euro account) under coded numbers. Fransabank statements and advices for SOMO accounts; Fransabank officials interview (Sept. 30, 2005). SOMO also maintained bank accounts at Sardar Bank (Lebanon), which contained revenues from the Turkish protocol. Iraq officials interview; Ministry of Oil record, SOMO ledger of surcharge payments (translated from Arabic); Committee oil company table.

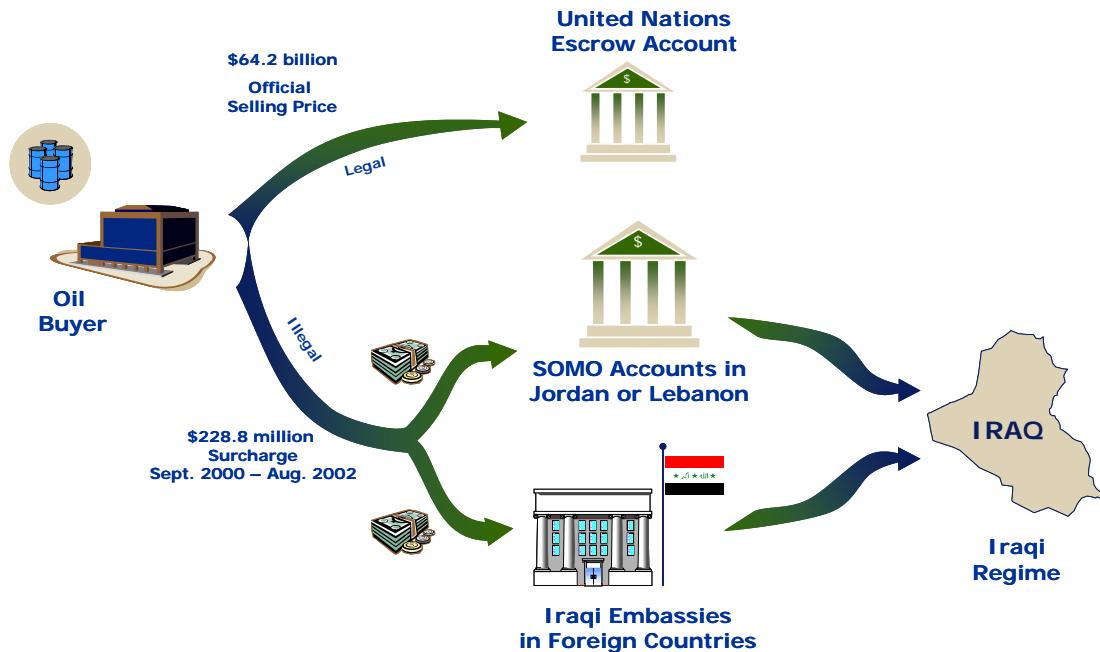
²³ Jordan National Bank official interview (Apr. 26, 2005); Iraq official interview; Fransabank record, SOMO account opening documentation (Aug. 2000); Jordan National Bank record, SOMO account opening documentation (Apr. 1997 to Mar. 2002).

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Chart D – Oil Surcharges—Flow of Funds²⁴



²⁴ “Programme Management Report,” vol. II, p.34. The Chart indicates \$228.8 million in total surcharges collected by the Government of Iraq as opposed to the \$228.2 million indicated in the Committee surcharge table, which does not take into consideration \$588,800 paid by companies that did not lift the oil for which they contracted. Ibid, pp. 87-88; Committee surcharge table.

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III. RUSSIA

Russian companies contracted for approximately \$19.3 billion worth of oil from Iraq under the Programme, which amounted to about 30 percent of all oil sales—by far the largest portion among all participating countries. With the imposition of sanctions against Iraq, Russia lost an important trading partner in the Middle East. Throughout the period of the Programme, Russia and Iraq often exchanged official delegations, and their encounters were reported widely in the media. According to Russian officials, however, Russia and Iraq did not enter into any formal agreements on trade or cooperation during the sanctions period. Nevertheless, according to Iraqi officials, Russia was given priority as a trading partner during the Programme, largely for political reasons.²⁵

The Russian government took an active role in coordinating activities of Russian companies involved in the Programme. Government decrees regulated the exportation of goods and supplies by Russian companies under the Programme, as well as the role of governmental agencies.

According to Russian officials, the Ministry of Foreign Affairs, one of several federal agencies involved in the Programme, not only facilitated and regulated the activities of participants, but also promoted the interests of Russian companies to the Government of Iraq. Throughout the Programme, the Russian diplomats stationed in Baghdad frequently discussed Iraqi-Russian economic cooperation with their Iraqi counterparts, including Mr. Aziz.²⁶

²⁵ “Programme Management Report,” vol. II, p. 29; Committee oil company table (contracts with Russian companies); Russia officials #6-7 interview (Nov. 16, 2004); Russia officials #3, 6-7 interview (Mar. 1, 2005) (stating further that Iraq appreciated Russia’s support in the Security Council); Igor Ivanov letter to Kofi Annan (Aug. 12, 2000) (estimating the annual trade turnover between Iraq and Russia in the late 1980s at \$2 billion, describing Russia’s economic losses resulting from sanctions as exceeding \$22.7 billion, and stating that Iraq was also unable to repay its external debt of over \$7.8 billion to Russia); Iraq officials interviews (referring to a letter stating that SOMO “should take into consideration any additional requests from the Russian side”); Russia Mission letter to the Committee (Aug. 19, 2005) (stating that the last trade agreement with Iraq was that signed by the USSR in 1986); “Russian and Iraqi officials discuss sanctions, economic cooperation,” *BBC Monitoring Service: Former USSR*, Nov. 14, 1996; “Russian MPs receive red-carpet welcome in Iraq,” *Reuters News*, Dec. 26, 1997; “Iraq praises Russia for backing embargo removal,” *Xinhua News Agency*, June 16, 1999; “Russian delegation off to Baghdad with humanitarian cargo,” *Daily News Bulletin*, Sept. 23, 2000; “Iraq welcomes Russian delegation’s visit,” *Daily Petroleum Report*, Jan. 29, 2001; “Vice-president receives Russian Speaker, appreciates Duma’s stand,” *BBC Monitoring Service: Middle East*, Mar. 20, 2001; “Iraqi VP’s visit to Moscow focuses on relations with U.N., Russia,” *Xinhua News Agency*, Apr. 22, 2001; Dmitry Vinitsky, “Russian delegation goes to Iraq for jubilee celebrations,” *ITAR Tass*, Apr. 1, 2002; “Iraq, Russia discuss economic and trade relations,” *Iraqi News Digest*, June 25, 2002.

²⁶ Russia officials #3, 6-7 interview (Mar. 1, 2005); Russia officials #6-7 interview (Nov. 16, 2004); Russia officials #1-2, 4 interview (Oct. 13, 2004); Iraq officials interviews (stating that the Russian ambassador to Iraq had “almost weekly” meetings with Tariq Aziz); see, e.g., Russia government decree, no. 941, “On controlling exportation from the Russian Federation to Iraq of goods and technologies of dual use and other goods falling under the scope of the international mechanism of ongoing monitoring and verification” (Dec. 29, 2001) (translated from Russian); Russia Central Bank directive, no. 612-U, “On execution of foreign

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The major Russian companies that contracted with SOMO to purchase Iraqi oil included Zarubezhneft (over 168.4 million barrels), Alfa Eco (over 106.1 million barrels), Machinoimport (over 86.9 million barrels), and the Council for Trade and Economic Cooperation with Middle East and North Africa Countries (“ACTEC”) (about 71.9 million barrels). According to Iraqi Ministry of Oil records, while most of the oil provided to Russia was allocated to major oil companies, some of it was allocated in the names of political figures and parties in Russia, including the Communist Party of the Russian Federation and the Russian Liberal Democratic Party.²⁷

A. DISTRIBUTION OF OIL ALLOCATIONS

Among the Russian governmental agencies, the Ministry of Fuel and Energy (currently known as the Ministry of Industry and Energy and hereinafter referred to as “Ministry of Energy”) played the primary role in coordinating the participation of Russian companies in oil purchases under the Programme. As early as 1999, the Ministry of Energy’s role in coordinating purchases of Iraqi oil by the Russian companies was reported in the media. Generally, at the beginning of each phase, the Ministry of Energy would put together a proposed distribution list of Iraqi oil purchases by Russian companies and furnish it to the Iraqi Ministry of Oil. Occasionally, SOMO prepared a preliminary allocation table based on a table from the previous phase and sent it to Russia for adjustments. The edited list would be returned to the Iraqi Ministry of Oil and SOMO.²⁸

currency operations by resident legal persons participating in the UN Oil-for-Food Programme” (July 21, 1999) (translated from Russian); Russia President decree, no. 972, “On measures for implementation by the Russian Federation of Security Council resolutions on the establishment of an international mechanism of ongoing monitoring and verification of supplies to Iraq” (Sept. 2, 1997) (translated from Russian).

²⁷ Committee oil company table, contract nos. M/01/15, M/01/46, M/02/05, M/02/34, M/03/14, M/03/50, M/04/01, M/05/12, M/06/18, M/07/07, M/07/81, M/07/93, M/08/02, M/08/82, M/08/86, M/09/19, M/09/82, M/10/01, M/11/115 (contracting with Zarubezhneft); M/05/63, M/06/55, M/07/48, M/08/05, M/10/83, M/11/39, M/11/45 (contracting with ACTEC); M/01/23, M/02/25, M/03/23, M/04/19, M/05/11, M/06/21, M/07/20, M/08/37, M/09/119, M/09/22, M/10/11, M/10/19, M/11/17, M/11/79, M/12/01, M/13/23, M/13/45 (contracting with Machinoimport).

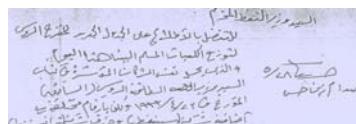
²⁸ Iraq official interview (stating that Russian officials met with their Iraqi counterparts to discuss Iraqi oil allocations provided to the Russian companies); Company representatives interview; Confidential witness interview; Ministry of Oil record, Russia Ministry of Energy oil allocations table (May 25, 1999) (translated from Russian) (signed by V. Kalyuzhny, Minister of Fuel and Energy of the Russian Federation); “In Moscow, Iraqi oil is already split up,” *Nezavisimaya Gazeta*, Dec. 16, 1999 (translated from Russian) (stating that the Russian Ministry of Fuel and Energy has announced planned allocations for Russian companies participating in the Programme); “Russia and Iraq continue negotiations on joint projects during the visit of the Iraqi Vice-Premier,” *Interfax Neftegazovoe Obozrenie*, Dec. 8, 1999 (translated from Russian); “Russia submits list of firms to lift Iraqi oil,” *Reuters News*, Jan. 29, 2001 (quoting the Russian Minister of Energy Alexandre Gavrin stating that “[o]ur recommendations are based on the history of the companies’ involvement in Iraq and their level of responsibility in implementing previous contracts”).

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An Iraqi Ministry of Oil record from Phase VI shows a proposed distribution list of allocations for Russian companies, issued by the Russian Ministry of Energy. The list, dated May 25, 1999, bears the seal of the Russian Ministry of Energy and is signed by Victor Kalyuzhny, Minister of Fuel and Energy of the Russian Federation.²⁹



УТВЕДЛЯЮ
Министр топлив и энергетики
Российской Федерации
В.И.Калюзный
25 мая 1999 г.

РАСПРЕДЕЛЕНИЕ ОБЪЕМОВ ИРАКСКОЙ НЕФТИ, ВЫДЕЛЕННЫХ РОССИЙСКИМ КОМПАНИЯМИ, ДЛЯ ЗАКУПОК НА ШЕСТОМ ЭТАПЕ ПРОГРАММЫ "НЕФТЬ В ОМЕЕ НА ПРОДОВОЛЬСТВИЕ"

| № п/п | НАЗВАНИЕ КОМПАНИИ | КВОТА КОМПАНИИ, ВЫДЕЛЕННАЯ КОМИССИЕЙ МИНИСТЕРИСТВА ФУ (БАРРЕЛИ) | КВОТА КОМПАНИИ В % ОТ ОБЩЕЙ КОМПАНИИ | ПОРТ ОТПУСКИ НЕФТИ |
|----------|-------------------|--|---|-----------------------------------|
| 1. | ЗАРУБЕЖНЕФТЬ | 10'000'000 | 21,4 | СИЕХАН МИНА-АЛЬ-БАКР СИЕХАН |
| 2. | ЛУКОЙЛ | 28'000'000 | 26,5 | СИЕХАН МИНА-АЛЬ-БАКР СИЕХАН |
| 3. | МАШНОИМПОРТ | 10'000'000 | 7,3 | МИНА-АЛЬ-БАКР СИЕХАН |
| 4. | РОСНЕФТЬ | 10'000'000 | 7,3 | МИНА-АЛЬ-БАКР СИЕХАН |
| 5. | ЗАПФАС | 10'000'000 | 7,3 | МИНА-АЛЬ-БАКР СИЕХАН |
| 6. | ТАТНЕФТЬ | 9'000'000 | 4,3 | МИНА-АЛЬ-БАКР СИЕХАН |
| 7. | ЮКОС | 8'200'000 | 3,8 | МИНА-АЛЬ-БАКР |
| 8. | СЛАВНЕФТЬ | 8'200'000 | 3,8 | МИНА-АЛЬ-БАКР |
| 9. | ГАЗПРОМ | 8'200'000 | 3,8 | МИНА-АЛЬ-БАКР |
| 10. | СИБНЕФТЬ | 8'200'000 | 3,8 | МИНА-АЛЬ-БАКР |
| 11. | ТНК ALFA-ECO | 8'200'000 | 3,8 | МИНА-АЛЬ-БАКР |
| | ВСЕГО | 140'000'000 | 100 | |

[Handwritten Translation from Arabic: 1 paragraph]
To the responsible Minister of Oil:
Please review the new suggested Russian table for quantity distribution delivered to us today, containing the same companies mentioned in the letter by the former Russian Minister of *eligible or crossed out* Energy, dated 23/4/1999, but with different numbers and with the addition of Sibneft Company and the removal of Transneft Company.
With regards,
Signed 28/5
Saddam Ziba Hassan

APPROVED
Minister of Fuel and Energy
of the Russian Federation
[SEAL: Ministry of Fuel and Energy] [Signature]
V. I. Kalyuzhny
25 May 1999

DISTRIBUTION OF VOLUMES OF IRAQI OIL ALLOCATED TO THE RUSSIAN COMPANIES FOR PURCHASES DURING THE SIXTH PHASE OF THE OIL-FOR-FOOD PROGRAMME

| No. | NAME OF COMPANY | ALLOCATION QUOTA PROVIDED BY THE COMMISSION OF THE MINISTRY OF FUEL AND ENERGY OF THE RF (BARRELS) | COMPANY'S QUOTA IN % OF TOTAL | PORT OF LOADING |
|-----|-----------------|--|-------------------------------|-----------------|
| 1. | ZARUBEZHNEFT | 30'000'000 | 21,4 | Ceyhan |
| 2. | LUKOIL | 28'000'000 | 20,0 | Mina al Bakr |
| 3. | MACHINOIMPORT | 10'500'000 | 7,5 | Mina al Bakr |
| 4. | ROSNEFT | 10'500'000 | 7,5 | Ceyhan |
| 5. | ZANGAZ | 10'500'000 | 7,5 | Mina al Bakr |
| 6. | TATNEFT | 9'500'000 | 6,8 | Ceyhan |
| 7. | YUKOS | 8'200'000 | 5,86 | Mina al Bakr |
| 8. | SLAVNEFT | 8'200'000 | 5,86 | Mina al Bakr |
| 9. | GAZPROM | 8'200'000 | 5,86 | Mina al Bakr |
| 10. | SIBNEFT | 8'200'000 | 5,86 | Mina al Bakr |
| 11. | TNK ALFA-ECO | 8'200'000 | 5,86 | Mina al Bakr |
| | TOTAL | 140'000'000 | 100 | |

Figure: Russia Ministry of Energy oil allocations table (May 25, 1999) (translated from Arabic).

In another Iraqi Ministry of Oil record, dated March 13, 1999, Faiz Shahin, Iraqi Deputy Minister of Oil, confirmed the oil allocation arrangement between Iraq and Russia. In a letter responding to Tatneft's request for an additional oil allocation, Mr. Shahin explained that the distribution of oil allocations was regulated "in accordance with a special arrangement and understanding between the Iraqi Ministry of Oil and the Russian Ministry of Fuel and Energy." Tatneft's request was rejected by the Iraqi Ministry of Oil on the basis that "[t]he Russian Ministry did not allocate any quantity of crude to Tatneft for the fifth stage."³⁰

²⁹ Ministry of Oil record, Russia Ministry of Energy oil allocations table (May 25, 1999) (translated from Russian). The Russian officials have not disputed the authenticity of the document. Russia Ministry of Foreign Affairs letter to the Committee (May 13, 2005); Russia Ministry of Foreign Affairs letter to the Committee (Apr. 18, 2005); Russia officials #1, 5 interview (May 24, 2005).

³⁰ Faiz Shahin letter to Tatneft (Mar. 13, 1999) (translated from Arabic). Tatneft was among many Russian companies that approached the Government of Iraq directly with requests for additional or increased oil allocations. The direct contacts of Russian companies with the Government of Iraq seemed to intensify in the later stages of the Programme, when the Russian government's substantial control over participation of Russian companies in the Programme began to decrease. Confidential source interview; Iraq official interview.

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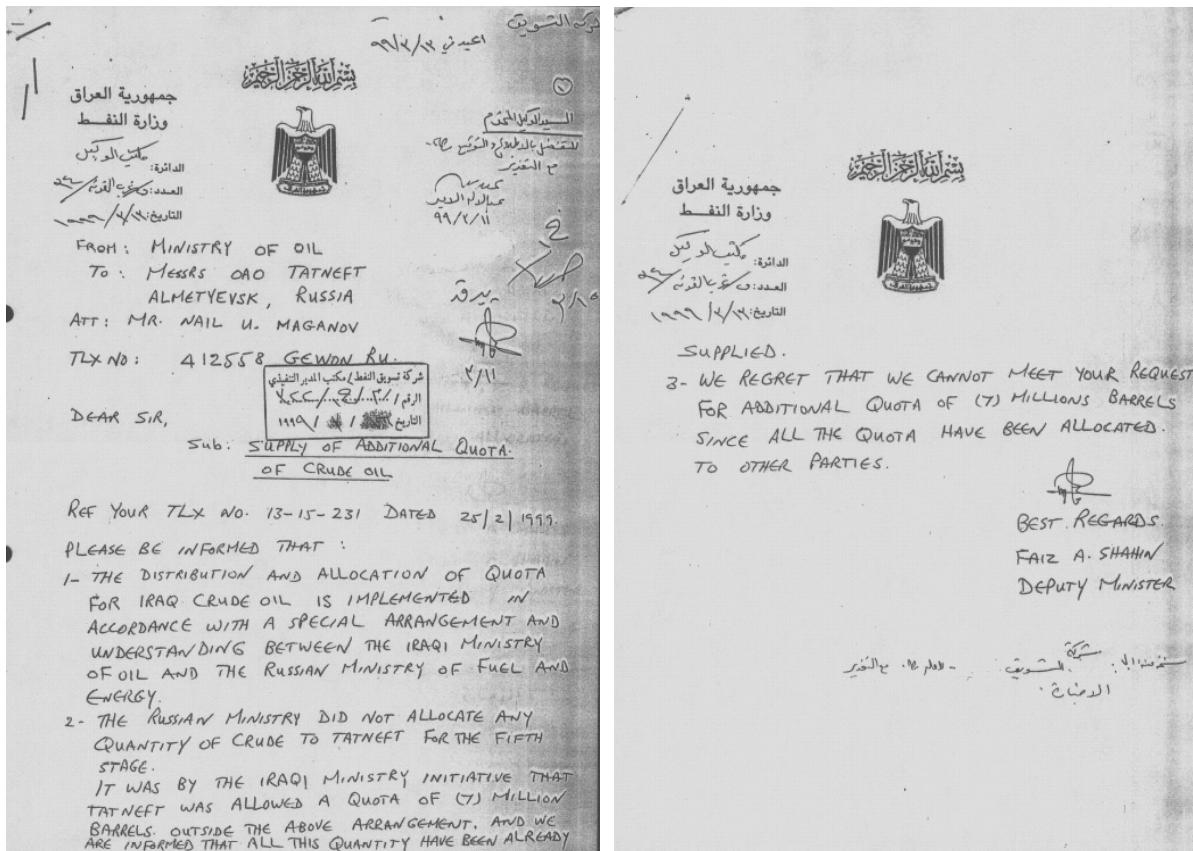


Figure: Faiz Shahin letter to Tatneft (Mar. 13, 1999).

Russian officials interviewed by the Committee confirmed that the Ministry of Energy was involved in nominating Russian oil companies for oil contracts under the Programme, but denied its involvement in distributing oil allocations among the companies. When provided with a copy of the allocation table for Phase VI, Russian officials stated that “it is a strictly internal interagency procedure which has nothing to do with the regime of sanctions.” Despite repeated requests by the Committee, the Government of Russia did not provide access to any former or current employees of the Ministry of Energy, stating that no relevant employees or records could be identified due to the reorganization of the Ministry.³¹

³¹ Russia officials #3, 6-7 interviews (Feb. 28 and Mar. 1, 2005) (stating that they were not aware of distribution of Iraqi oil allocations by the Russian government); Russia officials #1-2, 4 interview (Oct. 13, 2004); Russia Ministry of Foreign Affairs letters to the Committee (Feb. 1 and Apr. 18, 2005); Russia Ministry of Foreign Affairs letter to the Committee (May 13, 2005) (stating that “Victor Kalyuzhny, former Minister of Fuel and Energy . . . had . . . [quit] the subject matter of the UN humanitarian program [a] long time ago” and that the Ministry of Foreign Affairs considers his meeting with the Committee

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The Ministry of Energy was assisted in its role in the Programme by Zarubezhneft, the largest purchaser of Iraqi oil under the Programme. Zarubezhneft's role in the Programme reportedly decreased after 2001 due to changes introduced by the Government of Iraq. The Committee obtained a number of documents regarding Zarubezhneft's role in implementing the Programme, including a letter from Gazprom, one of the Russian companies participating in the Programme, to Mr. Rashid. The letter refers to the role of Zarubezhneft as "a Russian Federation Ministry of Energy coordinator of Russian companies' activity in Iraq."³²

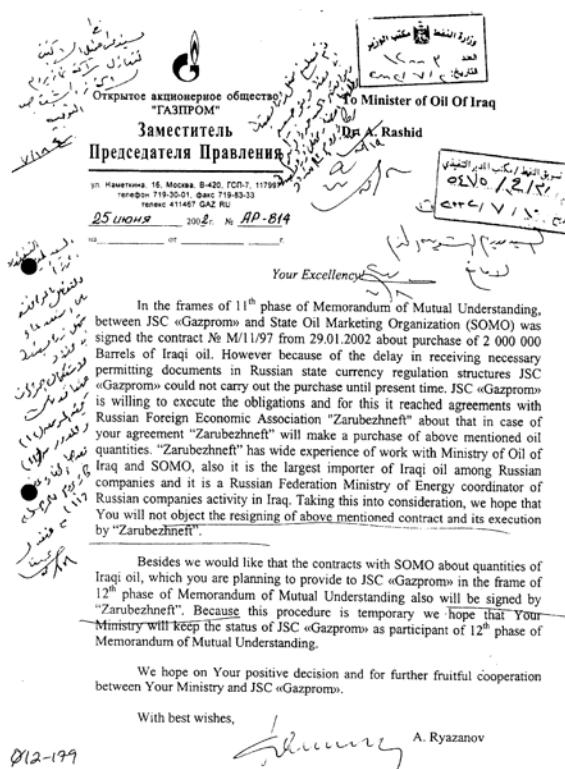


Figure: A. Ryazanov letter to Amer Rashid (June 25, 2002).

During interviews with the Committee, however, the Russian officials and former United Nations oil overseer Alexandre Kramar, speaking in his current capacity as a counsel to the

"unnecessary"); Committee letters to Russia Ministry of Foreign Affairs (Oct. 20 and Dec. 1, 2004; Feb. 15, Apr. 6, and Apr. 29, 2005).

³² Confidential source interview; Confidential source report; "In Moscow, Iraqi oil is already split up," *Nezavisimaya Gazeta*, Dec. 16, 1999 (translated from Russian) (stating that Zarubezhneft traditionally "introduce[d] to Baghdad" potential participants of business projects); Ministry of Oil record, A. Ryazanov letter to Amer Rashid (June 25, 2002). Mr. Ryazanov is identified in the letter as Deputy Chairman of the Board of Directors of Gazprom. Ibid.

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Zarubezhneft's General Director, denied that Zarubezhneft had any role in distributing allocations to other Russian companies.³³

B. POLITICAL ALLOCATIONS

The Government of Iraq distributed oil allocations in the names of various individuals and entities in Russia, including a number of Russian political parties. The Committee has obtained documents relating to Iraqi oil allocations to a number of political parties, including the Communist Party of the Russian Federation, the Liberal Democratic Party of Russia, and the Party of Peace and Unity.

1. Communist Party of the Russian Federation

According to Iraqi Ministry of Oil records, the Communist Party of the Russian Federation (“KPRF”) was granted a total of 125.1 million barrels in oil allocations. At least some of this oil was allocated to KPRF through an entity called the “Foundation for Friendship with Peoples of Arab States.” Of the allocations made to KPRF, a total of about 106.9 million barrels was lifted and purchased by various companies, including ACTEC, Onaco, Rossbulneft, and RAO MES.³⁴

KPRF was founded in 1993 and is a successor to the Communist Party of the Soviet Union. Since its creation, KPRF has been headed by Gennady Zyuganov, who began his career with the Communist Party of the Soviet Union in the early 1970s. Mr. Zyuganov came in second during the Russian presidential elections of 1996 and 2000. He currently heads the KPRF faction in the State Duma, the lower chamber of the Russian parliament. During the sanctions period, Mr. Zyuganov and KPRF consistently opposed the sanctions regime and military actions against Iraq. In the spring of 2000, the Russian Federation transmitted to the 661 Committee a letter from KPRF’s faction in the State Duma, calling for “lift[ing] [of] the inhuman embargo against Iraq.” Representatives of KPRF frequently traveled to Baghdad to discuss issues of Russian-Iraqi cooperation. Reportedly, in February 2003, Mr. Zyuganov met with Saddam Hussein and upon

³³ Alexandre Kramar interview (Mar. 5, 2005) (stating that he did not have any knowledge of either the Ministry of Energy or the Ministry of Foreign Affairs being directly involved in coordinating the distribution of oil contracts); Russia officials #3, 6-7 interview (Mar. 1, 2005) (denying that Russia or any Russian company organized participation of other companies in the Programme).

³⁴ Iraq officials interviews; Committee oil beneficiary and company tables, contract nos. M/02/26, M/03/28, M/03/38 (contracting with Onaco); M/04/45 (contracting with Rossbulneft); M/05/56 (contracting with RAO MES); M/05/63, M/06/55, M/07/48, M/08/05, M/10/83, M/11/39 (contracting with ACTEC); M/12/27 (unexecuted) (contracting with ACTEC); Bayoil record, Bayoil letter to Gennady Zyuganov (Oct. 14, 1999) (translated from Russian) (requesting “one more” meeting in the last half of October 1999 to “discuss our joint work”); Ministry of Oil record, Gennady Zyuganov letter to Tariq Aziz (Feb. 12, 1999) (translated from Russian); Ministry of Oil record, B. Bibilov letter to SOMO (July 14, 1998) (translated from Russian) (confirming that KPRF’s oil allocation for Phase IV was transferred to Rossbulneft). According to the letter from Mr. Bibilov to SOMO, the former was a general director of the Foundation for Friendship with Peoples of Arab States. Ibid.

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his return to Moscow called upon Russia to use its veto power in the Security Council to avoid the war.³⁵

According to one of the documents obtained from the Iraqi Ministry of Oil, Mr. Zyuganov was involved in monitoring the amount of oil allocated through the Foundation for Friendship with Peoples of Arab States. On February 12, 1999, Mr. Zyuganov wrote to Mr. Aziz seeking reconsideration of a 50 percent decrease in the volume of oil allocated to the Foundation for Friendship with Peoples of Arab States. In the letter, Mr. Zyuganov questioned why the decrease had not been “discussed during meetings with you and during my numerous contacts with the Ambassador of Iraq to Russia, Mr. Hassan Fahmi Jum'a.”³⁶

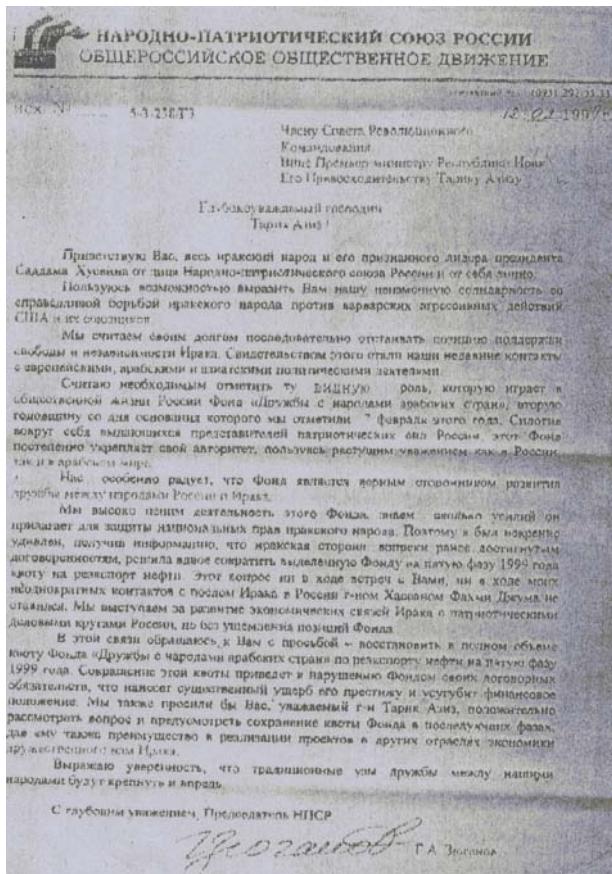
³⁵ Communist Party of the Russian Federation, “In brief,” <http://www.kprf.ru/party/info>; Communist Party of the Russian Federation, “Party’s history,” <http://www.kprf.ru/history/party/>; Communist Party of the Russian Federation, “Official web-site of Gennady Andreevich Zyuganov,” <http://www.kprf.ru/personal/zuganov>; State Duma, Federal Assembly of the Russian Federation, “Members of State Duma, Gennady Andreevich Zyuganov,” <http://www.duma.gov.ru>; “Presidential elections in Russia in 1991 and 1996,” *ITAR Tass*, Mar. 23, 2000 (translated from Russian); “‘Rossiyskaya gazeta’ and ‘Parlamentskaya gazeta’ publish official results of Russian presidential elections,” *ITAR Tass*, Apr. 6, 2000 (translated from Russian); State Duma, Federal Assembly of the Russian Federation, “Associations of parliamentarians,” <http://www.duma.gov.ru> (showing that, as of October 25, 2005, KPRF had 47 members in the State Duma, or about 10.4 percent of the total number of parliamentarians); Iraq official interview; KPRF letter to the President of the Security Council (undated) (attached to Russia Mission letter to 661 Committee Chairman (Apr. 6, 2000)); “Communist leader Zyuganov interviewed on party matters, Iraq and foreign policy,” *BBC Monitoring Service: Former USSR*, Feb. 10, 1998; Mikhail Vinogradov, “Three parliamentarians and one Saddam,” *Izvestia*, Feb. 22, 2003, p. 3 (translated from Russian); “Iraq is against the war, but not at any price – Hussein,” *Interfax*, Feb. 19, 2003 (translated from Russian); Nelli Sharushkina, “Star Turn – Russia Blazes a Trail to the Middle East,” *NEFTE Compass*, Nov. 9, 2000; “In Baghdad, G. Zyuganov and S. Hussein discussed the situation with Iraq,” *RosBiznesKonsulting*, Feb. 19, 2003 (translated from Russian); “Zyuganov thinks that Russia should use its veto power in the United Nations not to allow war in Iraq,” *Interfax*, Feb. 28, 2003 (translated from Russian).

³⁶ Gennady Zyuganov letter to Tariq Aziz (Feb. 12, 1999).

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PATRIOTIC PEOPLES UNION OF RUSSIA
ALL-RUSSIAN SOCIAL MOVEMENT

Outgoing 5-3-238/GZ 12 February 1999

Member of the Revolutionary Council
Vice-Premier, Minister of the Republic of Iraq
His Excellency Tariq Aziz

Dear Mr. Tariq Aziz!

On behalf of the Patriotic People's Union of Russia and myself personally, I greet you, the Iraqi people, and its recognized leader President Saddam Hussein.

I would like to use this opportunity to express our invariable solidarity with the just struggle of the Iraqi people against the barbarian aggressive actions of the USA and its allies.

We consider it our duty to consistently support the freedom and independence of Iraq. Our recent contacts with European, Arab, and Asian political figures are a testimony to this.

I find it necessary to point out the important role played in the public life of Russia by the Foundation for Friendship with Peoples of Arab States, whose second anniversary was celebrated on February 7 of this year. Uniting outstanding representatives of patriotic forces of Russia, this Foundation gradually strengthens its authority and enjoys growing respect in Russia, as well as in the Arab world.

We are particularly pleased that the Foundation is a true supporter of development of friendship between peoples of Russia and Iraq.

We highly value the activities of the Foundation, and know how much effort it puts into protecting national interests of the Iraqi people. This is why I was genuinely surprised when I received information that the Iraqi side, despite earlier agreements, decided to reduce in half the oil re-export quota for the 5th phase in 1999. This question was not raised during meetings with you or during my numerous contacts with the Ambassador of Iraq to Russia, Mr. Hassan Fahmi Jum'a. We support development of economic ties of Iraq with patriotic business circles of Russia, but without infringing upon the interests of the Foundation.

With this in mind, I ask you to fully restore the oil re-export quota for the Foundation for the 5th phase in 1999. The decrease in the quota will lead to a breach of the Foundation's contractual obligations, which will seriously damage its prestige and financial situation. We also ask you, Mr. Tariq Aziz, to consider preserving Foundation's quotas in the following phases and providing preferential treatment in other sectors of economy of friendly Iraq.

I am confident that traditional ties of friendship between our peoples will continue to strengthen.

Yours faithfully, Chairman of PPUR.

Signed G. A. Zyuganov

Figure: Gennady Zyuganov letter to Tariq Aziz (Feb. 12, 1999) (translated from Russian).

The Committee has contacted Mr. Zyuganov and the office of KPRF in the State Duma seeking comments regarding documents obtained by the Committee from the Government of Iraq. Mr. Zyuganov has not responded to repeated communications from the Committee.³⁷

2. Vladimir Zhirinovsky and the Liberal Democratic Party of Russia

According to Iraqi officials and Iraqi Ministry of Oil records, 73 million barrels were allocated in the name of Vladimir Zhirinovsky, the head of the Liberal Democratic Party of the Russian Federation (“LDPR”) between Phase II and Phase XI. Of this allocated oil, over 62 million barrels was lifted through a number of oil companies, including Sidanco, Nafta Moskva, Tyumen Oil Company (“TNK”), Machinoimport, and Lukoil Asia Pacific PTE Ltd (“Lukoil Asia

³⁷ Committee letters to Gennady Zyuganov (June 21, July 21, Aug. 14, and Oct. 13, 2005).

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Pacific"). According to Iraqi officials, Mr. Zhirinovsky received oil allocations because it was believed that he would advocate for political positions favorable to Iraq.³⁸

In the 1980s, Mr. Zhirinovsky co-founded the Liberal Democratic Party of the Soviet Union and in 1991, founded his own party, LDPR. Currently, Mr. Zhirinovsky holds the position of the Deputy Chairman of the State Duma. Throughout the sanctions period, Mr. Zhirinovsky opposed the sanctions regime and military actions against Iraq. Mr. Zhirinovsky was a frequent visitor to Baghdad and to the Iraqi Embassy in Moscow. During his visits, Mr. Zhirinovsky often advocated for the interests of Russian companies in Iraq. Mr. Zhirinovsky, however, has publicly denied receiving any financial rewards for his lobbying efforts.³⁹

Mr. Zhirinovsky's name appears in several Iraqi Ministry of Oil records relating to oil allocations. These records, dating from 1997, include Mr. Zhirinovsky's letters to Mr. Aziz and discuss oil allocations and executing companies, including Lukoil Asia Pacific, Nafta-Moskva, and Sidanco. In one letter to the Iraqi ambassador to Russia dated September 22, 1997, Mr. Zhirinovsky identified a director of Sidanco as the person authorized "to conduct negotiations and conclude contracts on oil quota allocated to the Liberal Democratic Party of Russia." Sidanco subsequently executed four contracts for oil allocated to Mr. Zhirinovsky.⁴⁰

³⁸ Iraq officials interviews; Iraq official interview (recounting that the official heard Mr. Zhirinovsky state that the more he received, the better help he would provide); Committee oil beneficiary and company tables, contract nos. M/02/27, M/02/32, M/03/25, M/04/44 (executed by Sidanco); M/05/50, M/06/25 (executed by Nafta Moskva); M/07/90, M/08/40 (executed by TNK); M/09/119, M/10/19, M/11/79 (executed by Machinoimport); M/10/67 (executed by Lukoil Asia Pacific).

³⁹ Lee Hockstader, "How Russia's Zhirinovsky Rose; Nationalist Leader's Career Left Long Trail of Controversies," *Washington Post*, Mar. 6, 1994, p. 1; LDPR, "Biographical data, Vladimir Volfovich Zhirinovsky," http://www.ldpr.ru/stateduma/deputies/deputies_40.html (translated from Russian); State Duma, Federal Assembly of the Russian Federation, "Members of State Duma, Vladimir Volfovich Zhirinovsky," <http://www.duma.gov.ru> (translated from Russian); State Duma, Federal Assembly of the Russian Federation, "Associations of parliamentarians," <http://www.duma.gov.ru> (translated from Russian) (stating that, as of October 25, 2005, LDPR had 34 members in the State Duma, or approximately 7.6 percent of the total number of parliamentarians); Vladimir Zhirinovsky letter to Hassan Fahmi Jum'a (July 30, 1997) (translated from Arabic) (stating that "[w]e stood vigorously against the application of economic sanctions imposed by the UN"); Vladimir Zhirinovsky letter to Kofi Annan (Mar. 20, 2000) (translated from Russian) (containing Mr. Zhirinovsky's appeal to the Secretary-General to "use [his] . . . influence to end the regime of economic sanctions against the Republic of Iraq"); Iraq officials interviews; Confidential source interview; Vadim Lagutin and Marina Pshenichnikova, "Zhirinovsky calls for lifting sanctions on Iraq," *ITAR Tass: Comtex*, Apr. 30, 2001; "Russian politician urges defiance of U.N. sanctions on Iraq," *Dow Jones Energy Service*, Dec. 8, 1997; Vesti TV Russia news program, Interview of Vladimir Zhirinovsky (May 17, 2005) (translated from Russian). During one of his public interviews, Mr. Zhirinovsky stated: "[L]et all businessmen whom I helped in Iraq help us [LDPR] financially. They turned out to be greedy." NTV Voskresniy Vecher, Interview of Vladimir Zhirinovsky (May 22, 2005) (translated from Russian) (containing Mr. Zhirinovsky's assertion that he traveled to Baghdad twice a year).

⁴⁰ Ministry of Oil record, Vladimir Zhirinovsky letter to Tariq Aziz (Mar. 12, 2002) (discussing execution of oil contracts); Ministry of Oil record, Vladimir Zhirinovsky letter to Tariq Aziz (July 26, 2001) (stating

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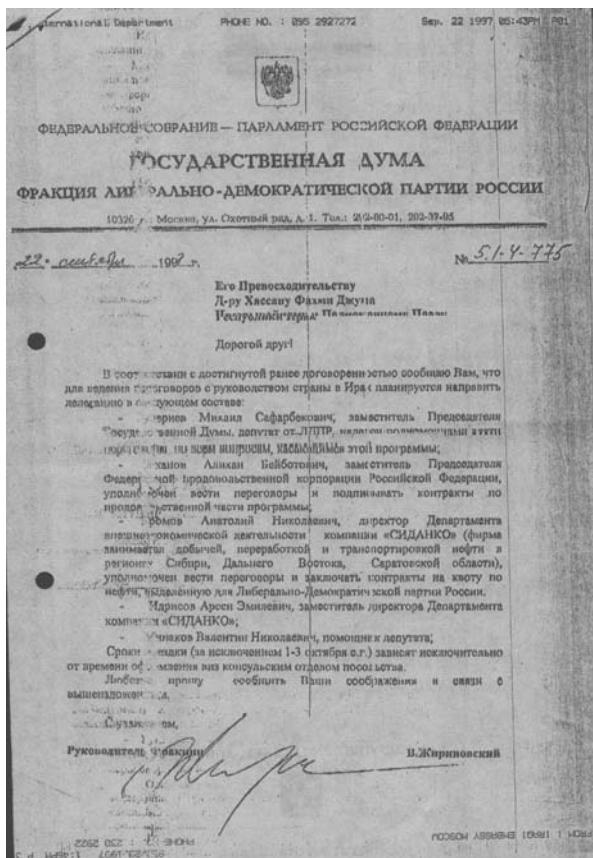


Figure: Vladimir Zhirinovsky letter to Hassan Fahmi Jum'a (Sept. 22, 1997) (translated from Russian).

At least 28 oil liftings under eight contracts for oil allocated in Mr. Zhirinovsky's name were financed by Bayoil, an oil trader discussed below in Section VI.B. Bank records show that, between May and September 1999, a total of \$1,681,885 in five installments was transferred by Bayoil to the account of Plasco Shipping Co. Ltd. ("Plasco") at Crédit Agricole Indosuez. Plasco is a Liberian-based company associated with Lyudmil Dionissiev, an employee of Bayoil during the Programme. During the same period of time, Plasco transferred five installments totaling \$1,681,875 to an account in the Bank of Cyprus with the reference "in favor of Igor Lebedev."

that he "ha[s] cooperation with the company 'LUKOIL ASIA-PACIFIC PTE LTD'"); Ministry of Oil record, Vladimir Zhirinovsky letter to Saddam Hassan (May 27, 1999) (discussing execution of LDPR's allocations through Nafta-Moskva); Ministry of Oil record, Vladimir Zhirinovsky letter to Hassan Fahmi Jum'a (Sept. 22, 1997) (translated from Russian) (referring to cooperation between LDPR and Sidanco); Ministry of Oil record, Vladimir Zhirinovsky letter to Hassan Fahmi Jum'a (July 30, 1997) (translated from Arabic) (requesting the Government of Iraq to consider companies acting on Mr. Zhirinovsky's behalf); Committee oil beneficiary table, contract nos. M/02/27, M/02/32, M/03/25, M/04/44 (contracting with Sidanco).

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Mr. Zhirinovsky's son, Igor Lebedev, is one of the leaders of LDPR. These payments by Plasco in favor of Mr. Lebedev were made within one to four days after the transfer of funds to Plasco by Bayoil.⁴¹ Around the time of these transfers, several liftings financed by Bayoil were made under contracts M/05/50 and M/06/25, which were allocated to Mr. Zhirinovsky.⁴²

⁴¹ Committee oil financier and beneficiary tables, contract nos. M/04/44 (one letter of credit financed by Bayoil), M/05/50 (five letters of credit financed by Bayoil), M/06/25 (six letters of credit financed by Bayoil), M/07/90 (five letters of credit financed by Bayoil), M/08/40 (five letters of credit financed by Bayoil), M/10/67 (two letters of credit financed by Bayoil); Vladimir Zhirinovsky letter to Bayoil (Jan. 13, 1999) (translated from Russian) (inviting Mr. Dionissiev to Moscow in the second half of January 1999); Bayoil letter to Nafta-Moskva (Feb. 24, 1999) (instructing execution of Mr. Zhirinovsky's allocations by Nafta-Moskva and advising the company to inform SOMO that it is "providing service to Mr. Zhirinovsky"); Igor Okuney, "Golden Youth of Kremlin," *Rossiyskaya gazeta*, July 18, 2003 (translated from Russian) (discussing Mr. Lebedev); Nabi Abdullaev, "Hussein traded a school for oil," *Moscow Times*, May 20, 2005 (referencing Mr. Lebedev); Crédit Agricole Indosuez record, Bayoil account, debit advice (May 26, 1999) (recording a payment of \$350,000 to Plasco); Crédit Agricole Indosuez record, Plasco account, debit advice (May 26, 1999) (recording a payment of \$340,000); Crédit Agricole Indosuez record, Plasco account, payment order (May 26, 1999); Crédit Agricole Indosuez record, Bayoil account, debit advice (June 14, 1999) (recording a payment of \$56,885); Crédit Agricole Indosuez record, Bayoil account, payment order (June 11, 1999) (requesting a payment of \$56,885 to Plasco); Crédit Agricole Indosuez record, Plasco account, debit advice (June 16, 1999) (recording a payment of \$66,875); Crédit Agricole Indosuez record, Plasco account, payment order (June 16, 1999); Crédit Agricole Indosuez record, Bayoil account, debit advice (June 21, 1999) (recording a payment of \$680,000); Crédit Agricole Indosuez record, Bayoil account, payment order (June 18, 1999) (requesting a payment of \$680,000 to Plasco); Crédit Agricole Indosuez record, Plasco account, debit advice (June 22, 1999) (recording a payment of \$680,000); Crédit Agricole Indosuez record, Plasco account, payment order (June 22, 1999); Crédit Agricole Indosuez record, Bayoil account, payment order (July 22, 1999) (requesting a payment of \$530,000 to Plasco); Crédit Agricole Indosuez record, Plasco account, debit advice (July 26, 1999) (recording a payment of \$510,000); Crédit Agricole Indosuez record, Plasco account, payment order (July 26, 1999) (referring to the payment as "consultancy fees"); Crédit Agricole Indosuez record, Bayoil account, bank statement (Sept. 30, 1999) (showing a payment of \$65,000 to Plasco); Crédit Agricole Indosuez record, Plasco account, debit advice (Sept. 14, 1999) (recording a payment of \$85,000); Crédit Agricole Indosuez record, Plasco account, payment order (Sept. 14, 1999) (referring to the payment as "consultancy fees"); Crédit Agricole Indosuez record, Plasco account, account documents (1991-1993) (containing a power of attorney dated January 27, 1993 and issued in the name of Mr. Dionissiev).

⁴² Committee oil company and beneficiary tables, contract nos. M/05/50, M/06/25 (contracting with Nafta-Moskva); SOMO bills of lading, bbl/2573 (Mar. 29, 1999) (for 1,949,679 barrels and relating to contract M/05/50), bbl/2580 (Apr. 9, 1999) (for 1,482,633 barrels and relating to contract M/05/50), bbl/2582 (Apr. 11, 1999) (for 1,996,834 barrels and relating to contract M/05/50), bbl/2588 (Apr. 18, 1999) (for 506,115 barrels and relating to contract M/05/50), bbl/2601 (May 6, 1999) (for 989,975 barrels and relating to contract M/05/50), bbl/2644 (July 13, 1999) (for 1,969,924 barrels and relating to contract M/06/25); bbl/2651 (July 23, 1999) (for 1,889,602 barrels and relating to contract M/06/25), ck/4564 (Aug. 23, 1999) (for 596,139 barrels and relating to contract M/06/25), ck/4587 (Sept. 17, 1999) (for 894,936 barrels and relating to contract M/06/25), bbl/2701 (Sept. 24, 1999) (for 250,000 barrels and relating to contract M/06/25), ck/4617 (Oct. 20, 1999) (for 1,819,259 barrels and relating to contract M/06/25).

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Iraqi Ministry of Oil records show that surcharges totaling over \$5.1 million were imposed on five contracts allocated to Mr. Zhirinovsky. On two of these contracts, M/10/19 and M/10/67, surcharges were partially or fully satisfied through cash payments at the Iraqi Embassy in Moscow. According to an Iraqi official, Mr. Zhirinovsky had outstanding surcharge payments on his oil contracts, which was the reason why he stopped receiving allocations in late phases of the Programme. In early 2002, Mr. Zhirinovsky offered to pay outstanding surcharges by transferring the title to a building located in Moscow to the Government of Iraq. In a letter to Mr. Aziz dated March 12, 2002, Mr. Zhirinovsky discussed arrangements to cover “the duty” with a “delivery of building on the free basis in the center of Moscow.” In his letter, Mr. Zhirinovsky pointed out that “the building registration documents are on the final stage of registration and [the building] will be ready . . . [in] April of 2002.”⁴³

⁴³ Committee oil company and surcharge tables, contract nos. M/08/40 (contracting with TNK), M/09/119 (contracting with Machinoimport), M/10/19 (same), M/10/67 (contracting with Lukoil Asia Pacific), M/11/79 (contracting with Machinoimport); Iraq officials interviews (stating that surcharge payments on oil allocated to Mr. Zhirinovsky were brought to the Iraqi Embassy by his representative); Iraq official interview (stating that Mr. Zhirinovsky stopped receiving allocations in Phase XII because he owed surcharge payments on oil contracts allocated to him); Vladimir Zhirinovsky letter to Tariq Aziz (Mar. 12, 2002). Iraqi Ministry of Oil records show that surcharges totaling about \$1.1 million were not paid on contract M/09/119, allocated to Mr. Zhirinovsky. Committee oil company table, contract no. M/09/119.

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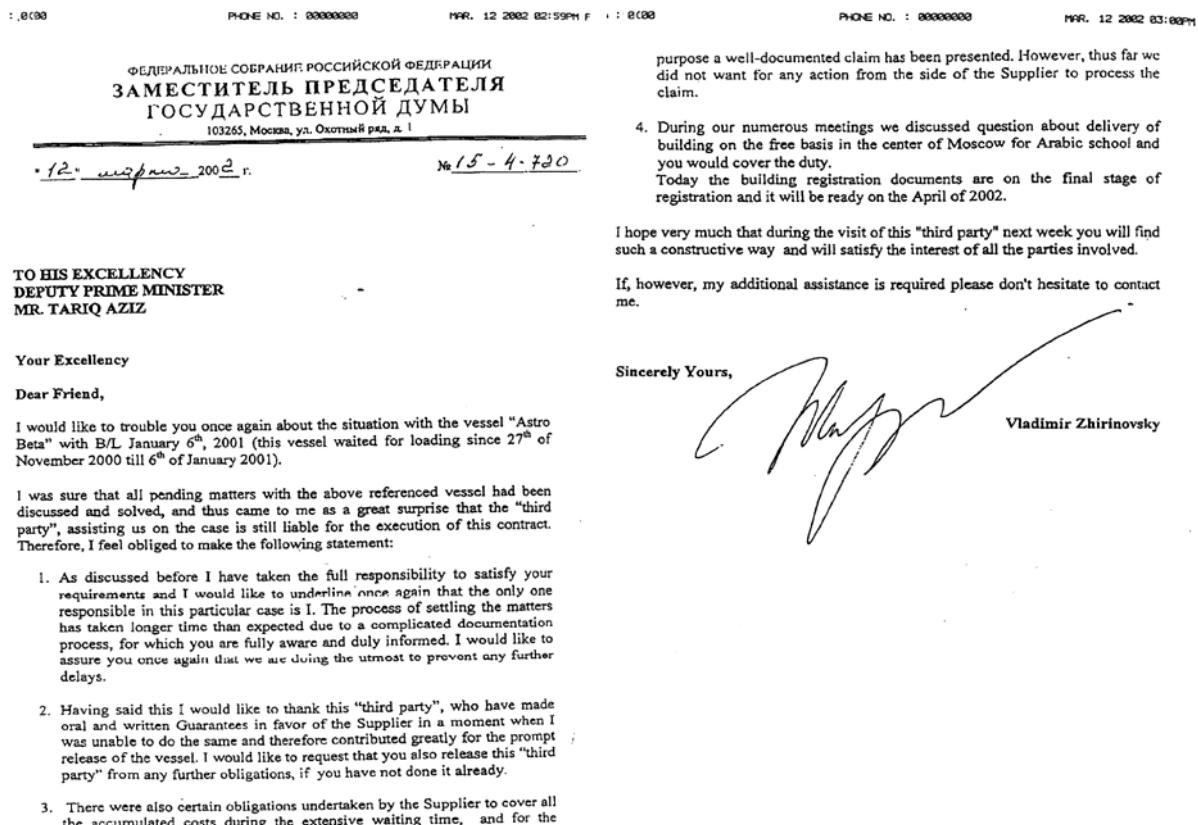


Figure: Vladimir Zhirinovsky letter to Tariq Aziz (Mar. 12, 2002).

According to a former official at the Iraqi Embassy in Moscow who was involved personally in the negotiations of the matter, Mr. Aziz gave permission to proceed with the arrangement suggested by Mr. Zhirinovsky. The agreement was executed and the transfer of title registered with the authorities in Moscow. The Committee has obtained a copy of the Certificate of State Registration of Title for the transaction initiated by Mr. Zhirinovsky. This document confirms that the title to the building was transferred from "Igor Vladimirovich Lebedev" to the Republic of Iraq, based on a sales contract dated February 15, 2002. The building reportedly is being used by the Iraqi Embassy as a school. After the beginning of military operations in Iraq, Mr. Zhirinovsky reportedly has tried unsuccessfully to reclaim ownership of the building.⁴⁴

Russian officials have denied any knowledge of oil allocations provided to Mr. Zhirinovsky and LDPR. Mr. Zhirinovsky also has publicly denied profiting from Iraqi oil contracts under the Programme. Mr. Zhirinovsky reportedly has claimed that he "did not sign a single contract" and

⁴⁴ Iraq officials interviews; Russia State Real Estate Register, "Certificate of State Registration of Title" (July 18, 2002) (translated from Russian); see also Nabi Abdullaev, "Hussein traded a school for oil," *Moscow Times*, May 20, 2005 (containing Mr. Zhirinovsky's denial of the transaction).

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“did not receive a single cent from Iraq.” Mr. Zhirinovsky has not responded to repeated communications from the Committee.⁴⁵

3. Party of Peace and Unity

Iraqi Ministry of Oil records show that a total of 55.5 million barrels was allocated in the name of the Party of Peace and Unity (“PPU”) between Phases IV and XIII. According to Ministry of Oil records, about 46.4 million barrels allocated to PPU were lifted by a number of companies, including Rossbulneft, Lukoil Petroleum (a subsidiary of Lukoil), Zerich GmbH, and Emercom. PPU, founded in late 1996, is currently one of the 37 parties officially registered by the Russian Ministry of Justice. Since its inception, PPU has not had any seats in the State Duma. Iraqi Ministry of Oil records show that Sazhi Umalatova, Chairperson of PPU, actively solicited and obtained Iraqi oil allocations. In a letter dated March 25, 2000, Ms. Umalatova requested SOMO to execute a contract for oil allocated to PPU through Zerich GmbH rather than Lukoil, because of “unreasonable delay in selling this quantity by the company Lukoil as well as due to the change in circumstances.”⁴⁶

⁴⁵ Russia officials #3, 6-7 interview (Mar. 1, 2005); CBC-TV, “Bribes from Baghdad” (Mar. 28, 2005) (stating that he “did not get a single barrel [of Iraqi oil]” and did not gain any profit); NTV Voskresnii Vecher, Interview of Vladimir Zhirinovsky (May 22, 2005) (translated from Russian) (containing Mr. Zhirinovsky’s statement that “in Iraq no one ever gave me a single cent”); Vesti TV Russia news program, Interview of Vladimir Zhirinovsky (May 17, 2005) (translated from Russian); Steve Guterman, “Zhirinovsky denies wrongdoing under Iraq oil-for-food program; Moscow criticized U.S. report,” *Associated Press*, May 16, 2005 (quoting Mr. Zhirinovsky as stating that he “got no (money) from either side”); Committee letters to Vladimir Zhirinovsky (June 20, July 20, Aug. 14, and Oct. 13, 2005).

⁴⁶ Committee oil beneficiary and company tables, contract nos. M/04/25 (contracting with Rossbulneft); M/05/65 (unexecuted) (contracting with Rossbulneft); M/05/23, M/06/71 (contracting with Lukoil Petroleum); M/07/71, M/08/102, M/09/86, M/10/75 (contracting with Zerich GmbH); M/11/123 (unexecuted) (contracting with Zerich GmbH); M/12/53 (contracting with Emercom); M/13/87 (unexecuted contract with Impexoil); Sazhi Umalatova interview (Aug. 23, 2005); Central Election Committee of the Russian Federation, “Information on registered political parties as of September 12, 2005,” <http://www.cikrf.ru> (translated from Russian); PPU, “Charter of the Russian Political Party of Peace and Unity,” <http://www.patriotparty.ru/ustav.htm> (translated from Russian); “Congress of Party of Peace and Unity to convene today,” *RIA Oreanda*, Dec. 18, 2004; Ministry of Oil record, Sazhi Umalatova letter to SOMO (Mar. 25, 2000).

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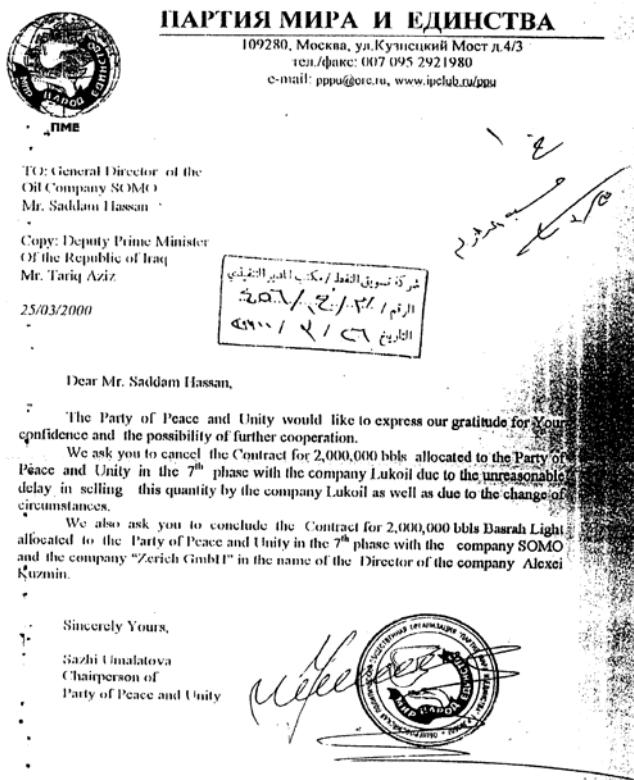


Figure: Sazhi Umalatova letter to SOMO (Mar. 25, 2000).

When interviewed by the Committee, Ms. Umalatova confirmed that she wrote letters to SOMO soliciting oil allocations, but stated that her requests were met with an “absolute lack of understanding” and did not result in a single oil allocation. However, when shown the March 25, 2000 letter, Ms. Umalatova confirmed the authenticity of her signature and the seal. When informed that the oil allocated to PPU in fact was lifted under several United Nations contracts, Ms. Umalatova, again in contradiction to the March 25, 2000 letter, claimed that she never dealt with any of the companies that lifted the oil.⁴⁷

4. Alexander Voloshin

Iraqi Ministry of Oil records show that approximately 4.3 million barrels of oil were allocated in the name of Alexander Voloshin in Phases XII and XIII, and a total of over 3.9 million barrels was lifted. This oil was purchased by Impexoil, a Russian-based company. At that time, Mr. Voloshin served as Chief of Staff in the Administration of the Russian President. The Committee obtained from Iraq a copy of a letter on purported letterhead of the Russian Presidential

⁴⁷ Sazhi Umalatova interview (Aug. 23, 2005).

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Administration, dated December 19, 2002, and accompanied by an Arabic translation, soliciting oil for Impexoil and signed under the name of Mr. Voloshin. The letter, addressed to Taha Yassin Ramadan, complained that the amount of oil allocated to Impexoil for Phase XIII was increased by “only 350,000 bbls.” The letter further requested an additional oil allocation to “our permanent business partner in Iraq ‘Impex-Oil LLC.’” Iraqi Ministry of Oil records show that Impexoil’s second contract (M/13/33) was executed in three liftings, including a lifting of 350,000 barrels on January 10, 2003.⁴⁸

When interviewed, Mr. Voloshin denied requesting or receiving any oil allocations from Iraq, as well as knowing anyone from Impexoil. Mr. Voloshin stated that the signatures in his name that appear on the letter dated December 19, 2002, as well as the accompanying translation, were “obviously . . . forged.” On October 21, 2005, the Russian Permanent Mission informed the Committee that the letter was not authentic. Citing the document number identification appearing on the letter, the Russian government stated that the “outgoing number A4-16912 [appearing on the letter in question] . . . has not been given to any document of the [Presidential] Administration.” The Committee has obtained samples of Mr. Voloshin’s signatures from Mr. Voloshin, from the Russian government, and from a public source; the known signatures of Mr. Voloshin are not substantially similar to the signature that appears on the letter of December 19, 2002. The Committee was unable to find information establishing any ties between Mr. Voloshin and Impexoil.⁴⁹

The Committee contacted Impexoil seeking comments on documents obtained from the Government of Iraq. The company responded through the Russian Ministry of Foreign Affairs, stating that it received no assistance from any entity or individual in arranging for its contracts

⁴⁸ Committee oil financier and beneficiary tables, contract nos. M/12/109, M/13/33 (contracting with Impexoil); SOMO letters to Amer Rashid (Sept. 26, 2002) (stating that Impexoil’s contract M/12/109 was allocated to Mr. Voloshin, “Head of Russian Presidential Council”), (Dec. 24, 2002) (stating that Impexoil’s contract M/13/33 was allocated to the “Head of Presidential Council”); SOMO letter to Impexoil (Jan. 2, 2003); Alexander Voloshin interview (Aug. 23, 2005); Presidential Executive Office, “Biography, Alexander Stalievich Voloshin,” <http://www.kremlin.ru/text/docs/2003/10/54746.shtml> (translated from Russian); Iraq Ministry of Oil record, letter to Taha Yassin Ramadan (Dec. 19, 2002); Committee oil company table, contract nos. M/13/33 (contracting with Impexoil), M/13/87 (unexecuted contract with Impexoil), M/13/91 (same); SOMO bills of lading (relating to contract M/13/33), bbl/3453 (Mar. 8, 2003), bbl/3450 (Mar. 2, 2003), bbl/3419 (Jan. 10, 2003).

⁴⁹ Alexander Voloshin interview (Aug. 23, 2005); Alexander Voloshin e-mail to the Committee (Sept. 20, 2005); UES, “Annual report of RAO ‘UES of Russia’ for year 2002,” p. 5, <http://old.rao-ees.ru/en/business/report2002/2002.pdf> (containing Mr. Voloshin’s signature); Russia Ministry of Foreign Affairs letter to the Committee (Oct. 21, 2005) (stating that “[i]n the year 2002 numeration of the documents at the [Presidential] Administration stopped at a smaller number”); Committee meeting with Russia Mission (Oct. 20, 2005) (providing the Committee with copies of officially certified documents with samples of Mr. Voloshin’s signature); Alexander Voloshin e-mail to the Committee (Oct. 4, 2005) (containing scanned images of documents); Confidential source report; Confidential source interview.

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under the Programme. Impexoil further stated that it strictly complied with the sanctions regime and thus did not see a need to meet with the Committee.⁵⁰

C. SURCHARGE PAYMENTS ON RUSSIAN CONTRACTS

Surcharges on oil contracts sometimes were paid in cash at Iraqi embassies abroad, including in Russia, Greece, Egypt, Switzerland, Italy, Malaysia, Turkey, Austria, Vietnam, Yemen, and Syria. By far the largest portion of total surcharge payments went through the Iraqi Embassy in Moscow. Between March 2001 and December 2002, over \$52 million in surcharges was paid through the Iraqi Embassy in Moscow. According to Iraqi Ministry of Oil records, 23 companies paid surcharges imposed on oil contracts through the Iraqi Embassy in Moscow. All but three of these companies were registered in Russia.⁵¹

1. The Collection of Surcharge Payments at Embassies

According to Iraqi officials, in the spring of 2001, the Iraqi Ministry of Foreign Affairs transmitted to the Iraqi Embassy in Moscow a written order to establish a three-member committee to collect cash surcharge payments from oil companies. The composition of the payment committee changed throughout its existence and at various times included the Embassy's commercial counselor, accountant, and other staff. The committee members were appointed orally, and no written record exists of their nomination.⁵²

⁵⁰ Committee letter to Russia Mission (Sept. 21, 2005) (requesting assistance in facilitating a meeting with Impexoil); Impexoil letter to Russia Ministry of Foreign Affairs (undated) (provided to the Committee on August 25, 2005); Committee letter to Impexoil (Aug. 17, 2005).

⁵¹ "Programme Management Report," vol. I, p. 87, Table 1; SOMO record, Iraq Embassy in Moscow payment receipts (Mar. 2001 to Dec. 2002) (translated from Arabic). The following companies paid all or part of their surcharges through the Iraqi Embassy in Moscow: ACTEC (\$5,794,000), Alfa Eco (\$2,039,161), Emercom (\$8,930,520), Federalny Torgovy Dom (\$349,500), Irakbul (paid \$50,000 and was reimbursed for the same amount), Khrizolit (€45,000), Lukoil (\$1,122,671), Machinoimport (\$1,455,362), Rosneftegazexport (\$1,625,287), Oil Company Siberia Limited (\$45,000), Kalmneftegaz (\$800,300), Neftegazexport (\$224,377), Onaco (\$198,000), Rosnefteimpex (\$9,014,463), Russian Engineering Company (at least \$2,502,000), Slavneft (\$3,259,000), Soyuzneftegaz (\$3,458,550), Tyumen Oil Company (\$501,417), Ukhta-Neft (\$485,400), Ural Invest Oil Corporation (\$891,800), Zangas (\$1,147,452), Zarubezhneft (\$7,904,016), and Zerich GmbH (\$954,000). All of these companies were registered in Russia, with the exception of Federalny Torgovy Dom (Ukraine), Irakbul (Bulgaria), and Zerich GmbH (Switzerland). Committee oil company table (companies listed above). Due to the non-execution of Irakbul's oil contract, the surcharge payment of \$50,000 paid by Irakbul on March 23, 2001 was returned to the company by the Iraqi Embassy in Moscow on November 6, 2002. On October 29, 2002, the Iraqi Embassy in Moscow also reimbursed the surcharge payment of \$59,995 to Lakia S.A.R.L. for the same reason, even though this company is not recorded as having paid the surcharge payment to the Iraqi Embassy in Moscow. Abbas Qunfuz letter to Ministry of Oil (Nov. 6, 2002) (translated from Arabic); Abbas Qunfuz letter to Ministry of Oil (Oct. 29, 2002) (translated from Arabic).

⁵² Iraq officials interviews.

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The frequency of cash payments to the Iraqi Embassy in Moscow varied from once a month to several payments a week. The cash payments usually were brought by a lower-level representative of the company. Members of the payment committee usually would count the cash in the presence of the company representative. Three copies of receipts would be made and signed by all members of the committee present at the meeting. The receipts would contain a serial number, the amount of the payment, the name of the company depositing the money, and the names of Iraqi officials receiving the money. Sometimes receipts contained names of individuals bringing cash to the Embassy, but their signatures were not required.⁵³ The Committee has obtained names of some of the individuals that brought cash on behalf of certain companies, including ACTEC, Emercom, Rosneftegazexport, Russian Engineering Company, Machinoimport, Slavneft, and Zarubezhneft. After the money was received, the Iraqi ambassador would sign and stamp each receipt. One copy of the receipt was then given to the company representative, one was placed with the cash in the safe to be included in shipment to Baghdad, and the third copy was placed in the Embassy's books.⁵⁴

The authenticity of Embassy receipts obtained by the Committee from SOMO was confirmed by former and current officials of the Iraqi Embassy in Moscow. All former members of the Embassy's payment committee contacted by the Committee also confirmed the authenticity of their signatures on the surcharge payment receipts. Below is a copy of one of the Embassy receipts issued for Zangas, one of the largest oil contractors under the Programme, with a fax ribbon mark identifying the name of the company:⁵⁵

⁵³ Iraq officials interviews. Some of the former Iraqi Embassy officials informed the Committee that the Embassy also occasionally received kickback payments on humanitarian contracts. Iraq officials interviews. However, the Committee has not been able to obtain documented proof of such payments.

⁵⁴ Iraq officials interviews; Confidential source report; Confidential source interview; SOMO record, Iraq Embassy in Moscow payment receipts, nos. 2 (Mar. 23, 2001), 3 (Apr. 5, 2001), 4 (Apr. 6, 2001), 6 (Apr. 27, 2001), 7 (Apr. 28, 2001), 10 (May 25, 2001), 12 (May 30, 2001), 13 (June 1, 2001), 19 (July 13, 2001), 20 (July 18, 2001), 40 (Oct. 4, 2001), 58 (Dec. 7, 2001), 66 (Dec. 25, 2001), 75 (Nov. 24, 2002), 77 (Feb. 1, 2002), 97 (Mar. 29, 2002), 108 (Apr. 26, 2002) (each translated from Arabic).

⁵⁵ Iraq officials interviews; Iraq Embassy in Moscow payment receipt, no. 76 (Jan. 28, 2002) (translated from Arabic and Russian).

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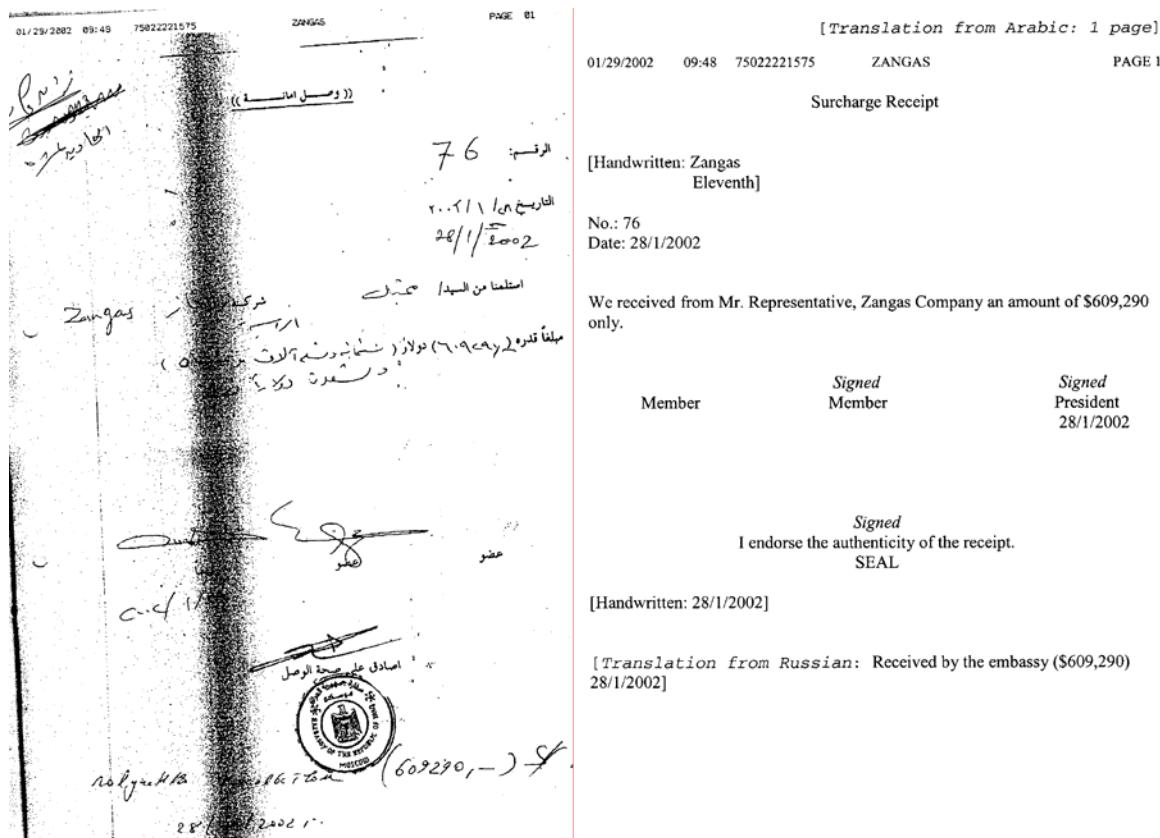


Figure: Iraq Embassy in Moscow payment receipt, no. 76 (Jan. 28, 2002) (for Zangas's contract M/11/19) (translated from Arabic and Russian).

Copies of the receipts sometimes were sent to the company or SOMO. According to the date on the fax ribbon, the Embassy receipt for the Zangas payment was faxed on January 29, 2002, a day after the receipt was issued by the Embassy. Two more Zangas-related receipts obtained by the Committee from SOMO contain identical fax ribbons bearing the same fax number. The fax ribbon and number are also identical to the ribbon and number appearing on official communications from Zangas to the United Nations oil overseers, as well as Zangas's copies of contracts with SOMO on file with the United Nations.⁵⁶

⁵⁶ Iraq Embassy in Moscow payment receipts, nos. 99 (Apr. 4, 2002) (for payment on Zangas's contract), 14 (June 14, 2001) (same); SOMO sales contracts, M/09/77 (Mar. 11, 2001), M/11/102 (Mar. 13, 2002) (each translated from Arabic); M. Vassiliev letter to Oil overseers (Jan. 30, 2001) (identifying Mr. Vassiliev as an Advisor to the President of Zangas); M. Vassiliev letter to Oil overseers (Dec. 28, 1998). The Committee has approached Zangas seeking comments on data regarding Zangas's surcharge payments, particularly as they relate to Embassy payment receipts. According to a Zangas representative, the company underwent a change of management in March 2003, as well as a substantial decrease in staff. As

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2. The Transportation of the Embassy Payments to Iraq

Cash payments were stored by the commercial counselor in the safe in his office at the Embassy. The cash, along with copies of relevant receipts, was transported periodically in red canvas diplomatic bags from Moscow to Baghdad by the diplomatic staff of the Iraqi Embassy. The time and amount of transported cash was decided by the ambassador. Diplomatic bags, which could hold up to \$1.5 million in \$100 bills, were used to transport the money when a sufficient amount accumulated at the Embassy. All diplomatic bags were numbered and sealed with wax. Nevertheless, Embassy staff transporting the cash were often aware of the contents of the bag, since the Embassy was rather small and the employees exchanged information. Because the cash was transported in diplomatic pouches and Embassy staff exercised diplomatic immunity, the pouches were not searched at the Moscow airport by Russian customs authorities.⁵⁷

The cash was transported on airplanes chartered by A.V.M. Air (“AVM”), a company that had regular flights between Moscow and Baghdad. Adel Al-Dzhilaui, the President of AVM, confirmed that Iraqi officials and diplomats flew to and from Baghdad on AVM’s flights. Mr. Al-Dzhilaui, as well as Vladimir Malyugin, an AVM pilot who flew regularly to and from Baghdad, denied any knowledge of cash being transported by Iraqi diplomats. Mr. Al-Dzhilaui and Mr. Malyugin also denied seeing any diplomatic bags on the flights.⁵⁸

According to Iraqi officials and Ministry of Oil records, Mr. Al-Dzhilaui solicited and received oil allocations during the Programme. Five million barrels of oil were allocated in Mr. Al-Dzhilaui’s name. Of this allocation, two million barrels were lifted through Pitkin Limited, a Cyprus-based company. The Committee has obtained a copy of a letter from Mr. Al-Dzhilaui to the Iraqi Minister of Oil, in which Mr. Al-Dzhilaui requested an oil allocation, expressing “sincere thankfulness for Your [Amer Rashid’s] kind attention and cooperation in the issue connected with crude oil allocation to our Company by the Iraqi Government.” When interviewed by the Committee, Mr. Al-Dzhilaui denied soliciting or receiving oil allocations from the Government of Iraq. When presented with a copy of his letter to the Iraqi Minister of Oil, Mr. Al-Dzhilaui denied the authenticity of his signature.⁵⁹

a result, no relevant records regarding Zangas’s participation in the Programme could be located.

According to a Zangas representative, the company’s activities in the Programme were kept strictly under the control of former top management of the company. Zangas representative interview (Aug. 24, 2005).

⁵⁷ Iraq officials interviews. One of the officials of the Government of Iraq informed the Committee that he once personally transported \$2 million in cash to Baghdad, pursuant to instructions of Ambassador Abbas Qunfuz. Iraq official interview.

⁵⁸ Iraq officials interviews; Adel Al-Dzhilaui and Vladimir Malygin interviews (Nov. 22, 2004 and Mar. 5, 2005).

⁵⁹ Iraq officials interviews; Committee oil beneficiary table, contract no. M/11/121; Adel Al-Dzhilaui and Vladimir Malygin interviews (Nov. 22, 2004 and Mar. 5, 2005); Ministry of Oil record, Amer Rashid letter to Taha Yassin Ramadan (Apr. 12, 2002) (translated from Arabic) (discussing Mr. Al-Dzhilaui’s oil allocation); Ministry of Oil record, Adel Al-Dzhilaui letter to Amer Rashid (Apr. 29, 2002) (translated from

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3. The Deposit of Embassy Cash in Rafidain Bank

Upon arrival in Baghdad, the Iraqi diplomat transporting cash was met by a representative of the Ministry of Foreign Affairs. The cash was handed over at the Ministry of Foreign Affairs and two copies of a receipt were prepared. One of the copies stayed with the Ministry of Foreign Affairs and another was provided to the Iraqi Embassy in Russia. The diplomatic bags with the cash were brought subsequently to Rafidain Bank in Baghdad. The cash was deposited in SOMO's USD account at the Rafidain Bank's main branch in Baghdad in presence of witnesses who verified that the amount of cash that left the Embassy corresponded to the amount that reached Baghdad. The money was transferred periodically from SOMO's account at the Rafidain Bank to the Ministry of Finance's account at the Central Bank of Iraq.⁶⁰ The Committee was unable to obtain copies of receipts issued by the Iraqi Ministry of Foreign Affairs or copies of bank records reflecting deposits into SOMO's account in Rafidain Bank.

4. Russian Companies Involved in Making Surcharge Payments

The Committee approached a number of Russian companies, including Alfa Eco, Emercom, Lukoil, Machinoimport, Rosneft, Rosnefteimpex, Russian Engineering Company, Soyuzneftegaz, TNK-BP, and Zarubezhneft, furnishing them with copies of Embassy payment receipts and requesting comments. The companies that responded to the Committee denied making the surcharge payments and questioned the accuracy of the Committee's data. These companies, however, have not provided any information refuting the records submitted to them by the Committee. Additionally, all Russian companies contacted by the Committee, with the exception of Zarubezhneft, Lukoil, and TNK-BP, either have not responded or have refused to meet with Committee representatives.⁶¹

Arabic) (further stating that oil allocations "will provide solid support for our [AVM's] efforts directed towards further lifting of international sanctions against Iraq and strengthening good friendly relations between Russia and the Republic of Iraq"); Ministry of Oil record, SOMO letter to Amer Rashid (May 9, 2002) (translated from Arabic) (approving contract M/11/121). Surcharges were also paid on contract M/11/121 in the amount of \$60,000, with an outstanding balance of \$243,755. Committee oil surcharge table, contract no. M/11/121 (contracting with Pitkin Ltd.).

⁶⁰ Iraq officials interviews.

⁶¹ Committee letter to Russia Ministry of Foreign Affairs (Feb. 18, 2005); Russia officials #3, 6-7 interview (Mar. 1, 2005); TNK-BP representatives interview (Mar. 3, 2005); Lukoil representatives interview (Feb. 14, 2005); Committee letters to Russian Engineering Company (Feb. 5 and July 29, 2005); Committee letter to Alfa Eco (Nov. 17, 2004); Alfa Eco letter to Russia Ministry of Foreign Affairs (Jan. 12, 2005) (translated from Russian) (provided to the Committee by the Russian Ministry of Foreign Affairs); Alfa Eco letter to the Committee (Oct. 19, 2005); Emercom letter to Russia Ministry of Foreign Affairs (Apr. 4, 2005) (provided to the Committee by the Russian Ministry of Foreign Affairs); Machinoimport letter to Russia Ministry of Foreign Affairs (Mar. 4, 2005) (same); Russian Engineering Company letter to Russia Ministry of Foreign Affairs (Feb. 2, 2005) (same); Russian Engineering Company letter to the Committee (Oct. 7, 2005) (same); Soyuzneftegaz letter to Russia Ministry of Foreign Affairs (Feb. 25, 2005) (same); Zarubezhneft letter to Russia Ministry of Foreign Affairs (Feb. 11, 2005) (same); Zarubezhneft letter to the

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a. Zarubezhneft

Zarubezhneft, a state-owned Russian oil company established in 1967, was the single most active oil contractor in the Programme. Between Phases I and XI, Zarubezhneft executed over 18 oil contracts, purchasing about 168.4 million barrels of oil, which amounted to approximately 4.6 percent of total sales of Iraqi oil under the Programme. According to SOMO records, a total of \$8,701,631 was paid in surcharges on five contracts executed by Zarubezhneft. Most of the surcharges—approximately \$7,904,016—were paid through cash deliveries to the Iraqi Embassy in Moscow.⁶²

The Committee has furnished Zarubezhneft with data on surcharges paid on its oil contracts. In response, Zarubezhneft stated that this data had “no relation to the activities of the Company during the Programme” and that its activities throughout the Programme were carried out in “strict compliance with recommendations of the Ministry of Foreign Affairs of Russia and with complete adherence to the requirements of the international sanctions regime.”⁶³

b. ACTEC

The eighth largest oil purchaser in the Programme was ACTEC, a Russian-based company created around 1995. The exact scope of ACTEC’s business activity in Russia is unclear, but it appears to have been established specifically for Programme-related business projects. According to Iraqi Ministry of Oil records, from Phases V until XI, ACTEC executed contracts to purchase about 71.9 million barrels of oil, which amounted to approximately 2.3 percent of total sales of Iraqi oil under the Programme. ACTEC purchased the oil under allocations granted in the names of the Communist Party of the Russian Federation and the Communist Party of Slovakia. All but one of ACTEC’s oil contracts were signed by Vladimir Zair-Bek, the President of the company.⁶⁴

Committee (Oct. 18, 2005); Alexandre Kramar interview (Mar. 5, 2005) (commenting in his capacity as a representative of Zarubezhneft).

⁶² Zarubezhneft, “History,” http://www.nestro.ru/www/nestroweb.nsf/index/enpr_history_eng; Committee oil company table, contract nos. M/01/15, M/02/05, M/02/34, M/03/14, M/03/50, M/04/01, M/05/12, M/06/18, M/07/07, M/07/81, M/07/93, M/08/02, M/08/82, M/08/86, M/09/19, M/09/82, M/10/01, M/11/115; Committee oil surcharge table, contract nos. M/08/02, M/08/82, M/09/82, M/10/01, M/11/115; SOMO record, Iraq Embassy in Moscow payment receipts, nos. 6 (Apr. 27, 2001), 9 (May 18, 2001), 11 (May 29, 2001), 18 (June 28, 2001), 24 (Aug. 16, 2001), 35 (Sept. 17, 2001), 39 (Oct. 2, 2001), 86 (Feb. 26, 2002), 100 (Apr. 4, 2002), 107 (Apr. 24, 2002) (each translated from Arabic).

⁶³ Committee letter to Russia Ministry of Foreign Affairs (Feb. 18, 2005); Zarubezhneft letter to Russia Ministry of Foreign Affairs (Feb. 11, 2005) (translated from Russian) (provided to the Committee by the Russian Ministry of Foreign Affairs); Alexandre Kramar interview (Mar. 5, 2005).

⁶⁴ Committee oil company table, contract nos. M/05/63 (Feb. 11, 1999) (signed by Mr. Zair-Bek), M/06/55 (June 6, 1999) (signed by Mr. Zair-Bek), M/07/48 (Dec. 18, 1999) (signed by Mr. Zair-Bek), M/08/05 (June 21, 2000) (signed by ACTEC’s regional representative in Iraq), M/10/83 (Oct. 14, 2001) (signed by Mr. Zair-Bek), M/11/39 (Dec. 22, 2001) (signed by Mr. Zair-Bek), M/11/45 (Dec. 23, 2001) (signed by Mr. Zair-Bek); Confidential source reports (stating that ACTEC was established by the leadership of KPRF

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The surcharges paid on contracts executed by ACTEC totaled \$6,194,000. Most of the surcharges imposed on ACTEC's contracts —\$5,794,000—were paid through the Iraqi Embassy in Moscow. The remaining surcharges were paid through bank transfers by Scandinavian T. Limited (“Scandinavian”). Scandinavian was created in 1999 in the Republic of Seychelles by two oil traders, Viacheslav Vodennikov and Roman Kononchuk. As of January 18, 2000, the list of its beneficial owners included Mr. Zair-Bek, Mr. Vodennikov, and Mr. Kononchuk.

According to Iraqi Ministry of Oil records, in October and November 2000, Scandinavian made four surcharge payments of \$100,000 in relation to ACTEC's contract M/08/05. At least one of the payment orders, dated November 6, 2000, was signed by Mr. Zair-Bek. The money was transferred from United European Bank (“UEB”) to a SOMO account in Fransabank. According to Ministry of Oil records, this payment covered part of the surcharge on contract M/08/05. The Committee was unable to locate Mr. Zair-Bek to discuss ACTEC's participation in the Programme and surcharge payments on its oil contracts.⁶⁵

c. Alfa Eco

About 2.8 percent of the Iraqi oil exported under the Programme was sold through Alfa Eco. Alfa Eco was the fourth largest purchaser of Iraqi oil under the Programme, executing 15 oil contracts for more than 106 million barrels of oil. Established in 1989, Alfa Eco was one of the original companies in the Alfa Group Consortium, which consists of dozens of companies registered in various countries, including a number of telecommunication companies, TNK-BP, and Alfa Bank. A total of \$2,351,880 in surcharges was paid on four of Alfa Eco's 15 oil contracts, the only such contracts executed by Alfa Eco in the surcharge phases. Most of the payments—\$2,039,161—were made in cash through the Iraqi Embassy in Moscow, and the

specifically for the Programme); Alexandre Kramar interview (Mar. 5, 2005). One Russian official, when asked about ACTEC, stated that two sets of companies operated in the Programme: established large companies and companies created specifically to pursue opportunities under the Programme. Russia officials #3, 6-7 interview (Mar. 1, 2005).

⁶⁵ Committee oil surcharge table, contract nos. M/08/05, M/10/83, M/11/39; Fransabank record, SOMO account, credit advice (Oct. 23, 2000); Fransabank record, SOMO account, credit advice (Oct. 26, 2000); Fransabank record, SOMO account, credit advice (Nov. 7, 2000); SOMO record, Iraq Embassy in Moscow payment receipts, nos. 62 (Dec. 20, 2001), 66 (Dec. 25, 2001) (stating that the money was brought by Mr. Zair-Bek), 71 (Jan. 18, 2002), 72 (Jan. 21, 2002), 77 (Feb. 1, 2002) (stating that the money was brought by Mr. Zair-Bek), 88 (Mar. 5, 2002), 112 (May 24, 2002), 119 (June 24, 2002), 120 (June 26, 2002) (each translated from Arabic); UEB record, Scandinavian account, incorporation documents (1999-2002) (stating that Mr. Vodennikov and Mr. Kononchuk were introduced to UEB by Taurus Petroleum and specifically by Martin Schenker, Financial Director of Taurus Petroleum); UEB record, Scandinavian account, verification of beneficial owner's identity (Jan. 18, 2000); Confidential source reports (stating that, between 1999 and 2002, Mr. Vodennikov also appeared in ACTEC's records as one of its employees); UEB record, Scandinavian account, payment order (Nov. 6, 2000); Bank of Jordan record, SOMO account, SWIFT message (Nov. 6, 2000); Committee oil surcharge table, contract no. M/08/05; ACTEC site visit report (Feb. 28, 2005) (discussing a visit to ACTEC's office by Committee investigators).

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remaining amount of \$312,719 was transferred using two companies, Star Port LLC (“Star Port”) and Watford Limited (“Watford”).⁶⁶

One of those two companies—Watford—has employees in common with other companies in the Alfa Group. According to bank and company registration records obtained by the Committee, a number of Watford’s managers—including Dmitry Plouzhnikov, James Grassick, Susan Cubbon, Simon Elmont, and Gillian Caine—also appear in registration documents of numerous other companies controlled by Alfa Group. Among them are Crown Commodities Limited and Crown Trade and Finance, trading arms of Alfa Group, which, along with Crown Resources AG, participated in trading operations related to Iraqi oil purchased by Alfa Eco and Tyumen Oil Company.⁶⁷

The Committee has contacted Alfa Eco on several occasions requesting a meeting to discuss the surcharge payments made on Alfa Eco’s and TNK’s contracts. Initially, the company stated that it was ready to provide “possible assistance on the matter.” However, in January 2005, Alfa Eco stated that it would communicate with the Committee through the Russian Ministry of Foreign

⁶⁶ Committee oil company table, contract nos. M/01/21, M/01/24, M/02/06, M/03/02, M/03/37, M/03/53, M/04/15, M/05/07, M/06/17, M/07/23, M/08/24, M/09/101, M/10/63, M/11/31, M/12/119; Alfa Eco, “About Alfa Eco,” <http://www.alfaeco.ru/en/about>; Alfa Eco, “Alfa Eco’s history,” <http://www.alfaeco.ru/en/about/history>; Tatiana Egorova, “Fridman is worth \$8 bln,” *Vedomosti*, Oct. 7, 2005 (translated from Russian); Committee oil surcharge table, contract nos. M/08/24, M/09/101, M/10/63, M/11/31; SOMO record, Iraq Embassy in Moscow payment receipts, nos. 48 (Nov. 9, 2001), 60 (Dec. 19, 2001), 85 (Feb. 19, 2002) (each translated from Arabic); Jordan National Bank record, SOMO account, credit advice (May 28, 2001) (containing surcharge payments of \$104,730 and \$70,000 on Alfa Eco’s contract M/08/24 and payment of \$101,000 on TNK’s contract M/08/25); Fransabank record, SOMO account, SWIFT message (Nov. 3, 2000) (containing surcharge payments of \$40,000 and \$98,004 on Alfa Eco’s contract M/08/24 and payment of \$99,774 on TNK’s contract M/08/25). According to the data of the Iraqi Ministry of Oil, a total of \$1,541,881 was paid in surcharges on TNK’s contracts. Committee oil surcharge table, contract nos. M/08/25, M/08/40, M/09/102. The Committee contacted TNK-BP seeking its comments on information on surcharges paid on its contracts. As of October 25, 2005, TNK-BP has neither denied nor confirmed the accuracy of information on its surcharge payments. TNK-BP representatives interview (Mar. 3, 2005).

⁶⁷ Watford incorporation records (1993-2000) (identifying Mr. Plouzhnikov, Mr. Grassick, Ms. Cubbon, Mr. Elmont, and Mr. Caine among Watford’s managers); United Overseers Bank record, Crown Trade and Finance account, account opening documents (1996-2000) (identifying Dmitry Plouzhnikov as one of the managers of the company); Crown Trade Limited incorporation documents (1998-1999) (identifying Mr. Caine, Mr. Elmont, Mr. Grassick, and Ms. Cubbon among the managers of the company); Crown Commodities Limited incorporation documents (1997-2000) (identifying Dmitry Plouzhnikov as one of the managers of the company); David Chalmers letter to Crown Resources AG c/o Alfa Eco (Oct. 12, 2000); Crown Resources AG letter to Saybolt (Oct. 26, 2000); David Chalmers letter to Crown Commodities (June 8, 1999); Crown Commodities letter to David Chalmers (Jan. 17, 1998); Alexandre Kramar interview (Mar. 5, 2005) (discussing Crown’s affiliation with Alfa Eco and involvement in the Programme); Michael Teagarden, “Crude Trader Crown Resources Begins ’03 With New Names, Owners,” *The Oil Daily*, Jan. 3, 2003 (describing affiliation of Crown Resources AG with Alfa Group and discussing the sale of the company in the end of 2002).

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Affairs. The Ministry subsequently provided the Committee with a copy of a letter from Alfa Eco in which the company denied being involved in violating any “regimes and norms established by the international community and national legislation.”⁶⁸

d. Lukoil

Russian-based oil company Lukoil, together with two of its foreign subsidiaries—Lukoil Asia Pacific PTE Ltd. (Singapore) (“Lukoil Asia Pacific”) and Lukoil Petroleum (British Virgin Islands)—lifted a total of nearly 93.4 million barrels of Iraqi oil under the Programme. A surcharge payment of \$1,122,671 was paid through the Iraqi Embassy in Moscow in connection with one contract executed by Lukoil Asia Pacific. Lukoil representatives denied any knowledge of the surcharge payment, stating to the Committee that company’s internal investigation showed no trace of such a payment. Iraqi oil purchased by Lukoil Asia Pacific under this contract was sold by Lukoil Asia Pacific to Bayoil for a price of \$0.03 per barrel, which resulted in revenue for Lukoil of \$112,255. According to Lukoil representatives, the company did not receive any other payments from Bayoil, and therefore, its proceeds from the transaction would not have covered a cash payment of \$1,122,671 to the Iraqi Embassy in Moscow.⁶⁹

⁶⁸ Committee letters to Alfa Eco (Nov. 17, 2004; Jan. 10 and Oct. 13, 2005); Alfa Eco letters to the Committee (Nov. 16, 2004; Jan. 27 and Oct. 19, 2005); Alfa Eco letter to Russia Ministry of Foreign Affairs (Jan. 12, 2005) (translated from Russian) (provided to the Committee by the Russian Ministry of Foreign Affairs); Alfa Eco letter to the Committee (Nov. 17, 2004) (inquiring whether the Committee was interested in discussing “other companies, Crown Resources AG and TNK-BP, which also being a part of Consortium Alfa Group, have been involved in the Oil-for-Food Programme”).

⁶⁹ Committee oil company table, contract nos. M/01/14, M/02/21, M/03/26, M/04/20, M/05/23, M/06/22, M/06/71, M/07/13 (contracting with Lukoil); M/04/61, M/05/53, M/05/70, M/06/44 M/07/72, M/08/81 (contracting with Lukoil Petroleum); M/10/67 (contracting with Lukoil Asia Pacific); SOMO record, Iraq Embassy in Moscow payment record (Jan. 22, 2002) (translated from Arabic); Committee oil surcharge table, contract no. M/10/67; Lukoil representatives interview (Feb. 14, 2005); Lukoil record, payment invoice no. SC-004-01S (Nov. 1, 2001) (for \$57,257); Lukoil record, payment invoice no. SC-005-01S (Nov. 6, 2001) (for \$54,998); Bayoil, “Transaction details for Bayoil Supply & Trading, Ltd. January 1995 through December 2003” (recording two November 2001 payments of \$57,257 for the first lifting of 1,908,566 barrels and \$54,998 for the second lifting of 1,833,263 barrels). According to Iraqi Ministry of Oil records, contract M/10/67 was allocated to Mr. Zhirinovsky. Committee oil financier table, contract no. M/10/67; Vladimir Zhirinovsky letter to Tariq Aziz (July 26, 2001).

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IV. FRANCE

A. PREFERENTIAL OIL ALLOCATIONS

The Government of Iraq followed an explicit policy of favoring companies and individuals based in France in its distribution of oil allocations. According to Iraqi officials, France was perceived as a “friend” of the Iraqi regime because it supported the lifting of sanctions. French companies, second only to Russian companies, purchased the largest share of Iraqi crude oil under the Programme. French companies contracted for approximately \$4.4 billion of oil from Iraq under the Programme. But France, unlike Russia, was home to a small number of major oil companies. Total International Limited and SOCAP International Limited contracts accounted for approximately 74 percent of the oil purchased by French companies under the Programme. These companies stopped contracting directly with SOMO after Phase VIII, coinciding with the imposition of surcharges in September 2000. Consequently, France then ceased to be a top recipient of Iraqi oil through its companies.⁷⁰

Iraq’s preference for French companies and the limited number of recipients in France for Iraqi crude oil led certain companies to pass themselves off to SOMO as being French-based. For example, Vitol S.A., a Switzerland-based company, purchased Iraqi oil under the name “Vitol France” even though no such company existed. Glencore managed to use its Glencore France S.A. subsidiary to contract with SOMO in just one phase. Marc Rich + Co. Investment AG, a Switzerland-based company, financed and purchased oil through European Oil and Trading Company (“E.O.T.C.”), a company that was established specifically for the purpose of trading oil under the Programme. Addax BV, a Switzerland-based company, had a new affiliated entity, Addax (France) S.A.R.L., incorporated to purchase Iraqi crude oil. These companies and others are discussed in more detail below.

The attempts by companies to disguise themselves as French entities came to the attention of the Iraqi regime. In addressing the problem, Iraqi officials explicitly referred to France’s favored status with Iraq’s leadership. In October 1998, a French official in the Sanctions Department wrote to an Iraqi official in Paris about “his concerns and his government’s concerns... regarding the increase in British and American companies as well as others who exploit the decision of the Iraqi leadership in providing priority to conducting business with French companies by signing contracts with Iraq through their offices in France.” The letter referenced a list of these suspected

⁷⁰ Amer Rashid interview (Oct. 9, 2004); Tariq Aziz interviews (Mar. 1 and Aug. 16, 2005); Taha Yassin Ramadan interview (Aug. 17, 2005); “Programme Management Report,” vol. II, pp. 29-30; Committee oil company and beneficiary tables (contracts with French companies). If the purchases of a London-based subsidiary of a Chinese state-owned company are factored into China’s total oil purchases, then Chinese companies would surpass French companies as the second largest purchaser of oil under the Programme, with total sales of \$4.9 billion. “Programme Management Report,” vol. II, pp. 29-30. Amer Rashid served as Iraq’s Minister of Oil during the Programme, Tariq Aziz served as Iraq’s Deputy Prime Minister, and Taha Yassin Ramadan served as Iraq’s Vice President. Amer Rashid interview (Oct. 9, 2004); Tariq Aziz interviews (Mar. 1 and Aug. 16, 2005); Taha Yassin Ramadan interview (Aug. 17, 2005).

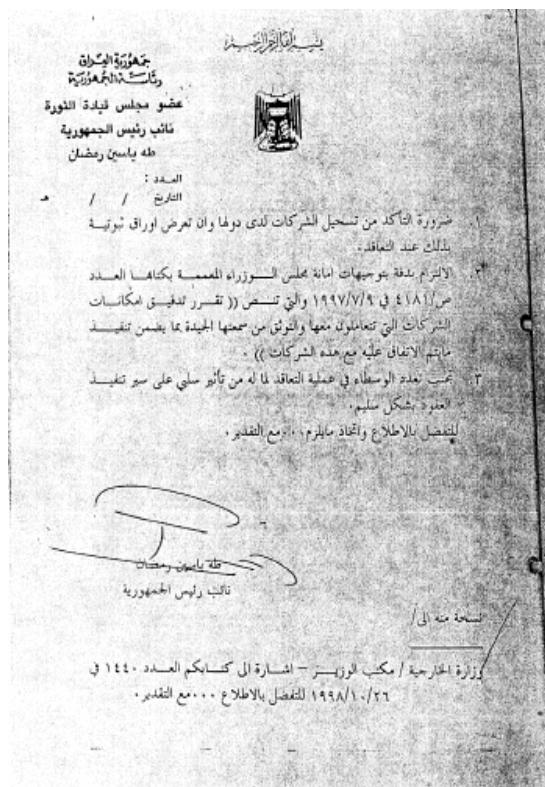
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“hoax companies” which, the letter indicated, was being forwarded to the Iraqi Ministry of Foreign Affairs and others.⁷¹

Iraqi officials took this complaint seriously. After being notified of the complaint in November 1998, Iraqi Vice President Taha Yassin Ramadan wrote a letter to the Iraqi ministries and the Baghdad Trust entitled “Dealing with French Companies.” In this letter, Mr. Ramadan made it clear that Iraq needed to implement policies that would prevent American and British companies from exploiting Iraq’s preferential treatment of French companies:⁷²



For the purpose of the instructions on dealing with French companies and the possibility of American and British companies exploiting the preferential treatment provided to France by setting up offices in France, and the risk of such companies’ success in signing commercial contracts with Iraq under the framework of MOU contracts, we thus emphasize the importance of executing the following:

1. Importance of ensuring that such companies are registered in their home countries and to present documents as proof at the time of the contract.
2. Accurately abiding to the instructions of the Council of Ministers circulated in their letter no. S/4181 dated 9/7/1997 which states that “It has been decided to scrutinize companies capabilities and to be certain of their good reputation which guarantees the execution of the agreements with them.”
3. Avoid numerous intermediaries during contractual agreements as it has a negative effect on the smooth execution of the contract.

Figure: Excerpt of Taha Yassin Ramadan letter to Iraqi Ministries (Nov. 22, 1998) (translated from Arabic).

In addition to giving preference to companies based in France, the Government of Iraq also granted oil allocations to individuals based in France who espoused pro-Iraq views. Iraq’s Deputy Prime Minister, Tariq Aziz, who had been in charge of Iraq’s relations with France for

⁷¹ Mohammed Said Al-Sahaf letter to Taha Yassin Ramadan (Oct. 26, 1998) (translated from Arabic).

⁷² Taha Yassin Ramadan letter to the Ministries of Internal Affairs, Trade, Health, Transportation, Oil, Irrigation, Higher Education and Scientific Research, Industry and Mines, Agriculture, Education, and the Baghdad Trust (“Iraqi Ministries”) (Nov. 22, 1998) (translated from Arabic).

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many years, was primarily responsible for determining which French individuals would be allocated oil and served as their main Iraqi contact. Mr. Aziz has specifically stated that he recommended that some of the French beneficiaries receive allocations because of their activities on behalf of Iraqi issues. Mr. Rashid went further, and stated that at times there was a direct correlation between an increase in oil allocations and the extent of a beneficiary's anti-sanctions activities. As described in this section, many of those individuals selected by the Government of Iraq to receive oil allocations actively expressed views or participated in activities connected with Iraq, including anti-sanctions activities.⁷³

On one occasion, in order to obtain more oil, one beneficiary—a former French diplomat Serge Boidevaix—emphasized to Iraqi officials a position taken by the French government that was supportive of Iraq:

We were happy to see the decision of the Security Council to increase the total amount for exports to \$8.3 billion, and as you may know, on the French side we proposed an increase without limits or restrictions. As I mentioned in my last letter, we would be grateful for an increase to our current allocation of 5 million barrels, and could lift Basrah anytime in October or November if you had additional volumes to allocate.⁷⁴

B. JEAN-BERNARD MÉRIMÉE

While serving as a Special Advisor to the Secretary-General of the United Nations, with the rank of Under-Secretary-General, Jean-Bernard Mérimée began receiving oil allocations that would ultimately total approximately six million barrels from the Government of Iraq. While still in the position of Special Advisor, Mr. Mérimée arranged to sell two million barrels of oil that were allocated to him in Phase X. He received \$165,725 in commissions from the oil sale. Surcharges were assessed on the oil contract and paid by the contracting company.⁷⁵

⁷³ Amer Rashid interview (Oct. 9 and Oct. 29, 2004); Tariq Aziz interviews (Mar. 1 and Aug. 16, 2005); Iraq officials interviews (one official stating that Mr. Aziz was not naïve about the political influence of certain individuals, that he welcomed meeting with politicians, including French politicians, and knew what they could do).

⁷⁴ Serge Boidevaix letter to Saddam Z. Hassan (Oct. 5, 1999) (translated from Arabic). In the same letter, Mr. Boidevaix referred to earlier discussions with the Mr. Rashid about having Iraqi oil sector technicians trained in refineries “in France and perhaps Italy” at Vitol’s expense and proposed having the company assist “with the restoration of equipment at Saddam Hussein Children’s Hospital.” Ibid.

⁷⁵ Tariq Aziz interview (Mar. 1, 2005); Iraq official interview; Committee oil beneficiary table, contract nos. M/10/96, M/11/82, M/13/76; SOMO sales contract, no. M/10/96 (Oct. 6, 2001) (contracting with Fenar Petroleum Limited).

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1. Background

From 1991 through 1995, Mr. Mérimée served as France's Permanent Representative to the United Nations. Intermittently during that time, Mr. Mérimée also served as President of the United Nations Security Council. Prior to joining the United Nations, Mr. Mérimée served as the French Ambassador to Australia, India, Morocco, and Italy. Mr. Mérimée was awarded the title Ambassador of France in 1999. Mr. Mérimée's tenure as Permanent Representative coincided with the Security Council's negotiation and adoption of Resolution 986 and the inception of the Programme. After Resolution 986 was adopted by the Security Council, Mr. Mérimée advocated for the lifting of sanctions once Iraq satisfied its obligations concerning its weapons program pursuant to United Nations resolutions.⁷⁶

Mr. Mérimée retired from the French Ministry of Foreign Affairs in 1998. A year later, he was appointed by the Secretary-General as Special Advisor on European Affairs. His tenure in that

⁷⁶ Jean-Bernard Mérimée interview (Oct. 4, 2005); Jean-Bernard Mérimée personnel file, United Nations Office of Human Resources Management (hereinafter “Mérimée personnel file”); *Qui est Qui en France* (36th Ed.) (Jacques Lafitte S.A., 2004) (translated from French); Tariq Aziz interview (Mar. 1, 2005) (confirming that Mr. Mérimée requested and received oil allocations after he had retired from the United Nations); Iraq officials interviews (affirming that oil allocations were granted to individuals with political influence); SOMO letters to Amer Rashid (Oct. 7, 2001) (approving contract M/10/96 for 2 million barrels of oil for “Fenar Petroleum (Jean-Bernard Mérimée)”), (Jan. 19, 2002) (approving contract M/11/82 for 1.5 million barrels of oil for “Aredio Petroleum (Mr. Jean-Bernard Mérimée)”), (Jan. 12, 2003) (approving contract M/13/76 for 1 million barrels of oil for “Aredio Petroleum S.A.R.L.” for “recipient of allocation: Mr. Mérimée the French”) (each translated from Arabic) (hereinafter “Approval letters for Mérimée contracts”); SOMO oil allocation tables, Phase X (Aug. 4, 2001) (indicating an allocation of 2 million barrels of oil for “Mérimée”), Phase XI (Dec. 1, 2001) (indicating an allocation of 1.5 million barrels of oil for “Mérimée”), Phase XII (May 19, 2002) (indicating an allocation of 1.5 million barrels of oil for “Mérimée”), and Phase XIII (Nov. 17, 2002) (indicating an allocation of 1 million barrels of oil for “Mérimée”) (each translated from Arabic) (hereinafter “SOMO oil allocation tables for Mérimée”); Stanley Meisler, “U.N. Allows Iraq Oil Sales Humanitarian Needs Cited,” *The Hartford Courant*, Apr. 15, 1995, p. A1 (describing Resolution 986 as “a temporary measure that will vanish when conditions are ripe” to end sanctions); Joan Gralla, “France’s UN envoy says Iraq will cooperate on arms,” *Reuters News*, June 20, 1995 (stating “We take the view that as soon as we get the green light from Ekeus [UNSCOM] we have to start lifting the embargo”); “U.N. Council Punishes Iraq for Making ‘Horrible’ Germs,” *The Salt Lake Tribune*, July 12, 1995, p. A9 (suggesting that sanctions could be eased if the report from U.N. arms inspectors showed Iraqi progress). From September 1 to September 30, 1991, October 1 to October 31, 1992, March 1 to March 31, 1994, and May 1 to May 31, 1995, Mr. Mérimée served as President of the United Nations Security Council. Mérimée personnel file; Official Record of the General Assembly, Reports of the Security Council, A/50/2 Fiftieth Session (Nov. 14, 1995), A/49/2 Forty-ninth Session (Oct. 18, 1994), A/48/2 Forty-eighth Session (Oct. 19, 1993), A/47/2 Forty-seventh Session (June 2, 1993). No company was designated for Mr. Mérimée’s allocation of 1.5 million barrels of oil in Phase XII. Committee oil beneficiary table.

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position was extended until February 14, 2002. He performed additional work for the United Nations in a non-appointed status as late as early 2003.⁷⁷

2. Oil Allocations and Contracts

According to Mr. Aziz, Mr. Mérimée made a request for an oil allocation after he retired as the French Permanent Representative to the United Nations. Mr. Mérimée was included for the first time in a SOMO Allocation Table that was dated August 4, 2001 for Phase X. At that time, he had been retired for two years from his position as France's Permanent Representative to the United Nations. Mr. Mérimée, however, was a Special Advisor to the Secretary General of the United Nations. He served in that position until the beginning of Phase XI. Iraq Ministry of Oil records show that between Phases X and XIII, the Government of Iraq granted a total of six million barrels of oil in Mr. Mérimée's name. In addition to the contract in Phase X discussed below, Ministry of Oil records indicate that one other contract was executed for oil allocated to Mr. Mérimée but it does not appear to have been lifted under that contract.⁷⁸

⁷⁷ Mérimée personnel file (showing that Mr. Mérimée served as a Special Advisor at the level of the Under-Secretary-General from February 15, 1999 to August 14, 2002); Kofi Annan letter to Jean-Bernard Mérimée (Aug. 1, 2001); Iqbal Riza note to Rafiah Salim (Aug. 3, 2001). Although the extension paperwork related to the Special Advisor position was sent to Mr. Mérimée, a signed copy of the last extension could not be located. Rafiah Salim letter to Jean-Bernard Mérimée (Aug. 13, 2001). Mr. Mérimée's post-appointment work was unrelated to the Programme. Kofi Annan meeting notes with Jean-Bernard Mérimée (Feb. 6, 2003) (regarding United Nations relations with the European Union).

⁷⁸ Jean-Bernard Mérimée interview (Oct. 4, 2005); Tariq Aziz interview (Mar. 1, 2005); Mérimée personnel file (showing that Mr. Mérimée was employed as a Special Advisor at the level of the Under-Secretary-General from February 15, 1999 to August 14, 2001); Claudia Rosett, "U.N. Mystery Man: Who is Jean-Bernard Mérimée and What's His Oil-for-Food Tie?" *Fox News*, July 28, 2005 (quoting United Nations spokesman Stephane Dujarric as stating that Mr. Mérimée had not been employed by the United Nations since February 14, 2002, but that his name had remained on the United Nations website's list of "Special and Personal Representatives and Envoys of the Secretary-General" for more than three years after that point due to "oversight"); Committee oil beneficiary tables, contract nos. M/10/96, M/11/82, M/13/76, No contracting company; Approval letters for Mérimée contracts; SOMO oil allocation tables for Mérimée. Ministry of Oil records show that in Phase XI, a 1.5 million barrel oil allocation was contracted to Aredio Petroleum S.A.R.L. (hereinafter "Aredio"), a French-based company. SOMO sales contract, no. M/11/82 (Jan. 16, 2002); Approval letters for Mérimée contracts; SOMO oil allocation tables for Mérimée. In a handwritten letter, dated January 7, 2002, to SOMO, Mr. Mérimée stated: "Please give my allocation of crude oil (phase eleven) to Aredio. Thank you." Jean-Bernard Mérimée letter to SOMO (Jan. 7, 2002) (translated from French). Mr. Mérimée did not dispute the letter's authenticity, but could not recall writing it or dealing with Aredio Petroleum. Jean-Bernard Mérimée interview (Oct. 4, 2005). Even though the United Nations Treasury archive includes documents in connection with the approval of contract M/11/82, the invoice issued by SOMO in connection with these documents refers to contract M/11/101, another contract of Aredio during that phase. This invoice shows that the entire oil allocation of 1.5 million barrels for Phase XI was not lifted; Aredio lifted only 275,000 barrels of oil. SOMO bill of lading, ck/5173 (June 1, 2002) (relating to M/11/82); SOMO commercial invoice, c/50/2002 (June 1, 2002) (indicating that 275,000 barrels of oil were lifted for contract M/11/101).

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Mr. Mérimée admitted that he received one oil allocation from the Government of Iraq, but he denied knowledge of additional allocations. According to Mr. Mérimée, Mr. Aziz offered him an oil allocation during a visit to Baghdad because he had been a “fair negotiator” during the establishment of the Programme. Mr. Mérimée emphasized that Mr. Aziz had made it clear that he was offering an oil allocation as a personal gesture to Mr. Mérimée. According to Mr. Mérimée, he received oil from the Government of Iraq on only one occasion and sold it.⁷⁹

Mr. Mérimée sold two million barrels of oil to Fenar Petroleum Ltd., as discussed in Section VI.C below. The contract was executed on October 6, 2001, while Mr. Mérimée held the position of Special Advisor. He sold the oil through an agent, Elias Firzli. Mr. Firzli often helped beneficiaries based in France to sell their allocations. According to Mr. Mérimée and Mr. Firzli, Mr. Firzli was responsible for arranging the sale of the oil to a contracting company.⁸⁰

Mr. Mérimée admitted that he received a commission for the sale of his rights to the oil. He directed that his commission be paid to a bank account outside France. Bank records show that on January 16, 2002, Fenar Petroleum Ltd. transferred a total of approximately \$165,725 to Mr. Mérimée’s bank account at BMCE Bank Morocco. Mr. Mérimée stated that he was careful not to involve a French entity in the transaction. The payment corresponds to a \$0.08 per barrel commission.⁸¹

Ministry of Oil records show that a surcharge of approximately \$621,471 was levied and paid on contract M/10/96. The surcharge was paid in four deposits to a SOMO account at the Jordan National Bank between September 2001 and April 2002. The bank advice for an advance payment of surcharges for this contract indicates that payment was made “by order of Jean Bernard.” The depositors on the bank advices for the three remaining payments were “Salim Ahmad” and “Maurice Rizly.” These surcharge payments are discussed in more detail in Section VI.C.⁸²

⁷⁹ Jean-Bernard Mérimée interview (Oct. 4, 2005). A contract was signed between Fenar Petroleum and SOMO on October 6, 2001. SOMO sales contract, no. M/10/96 (Oct. 6, 2001).

⁸⁰ SOMO letter to Amer Rashid (Oct. 7, 2001) (approving contract M/10/96 for 2 million barrels of oil for “Fenar Petroleum (Jean-Bernard Mérimée)”; SOMO sales contract, no. M/10/96 (Oct. 6, 2001) (contracting with Fenar Petroleum Limited); Jean-Bernard Mérimée interview (Oct. 4, 2005); Elias Firzli interview (Oct. 14, 2005).

⁸¹ Jean-Bernard Mérimée interview (Oct. 4, 2005) (confirming that the money was received in a non-French bank and stating that he was careful that no French entity was involved in the transactions); BNP Geneva record, Fenar Petroleum Ltd, debit advice (Jan. 16, 2002) (in favor of Mr. Mérimée and indicating that the payment detail on the wire transfer referenced the *Berge Phoenix*). *Berge Phoenix* was the vessel used to load the oil allocated to Mr. Mérimée under contract M/10/96. SOMO bill of lading, ck/5116 (Dec. 13, 2001); SOMO sales contract, no. M/10/96 (Oct. 6, 2001) (contracting with Fenar Petroleum Limited); see also Patrick Hilty interview (Apr. 13, 2005). Patrick Hilty is a Chartered Accountant and a partner of Revitrust. Ibid.

⁸² Committee oil surcharge table, contract no. M/10/96; Jordan National Bank record, SOMO accounts, deposit advices (Apr. 7 and Sept. 30, 2001; Feb. 4 and 7, 2002) (each translated from Arabic).

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Mr. Mérimée has acknowledged that he was aware at the time that the Iraqi regime was imposing surcharges on oil sales. He denied that he had any knowledge of or role in surcharge payments on his oil contract.⁸³

C. CHARLES PASQUA/BERNARD GUILLET

Charles Pasqua, the former Minister of Interior in France, had allocations designated in his name for a total of 11 million barrels of oil from the Government of Iraq. According to Iraqi officials and records, the oil allocations were carried out on Mr. Pasqua's behalf by his diplomatic advisor at the time, Bernard Guillet. According to Mr. Guillet, Mr. Aziz conveyed through him an offer of Iraqi crude oil to Mr. Pasqua to thank the latter for his support for Iraq. Mr. Guillet stated that he told Mr. Pasqua about Mr. Aziz's offer. Mr. Pasqua denied that he was informed of the offer.

Most of the oil allocated in Mr. Pasqua's name was sold to Genmar Resources GMBH ("Genmar"), a Switzerland-based company. Both Mr. Pasqua and Mr. Guillet have denied involvement in oil sales under the Programme or receiving any proceeds from them. However, Mr. Guillet arranged for the sale of the oil allocated in Mr. Pasqua's name. Mr. Guillet also received at least \$234,000 in cash payments from the proceeds of those oil sales. His accounting of the distribution of the money is vague. Additionally, Mr. Guillet received allocations in his own name which were then sold—a claim that Mr. Guillet has denied.

1. Background

In 1986 and again in 1993, Mr. Pasqua served as France's Minister of the Interior. During this time, Mr. Pasqua briefly served as the President of Conseil Général des Hauts de Seine.⁸⁴ Mr. Pasqua acknowledged meeting with Mr. Aziz on at least two occasions—in 1993 and 1995.⁸⁵ For

⁸³ Jean-Bernard Mérimée interview (Oct. 4, 2005).

⁸⁴ "White Paper: Charles Pasqua's Correction to the May 12, 2005 Report of the United States Senate Investigations Subcommittee," vol. I, p. 5 (Sept. 15, 2005) (hereinafter "Pasqua's White Paper, vol. I"). From 1977 to 1999, intermittently and since 2004, Mr. Pasqua has served as Senator of the Hauts-de-Seine, and intermittently from 1973 to 2004 served as the President of the Conseil Général des Hauts de Seine, which is the executive council in charge of the management of this region—one of France's wealthiest and most important industrial areas. Pasqua's White Paper, vol. I, p. 5; Bienvenue au Sénat, "Sénateurs," http://www.senat.fr/senfic/pasqua_charles77053g.html. In the late 1980s, Mr. Pasqua was the co-founder of Association France-Afrique-Orient and served as the Vice President until the mid-1990s. Charles Pasqua interview (Oct. 3, 2005); Bernard Guillet interviews (Oct. 3 and 5, 2005). In 1999, he was a co-founder of a new political party in France, *Rassemblement pour la France* (Rally for France) (hereinafter "RPF"). Pasqua's White Paper, vol. I, p. 6.

⁸⁵ Charles Pasqua interview (Oct. 3, 2005); Bernard Guillet interviews (Oct. 3 and 5, 2005); see also "France Seeks Way to Repay Iraqi U.N. Progress," *Reuters News*, Mar. 17, 1994, p.1 (describing that during a visit to Paris for health reasons in October 1993, Mr. Aziz's only formal appointment was a private meeting with Mr. Pasqua); "France's Juppe to Meet Tareq Aziz," *Reuters News*, Sept. 14, 1994, p. 1 (confirming that in October 1993, Mr. Aziz visited Paris for health reasons and met privately with Mr. Pasqua); Kenneth R. Timmerman, "Saddam Heads for Final Victory in the Gulf War," *The Sunday Times*,

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their initial meeting, Mr. Pasqua facilitated Mr. Aziz's visit to France at a time when the country had no diplomatic relations with Iraq. He had his second meeting with Mr. Aziz when they attended dinner together in Paris in 1995. Mr. Pasqua has denied that he ever developed a close relationship with Mr. Aziz. He also has denied speaking to Mr. Aziz about an oil allocation.⁸⁶

Mr. Guillet served as a diplomatic advisor to Mr. Pasqua at the Ministry of Interior from 1993 to 1995 and at the Conseil Général des Hauts-de-Seine from 1995 to 2001. In this position, Mr. Guillet accompanied Mr. Pasqua in his meetings with foreign officials and undertook several missions on behalf of the Conseil Général des Hauts-de-Seine. Mr. Guillet traveled to Baghdad on at least nine occasions in his capacity as a diplomatic advisor to Mr. Pasqua. According to Mr. Guillet, he did develop a close personal relationship with Mr. Aziz.⁸⁷

Oct. 2, 1994, p. 1 (describing Mr. Pasqua as Mr. Aziz's most influential ally in the French administration). Several media reports also portrayed Mr. Pasqua as a supporter of Mr. Aziz in France. Lally Weymouth, "The Saddam Lobby," *The Washington Post*, May 8, 1994, p. C7 (stating that, according to United States intelligence sources, Mr. Pasqua was "coaching the Iraqis behind the scenes" about ending sanctions); "Iraq pleads for 'solid relations' with France," *Agence France Presse*, Oct. 27, 1994 (reporting that Mr. Guillet, Mr. Pasqua's foreign affairs advisor, commented that a link had been reestablished between France and Iraq, Iraq had opened an interest section in Paris in October 1993, and Iraq would be "reduced to despair" if sanctions continued).

⁸⁶ Charles Pasqua interview (Oct. 3, 2005); Serge Boidevaix interview (Oct. 4, 2005); United States House of Representatives' Committee on Energy and Commerce staff members, Andrew Snowdon, Chris Knauer, and Thomas Feddo, meeting with Charles Pasqua, p. 3 (June 3, 2005); see also Charles Pasqua letter to Joe Barton (June 2, 2005) (clarifying that Mr. Pasqua met with Mr. Aziz on two occasions in Paris, in October 1993 and again "probably in 1995"). Mr. Guillet deemed this meeting to be important in France-Iraq relations and stated in an interview in 2001 that Mr. Pasqua convinced the authorities at the time that Mr. Aziz's visit was a good opportunity to renew relations with Iraq. Bernard Guillet interviews (Oct. 3 and 5, 2005); Patrick Jarreau and Fabrice Lhomme, "Le diplomate de Charles Pasqua sort de l'ombre et éclaire l'affaire Falcone," *Le Monde*, Apr. 29, 2001. Furthermore, the media reports at the time raised many questions surrounding this visit once it became public. "Irak Tarek Aziz à Paris pour 'raisons médicales,'" *Le Monde*, Oct. 19, 1993; Mouna Naim, "Officiellement en France pour raisons médicales Le séjour de Tarek Aziz à Paris soulève de nombreuses questions" *Le Monde*, Oct. 21, 1993; "Irak: Tarek Aziz a quitté la France" *Le Monde*, Oct. 26, 1993; see also French Ministry of Foreign Affairs record, "Point de presse-declaration du porte-parole" (Oct. 17, 1993) (Oct. 18, 1993) (Oct. 25, 1993) (responses of the spokesman to questions related to details of Mr. Aziz's visit) (each translated from French).

⁸⁷ Charles Pasqua interview (Oct. 3, 2005); Bernard Guillet interviews (Oct. 3 and 5, 2005) (he eventually called Mr. Aziz by his first name, "Tariq"); Alain Catta letter to Charles Pasqua (May 4, 2001) (translated from French) (referring to the fact that Mr. Guillet was "made available" to Mr. Pasqua, pursuant to an exchange of letters between the Conseil Général des Hauts-de-Seine and the French Ministry of Foreign Affairs); Charles Pasqua letter to the Minister of Foreign Affairs (May 30, 2001) (translated from French) (stating that Mr. Guillet could not be seconded to Conseil Général des Hauts-de-Seine because of a court order barring him from contacting Mr. Pasqua); Conseil Général des Hauts-de-Seine record, mission orders (Jan. 22, 2001) (for Mr. Guillet's mission to Beirut, Amman, Baghdad, February 4 to 18, 2001), (undated) (for Mr. Guillet's mission to Beirut, Amman, Baghdad, July 8 to 16, 1996), (undated) (for Mr. Guillet's mission to Beirut, Damascus, Baghdad, May 4 to 11, 1998), (Jan. 26, 1999) (for Mr. Guillet's mission to Damascus, Baghdad, Beirut, January 29 to February 7, 1999), (Apr. 27, 1999) (for Mr. Guillet's mission to

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2. Oil Allocations and Contracts

According to Iraqi officials, including Mr. Aziz, and Ministry of Oil records, 11 million barrels were allocated to Mr. Pasqua between Phases VI through VIII. The allocations for Mr. Pasqua were designated under “France” in SOMO allocation tables. According to an Iraqi official, Mr. Guillet represented Mr. Pasqua at SOMO regarding the oil allocations.⁸⁸

In June 1999, Mr. Guillet visited Baghdad. In a letter to the Ministry of Oil during this visit, Mr. Aziz’s chief of staff explained Mr. Guillet’s role in Mr. Pasqua’s allocations:⁸⁹

Please note that Mr. (Bernard Guillet) is the diplomatic and political advisor to Mr. (Charles Pasqua), the French politician and the former Minister of the Interior . . . and he represents [Mr. Pasqua] in collecting the quota of oil that is allocated to Mr. (Pasqua).⁹⁰

Beirut, Damascus, Baghdad, April 29 to May 8, 1999), (June 11, 1999) (for Mr. Guillet’s mission to Beirut, Amman, Baghdad, June 14 to 19, 1999), (Feb. 21, 2000) (for Mr. Guillet’s mission to Beirut, Damascus, Baghdad, February 28 to March 3, 2000), (Dec. 11, 2000) (for Mr. Guillet’s mission to Beirut, Amman, Baghdad, November 5 to 15, 2000), (Jan. 22, 2001) (for Mr. Guillet’s mission to Beirut, Amman, Baghdad, February 4 to 18, 2001) (each translated from French). Mr. Pasqua defined Mr. Guillet’s position as “a member of his cabinet” and advisor to the Conseil in general, however, Mr. Guillet insisted that his position was advisor to Mr. Pasqua, the President of the Conseil specifically, and that as a top diplomat he would not have accepted any other arrangement. Charles Pasqua interview (Oct. 3, 2005); Bernard Guillet interviews (Oct. 3 and 5, 2005). Alain Catta served as the General Director of Administration at the French Ministry of Foreign Affairs.

⁸⁸ Tariq Aziz interview (Mar. 1, 2005); Iraq officials interviews (stating that Mr. Guillet came to SOMO in person and represented Mr. Pasqua); Tariq Aziz interview (Mar. 1, 2005) (stating that he thought that Mr. Pasqua’s interactions with Iraq were conducted through Mr. Guillet); Committee oil beneficiary table, contract nos. M/06/74, M/07/92, M/08/113; SOMO letters to Amer Rashid (June 21, 1999) (approving contract M/06/74 for 3 million barrels of oil for “Genmar Resources GMBH (Charles Pasqua)”), (undated) (increasing the allocation for “Pasqua” by 1 million barrels of oil based on an instruction from Vice President Taha Yassin Ramadan on October 14, 1999), (Jan. 24, 2000) (approving contract M/07/92 for 3 million barrels of oil for “Genmar (Charles Pasqua)”), (Sept. 21, 2000) (approving contract M/08/113 for 4 million barrels of oil for Genmar Resources GMBH (Charles Pasqua)) (each translated from Arabic) (hereinafter “Approval letters for Pasqua contracts”); SOMO oil allocation tables for Phase VI (May 27, 1999) (indicating an allocation of 3 million barrels of oil for “Charles Pasqua”), Phase VII (Dec. 17, 1999) (indicating an allocation of 4 million barrels of oil for “Charles Pasqua”), Phase VIII (June 14, 2000) (indicating an allocation of 4 million barrels of oil for “Charles Pasqua”) (each translated from Arabic) (hereinafter “SOMO oil allocation tables for Pasqua”).

⁸⁹ Mr. Guillet was in Iraq from June 15 to June 18, 1999. Conseil Général des Hauts-de-Seine record, mission orders (June 11, 1999) (for Mr. Guillet’s mission to Beirut, Amman, Baghdad, June 14 to 19, 1999).

⁹⁰ Sami Sa’doun letter to Saddam Z. Hassan (June 19, 1999) (exact year not noted on document, however, the date of the document matches with Mr. Guillet’s trip to Baghdad in June 1999, and the document was part of the SOMO file related to Phase VI of the Programme).

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Mr. Guillet acknowledged that in his meeting with Mr. Aziz, they discussed an oil allocation for Mr. Pasqua. According to Mr. Guillet, Mr. Aziz offering an oil allocation to Mr. Pasqua because “the leadership would like to thank Mr. Pasqua for what he did for Iraq.” Mr. Aziz advised Mr. Guillet to meet with SOMO officials about the oil. Mr. Guillet stated that he was very skeptical that such an arrangement would be feasible for a politician of Mr. Pasqua’s stature.⁹¹

Mr. Guillet stated that he went to SOMO only out of courtesy to Mr. Aziz. According to Mr. Guillet, SOMO officials explained to him that he had to nominate a company to lift the oil for Mr. Pasqua. Mr. Guillet stated that at that point, he politely refused Iraq’s gesture of appreciation. He told SOMO officials that the proposal could lead to political scandal.⁹²

Upon his return to France, Mr. Guillet stated that he provided Mr. Pasqua with an oral briefing on his trip to Iraq, which was his usual practice after a trip to Iraq. During the briefing to Mr. Pasqua, Mr. Guillet told him about Mr. Aziz’s proposal for an oil allocation. According to Mr. Guillet, Mr. Pasqua jokingly said: “*Je serai le roi du pétrole!*” (“I will be the king of petrol!”) and then immediately added, “I hope you did not accept this offer.”⁹³

Mr. Pasqua has denied that Mr. Guillet gave him regular updates after coming back from his trips to Iraq. He stated that he was not interested in Mr. Guillet’s activities in Iraq. Mr. Pasqua also denied ever being informed about an offer of oil from Mr. Aziz or the Iraqi regime.⁹⁴

⁹¹ Bernard Guillet interview (Oct. 3, 2005).

⁹² Bernard Guillet interviews (Oct. 3 and 5, 2005). This account of events at SOMO is at least partially confirmed by a draft letter to the Minister of Oil prepared for signature of the director of SOMO. According to this draft

This morning the French personality (Bernard Guillet) on behalf of (Charles Pasqua) paid us a visit, and requested delivering the oil contract to the Swiss company (Genmar) for signing as it is considered the company of choice from their end. When we clarified the importance of selecting a French company since the assigned quantity is for a French personality, Mr. (Bernard Guillet) responded by saying that this was not possible for political reasons and that he had explained the situation to Mr. Tariq Aziz.

...

We requested from Mr. (Bernard Guillet) a letter according to which Mr. (Charles Pasqua) authorized (Genmar) Company to lift the crude oil, he refused, explaining that they are unable to do that because they are afraid of political scandals.

Saddam Z. Hassan draft letter to Amer Rashid, signed by a SOMO official (June 17, 1999) (translated from Arabic). Prior to Phase IX, when surcharges were imposed, oil allocated in the names of French beneficiaries was purchased by oil companies based in France. As discussed above, it was the Government of Iraq’s policy to favor French companies for those allocations. The oil allocations in Mr. Pasqua’s name, however, were purchased by a non-French company. Iraq official interviews.

⁹³ Bernard Guillet interview (Oct. 3 and 5, 2005).

⁹⁴ Charles Pasqua interview (Oct. 3, 2005). Mr. Pasqua has maintained this position with United States congressional investigations. In a letter to Congressman Joe Barton, Chairman of the United States House

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Both Mr. Pasqua and Mr. Guillet have denied being involved in the sale of the oil allocated in Mr. Pasqua's name or in receiving proceeds from the oil sales. However, the evidence gathered by the Committee indicates that Mr. Guillet involved in obtaining the allocations of oil. The evidence also indicates that he also received revenue from the sale of the oil and that the revenue he received was in cash.⁹⁵

The oil allocated in Mr. Pasqua's name in Phases VI through VIII was purchased by Genmar. An Iraqi official stated that during one of his trips to Baghdad, Mr. Guillet remarked that he was arranging for the sale of Mr. Pasqua's oil allocation because it was "dangerous" for Mr. Pasqua to appear at SOMO on his own behalf. Immediately after one of Mr. Guillet's trips to Baghdad, SOMO Executive Director Saddam Z. Hassan sent a letter to Oil Minister Amer Rashid, stating that "the Swiss company Genmar is confirmed as the company nominated by Mr. Charles Pasqua to lift his allotted quantity for the sixth phase." In Approvals of Contract for Phases VI through VIII, the name "Charles Pasqua" is next to the contracting company Genmar.⁹⁶

According to Elias Firzli, a friend of Mr. Guillet's and a consultant to Total International Limited ("Total") at the time, when Mr. Guillet received an Iraqi oil allocation, he requested Mr. Firzli's assistance to sell it. Mr. Firzli stated that he arranged for the sale of Mr. Guillet's oil to Genmar because he had already sold his own oil allocation to that company. Mr. Firzli described himself as an intermediary between Mr. Guillet and Genmar. According to Mr. Firzli, he made an oral commitment to pay a commission of \$0.02 to \$0.03 per barrel to Mr. Guillet.⁹⁷

of Representatives' Committee on Energy and Commerce, Mr. Pasqua wrote, "I should like to state unequivocally that I was never the beneficiary of an allocation from Iraq; I never traded Iraq oil, directly or indirectly; I authorized no one to do so on my behalf. I have never accepted, received or enjoyed any profit or remuneration from Iraqi crude oil trades." Charles Pasqua letter to Joe Barton (May 20, 2005). In an interview with the United States House of Representative's Committee on Energy and Commerce, Mr. Pasqua reiterated that "I have never derived any benefit from nor was I ever involved in any way whatsoever in trading oil, either with Iraq or any other country." United States House of Representatives' Committee on Energy and Commerce staff members, Andrew Snowdon, Chris Knauer, and Thomas Feddo, meeting with Charles Pasqua, p. 2 (June 3, 2005).

⁹⁵ Bernard Guillet interviews (Oct. 3 and 5, 2005); Charles Pasqua interview (Oct. 3, 2005).

⁹⁶ Approval letters for Pasqua contracts; SOMO sales contracts, nos. M/06/74 (June 19, 1999), M/07/92 (Jan. 22, 2000), M/08/113 (Sept. 21, 2000) (contracting with Genmar Resources GMBH) (hereinafter "Pasqua sales contracts"); Bernard Guillet interviews (Oct. 3 and 5, 2005); Iraq official interviews; Saddam Z. Hassan letter to Amer Rashid (June 20, 1999) (translated from Arabic). Mr. Guillet was in Iraq from June 15 to June 18, 1999. Conseil Général des Hauts-de-Seine record, mission orders (June 11, 1999) (for Mr. Guillet's mission to Beirut, Amman and Baghdad, June 14 to 19, 1999) (translated from French).

⁹⁷ Elias Firzli interview (Oct. 14, 2005); Bernard Guillet interviews (Oct. 3 and 5, 2005) (confirming Mr. Guillet's friendship with Mr. Firzli and referring to other efforts he made with Mr. Firzli to assist BNP with a problem at the Central Bank of Iraq); Tariq Aziz interview (Mar. 1, 2005); United States House of Representatives' Committee on Energy and Commerce staff members, Andrew Snowdon, Chris Knauer, and Thomas Feddo, meeting with Charles Pasqua, p. 8 (June 3, 2005) (Mr. Pasqua states that he is aware that Mr. Firzli is "a contact of Guillet"); Iraq official interviews (recalling that Mr. Firzli used Genmar to

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After each oil lifting under the Genmar contracts, Mr. Guillet received cash payments from Mr. Firzli's bank account in Geneva, Switzerland. Bank records show that from October 1999 to October 2000, there were seven cash payments totaling \$234,000 made to Mr. Guillet from Mr. Firzli's bank account. Mr. Firzli has stated that these cash payments were the commissions to Mr. Guillet on the oil sales.⁹⁸

Mr. Guillet admitted that he received the cash payments from Mr. Firzli's account. He stated that he traveled to Geneva from Paris on eight occasions to withdraw cash from Mr. Firzli's bank account at Mr. Firzli's request. According to Mr. Guillet, he was willing to do this on Mr. Firzli's behalf because Mr. Guillet had consulted beforehand with Mr. Aziz on Mr. Firzli's credibility.⁹⁹

Mr. Guillet's description of the distribution of the money was not specific. Mr. Guillet denied that the cash payments from Mr. Firzli's account were intended for his personal benefit, however, he mentioned sometimes using part of the cash for the reimbursement of one of the donors to his organization, France Afrique Orient. He stated that on a number of occasions after withdrawing the payments from Mr. Firzli's account, he gave €7,500 in cash to Mr. Firzli. According to Mr. Guillet, at Mr. Firzli's instruction and with the blessing of Mr. Aziz, he gave some of the cash to two Iraqi nationals in Geneva. Mr. Guillet stated that at least one of the Iraqi nationals was associated with Mr. Aziz.¹⁰⁰

Surcharges were assessed on the Genmar contract in Phase VIII. Ministry of Oil and bank records show that a surcharge of \$367,930 was paid through a deposit by Mr. Firzli on February 27, 2001 in a SOMO bank account at Fransabank. Mr. Firzli admitted that he made the surcharge

purchase some of his allocations and coordinated the purchase of allocations for some other French beneficiaries). Mr. Firzli has confirmed to the committee that the oil contracted for by Genmar was financed and purchased by Total at a premium of \$0.02 per barrel. For Phase VI allocations for Mr. Pasqua this is also confirmed by the request from Total to Agence Internationale Paris to open a letter of credit in the name of Genmar, without mentioning Total's name and an agreement between Genmar and Total. Elias Firzli interview (Oct. 14, 1999); Total telex to Genmar (Nov. 5, 1999) (confirming the purchase of Basrah light oil as agreed on October 26, 1999 at a premium of \$0.02 per barrel); Total telex to BNP Agence Internationale Paris (Oct. 29, 1999) (requesting BNP to open a letter of credit in Genmar's name without mentioning the name of Total); Genmar telexes to BNP Agence Internationale, Paris (Oct. 18, 1999) (Oct. 29, 1999) (Nov. 9, 1999) (authorizing BNP Paris, to accept documents, endorse bills of lading and execute any instruction given by Total for an on behalf of Genmar); Genmar telex to Total (Nov. 23, 1999) (invoice for contracts M/06/66 and M/06/74 calculating a premium of \$0.02 per barrel). Elias Firzli is discussed in Section IV.B above in connection with Mr. Mérémée.

⁹⁸ Banque Française de L'Orient (Suisse) S.A. record, Elias Firzli account, withdrawal advice (Oct. 14, 1999) (Dec. 29, 1999) (Jan. 13, 2000) (Feb. 22, 2000) (June 8, 2000) (Sept. 5, 2000) (Oct. 26, 2000) (indicating that upon telephonic instructions from Mr. Firzli cash payments of \$50,000, \$33,300, \$25,000, \$25,000, \$40,400, \$30,300, \$30,000 respectively were made to Mr. Guillet) (translated from Arabic); Elias Firzli interview (Oct. 14, 2005).

⁹⁹ Bernard Guillet interviews (Oct. 3 and 5, 2005); Bernard Guillet letter to the Committee (Oct. 21, 2005).

¹⁰⁰ Ibid.

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payment. He stated that he was “under pressure” to pay the surcharge during one of his visits to SOMO. According to Mr. Firzli, he did not discuss the surcharges with Mr. Guillet.¹⁰¹

In April 2001, following an investigation by a French magistrate into allegations of irregularities in financing of the Mr. Pasqua’s political party (RPF), Mr. Guillet was barred by court order from contacting Mr. Pasqua or the Conseil Général des Hauts-de-Seine and stopped working for the Mr. Pasqua. According to Mr. Guillet, he continued to travel to Iraq at his own expense and regularly met Mr. Aziz. Around the same time, in August 2001, Mr. Guillet’s name appears in SOMO records for the first time as a holder of allocations. According to Ministry of Oil records, Mr. Guillet received a total of six million barrels of oil from Phases X to XIII. The oil was sold to Aredio Petroleum S.A.R.L. (“Aredio”), a French-based company, in Phases X and XI.¹⁰²

¹⁰¹ SOMO sales contract, no. M/08/113 (Sept. 21, 2000) (contracting with Genmar Resources GMBH). Committee oil surcharge table, contract no. M/08/113; Fransabank record, SOMO account, credit advice (Feb. 27, 2001) (translated from French and Arabic); Fransabank record, Elias Firzli account report (Feb. 27, 2001) (translated from French and Arabic); Elias Firzli interview (Oct. 14, 2005).

¹⁰² Charles Pasqua letter to the Minister of Foreign Affairs (May 30, 2001); Fabrice Lhomme, “Les proches de M. Pasqua contestent les accusations de financement occulte,” *Le Monde*, April 25, 2001; Bernard Guillet interviews (Oct. 3 and 5, 2005); Committee oil beneficiary table, contract nos. M/10/82, M/11/66, No contracting company; SOMO letters to Amer Rashid (Sept. 11, 2001) (approving contract M/10/82 for 2 million barrels of oil for Aredio (“Mr. Bernard Guillet”)), (Jan. 14, 2002) (approving contract M/11/66 for 1.5 million barrels of oil for Aredio (“Mr. Bernard Guillet”)) (each translated from Arabic) (hereinafter “Approval letters for Guillet contracts”); SOMO oil allocation tables for Phase X (Aug. 4, 2001) (indicating an allocation of 2 million barrels of oil for “Bernard Guillet”), Phase XI (Dec. 1, 2001) (indicating an allocation of 1.5 million barrels of oil for “Bernard Guillet”), Phase XII (May 19, 2002) (indicating an allocation of 1.5 million barrels of oil for “Bernard Guillet”), Phase XIII (Nov. 17, 2002) (indicating an allocation of 1million barrels of oil for “Bernard Guillet”) (each translated from Arabic) (hereinafter “SOMO oil allocation tables for Guillet”). In addition to the allocations tables for Phases X to XIII, Mr. Guillet’s name appears on the approval letters for contracts M/10/82 and M/11/66 executed with Aredio, of which only the first contract was implemented for two million barrels of oil. Approval letters for Guillet contracts; Committee oil beneficiary table, contract nos. M/10/82, M/11/66, No contracting company; SOMO sales contract, no. M/10/82 (Sept. 11, 2001) (contracting with Aredio Petroleum); Bernard Guillet letter to SOMO (Sept. 7, 2001) (assigning two million barrels of oil to Aredio); Bernard Guillet letter to SOMO (Dec. 31, 2001) (assigning Mr. Guillet’s allocation in Phase XI to Aredio; the fax ribbon on the first letter indicates that the letter is sent from Alcon Petroleum Limited. This fax ribbon matches with fax ribbon of other faxes sent by Alcon which were available in the United Nations Treasury. See e.g., Alcon fax to the oil overseers (Oct. 15, 2001)). Alcon Petroleum Limited (“Alcon”) is a sister company of Aredio which, as discussed below, similar to Aredio, acted as a front for Taurus. Mr. Guillet’s last mission to Iraq in his capacity as the diplomatic advisor to Mr. Pasqua occurred from February 7 to 15, 2005. Even though at this time Mr. Guillet no longer worked for Mr. Pasqua, according to one Iraqi official Mr. Guillet complained that Mr. Pasqua was embarrassed that allocations in Phases VI, VII, and VIII were in his name; as a result of these complaints, Mr. Pasqua’s allocations were recorded in Mr. Guillet’s name for Phases X, XI, XII, and XIII. Furthermore, Mr. Aziz claimed that he was under the impression that Mr. Pasqua had not received oil allocations under his own name and did not deal with the Iraqis directly. Rather, Mr. Aziz thought that Mr. Pasqua’s interactions were through Mr. Guillet. Conseil Général des Hauts-de-Seine

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Mr. Guillet has denied paying surcharges and has denied any knowledge of oil allocations offered to him personally. He further stated that he is not familiar with Aredio. There are two letters from Mr. Guillet to the Ministry of Oil nominating Aredio as the contracting company on his allocations. These letters, signed by Mr. Guillet, are issued within a few days prior to signing of Aredio contracts in phases X and XI.¹⁰³

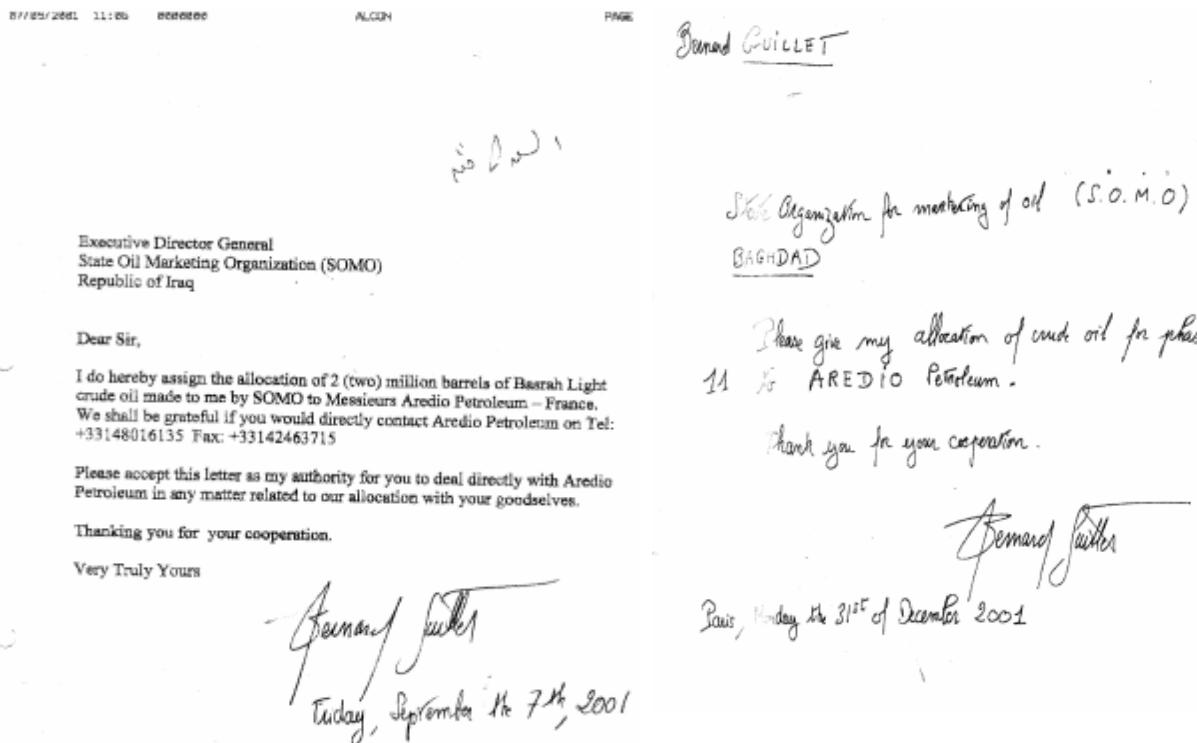


Figure: Bernard Guillet nomination letters for Phases X and XI

Mr. Guillet has questioned the authenticity of the letters and has claimed that these letters are forged. According to Mr. Firzli, he assisted Mr. Guillet in selling these allocations through Aredio. A combined surcharge of \$1,111,874 was levied and paid for the two Aredio contracts.

record, mission order (Jan. 22, 2001) (for Mr. Guillet's mission to Beirut, Amman and Baghdad, February 4 to 18, 2001) (translated from French); Iraq official interviews; Tariq Aziz interview (Mar. 1, 2005).

¹⁰³ Bernard Guillet interviews (Oct. 3 and 5, 2005); Bernard Guillet letter to the Committee (Oct. 21, 2005); Bernard Guillet letter to SOMO (Sept. 7, 2001) (translated from Arabic) (assigning two million barrels of oil to Aredio); Bernard Guillet letter to SOMO (Dec. 31, 2001) (translated from Arabic) (assigning Mr. Guillet's allocation in Phase XI to Aredio).

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The surcharge payments associated with these contracts are discussed in further detail in Section VI.C. below.¹⁰⁴

D. CLAUDE KASPEREIT, E.O.T.C., AND MARC RICH + CO.

Claude Kaspereit, a businessman and son of the French Parliamentarian Gabriel Kaspereit, was allocated a total of over 9.5 million barrels of oil from the Government of Iraq. Mr. Kaspereit used a France-based shell company, European Oil and Trading Company (“E.O.T.C.”), to enter into SOMO contracts to purchase oil under the Programme. Marc Rich + Co. Investment A.G. (“Marc Rich + Co.”) financed four million barrels of oil under E.O.T.C.’s contract in Phase IX. Marc Rich + Co. directed BNP Paris not to disclose its identity to BNP New York in connection with its financing of the United Nations contract.¹⁰⁵

Surcharges were imposed on the oil lifted by Marc Rich + Co. Mr. Kaspereit was aware that E.O.T.C. paid the surcharges levied on its contracts. His associate made the actual payments. According to an individual familiar with the companies, E.O.T.C. and Marc Rich + Co. agreed that the premium paid to E.O.T.C. would cover a commission and surcharge. The premium paid by Marc Rich + Co. of \$0.30 to \$0.40 per barrel was sufficiently high to cover both.

1. Background

In 1998, after unsuccessful attempts to participate in the Programme by trading pharmaceuticals and cosmetic goods, Mr. Kaspereit established E.O.T.C. to trade Iraqi crude oil. In June 2000, Mr. Kaspereit arranged to charter a flight to Iraq, without United Nations authorization and in violation of the embargo, to generate publicity against the sanctions. This attracted the attention of the Iraqi leadership. Mr. Kaspereit invited several French activists known for their opposition to sanctions to join him on his flight to Baghdad, which took place in November 2000. His delegation was well-received by the leadership in Baghdad. Mr. Kaspereit later sent letters to a number of senior Iraqi officials, including Mr. Aziz, the Oil Minister, and SOMO Executive Director, thanking them for their warm reception. He requested that Mr. Aziz and Mr. Rashid convey to Saddam Hussein the group’s solidarity with the Iraqi people and their support for Saddam Hussein’s political action.¹⁰⁶

¹⁰⁴ Confidential source; Elias Firzli interview (Oct. 14, 2005); Committee oil surcharge table, contract nos. M/10/82 and M/10/84.

¹⁰⁵ Confidential source; *Qui est Qui en France* (36th Ed.) (Jacques Lafitte S.A., 2004) (translated from French), p. 1106.

¹⁰⁶ Confidential source; “French plane lands in Baghdad in defiance of UN air embargo,” *Agence France Presse*, Nov. 7, 2000; “Second embargo-breaking flight leaves Paris for Baghdad,” *Agence France Presse*, Nov. 7, 2000 (indicating that Mr. Kaspereit’s guests included, among others, Jany Le Pen, the President of the association *SOS Enfants d’Irak* and wife of National Front President Jean-Marie Le Pen); “Le site officiel de l’association S.O.S. Enfants d’Irak,” <http://www.sosenfantsdirak.org>; *Qui est Qui en France* (36th Ed.) (Jacques Lafitte S.A., 2004) (translated from French), p. 1253; “Le Pen’s Wife Supports Sanctions-

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2. Oil Allocations and Contracts

Following Mr. Kaspereit's publicized flight to Baghdad, the Government of Iraq began granting him oil allocations. From Phases IX through XIII, Mr. Kaspereit received allocations totaling 9.5 million barrels. Mr. Kaspereit used E.O.T.C., a shell company with no means to finance the crude oil purchases, to enter into SOMO contracts. Mr. Kaspereit used E.O.T.C. to sell 8.5 million barrels of oil allocated to him. Marc Rich + Co. financed E.O.T.C.'s oil transactions in Phase IX.¹⁰⁷

Busting Flights to Iraq," *Agence France Presse*, Sept. 8, 2000; Elizabeth Bryant, "Unofficially, Anti-War Emotion Runs High Throughout France," *Houston Chronicle*, Oct. 10, 2002; "French plane lands in Baghdad in defiance of UN air embargo," *Agence France Presse*, Nov. 7, 2000; "Second embargo-breaking flight leaves Paris for Baghdad," *Agence France Presse*, Nov. 7, 2000; Claude Kaspereit letters to Abdul Razaq Al-Hashimi (Nov. 14, 2000), Saddam Z. Hassan (Nov. 14, 2000), Amer Rashid (Nov. 14, 2000), Tariq Aziz (Nov. 14, 2000) (each translated from French) (signed by Mr. Kaspereit as the President of Association pour l'Entraide Pour les Enfants d'Irak (the Society for Cooperation to Benefit Iraqi Children) and "Organisateur du vol Paris—Baghdad—Paris" (Organizer of the Paris-Baghdad-Paris flight)); France official #5 interview (Mar. 22, 2005).

¹⁰⁷ Confidential source; "French plane lands in Baghdad in defiance of UN air embargo," *Agence France Presse*, Nov. 7, 2000; "Second embargo-breaking flight leaves Paris for Baghdad," *Agence France Presse*, Nov. 7, 2000; SOMO letters to Amer Rashid (Feb. 1, 2001) (approving contract M/09/39 for 2 million barrels of oil for "E.O.T.C."), (Feb. 11, 2001) (stating that it has been agreed that "E.O.T.C." would receive an increase of 2 million barrels of oil under contract M/09/39), (Apr. 7, 2001) (approving an increase of 2 million barrels of oil for contract M/09/39 for "European Oil Trading Co."), (July 17, 2001) (approving contract M/10/02 for 2 million barrels of oil for "E.O.T.C."), (Dec. 20, 2001) (approving contract M/11/26 for 1.5 million barrels of oil for "E.O.T.C. (Mr. Claude Kaspereit")"), (June 24, 2002) (approving contract M/12/62 for 1 million barrels of oil for "E.O.T.C. (Mr. Claude Kaspereit/President of the Association for the Children of Iraq")") (each translated from Arabic) (hereinafter "Approval letters for Kaspereit contracts"); SOMO oil allocation tables for Phase X (Aug. 4, 2001) (indicating an allocation of 2 million barrels of oil for E.O.T.C.), Phase XI (Dec. 1, 2001) (indicating an allocation of 1.5 million barrels of oil for E.O.T.C.), Phase XII (May 19, 2002) (indicating an allocation of 1 million barrels of oil for "E.O.T.C./Mr. Claude Kaspereit" "Chair of the Society for Support of Iraqi Children"), Phase XIII (Nov. 17, 2002) (indicating an allocation of 1 million barrels of oil for "E.O.T.C./Mr. Claude Kaspereit" for "the new phase") (each translated from Arabic) (hereinafter "SOMO oil allocation tables for Kaspereit"). SOMO sales contract, no. M/10/02 (July 11, 2001); SOMO bill of lading, ck/5064 (Sept. 20, 2001) (relating to M/10/02) (showing a net lift of 2,005,575 barrels of oil); Vitol record, Table Vitol Iraqi Crude Purchases during Phases 8 to 12 Details (Aug. 11, 2005) (demonstrating that Vitol S.A. purchased oil from a Marc Rich entity); Committee oil financier table, contract no. M/10/02.

SOMO letters to Amer Rashid (Dec. 20, 2001) (approving contract M/11/26 for 1.5 million barrels of oil for "E.O.T.C. (Mr. Claude Kaspereit")"), (June 24, 2002) (approving contract M/12/62 for 1 million barrels of oil for "E.O.T.C. (Mr. Claude Kaspereit/President of the Association for the Children of Iraq")") (each translated from Arabic); SOMO oil allocation tables for Phase XI (Dec. 1, 2001) (indicating an allocation of 1.5 million barrels of oil for E.O.T.C.), Phase XII (May 19, 2002) (indicating an allocation of 1 million barrels of oil for "E.O.T.C./Mr. Claude Kaspereit" "Chair of the Society for Support of Iraqi Children") (each translated from Arabic); SOMO sales contract, no. M/11/26 (Dec. 19, 2001); SOMO bill of lading, ck/5166 (May 18, 2002) (translated from Arabic) (relating to M/11/26); SOMO bill of lading, ck/5180

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After receiving the first allocation, Mr. Kaspereit and Jaber Khalef Awad, an Iraqi businessman associated with E.O.T.C., negotiated an agreement to sell oil rights to Marc Rich + Co. Marc Rich + Co. agreed to arrange for the financing and lifting of the oil. Marc Rich Investment Ltd., a United Kingdom-based entity affiliated with Marc Rich + Co., managed the operations and administration of the transactions. Most of the transactional details were handled through facsimile or telex correspondence between Mr. Kaspereit or his assistant and employees at the Marc Rich entities.¹⁰⁸

Mr. Kaspereit's initial allocation of two million barrels in Phase IX was later increased by another two million barrels. Marc Rich + Co. arranged to transport the oil in four lifts under two contracts with E.O.T.C. The two contracts provided that Marc Rich + Co. would finance E.O.T.C.'s letters of credit in favor of the United Nations. The letters of credit were financed through a Marc Rich + Co. account at BNP Paris. Marc Rich + Co. explicitly directed BNP to keep the company's identity hidden.¹⁰⁹

(June 21, 2002) (relating to M/11/26); Committee oil surcharge table, contract no. M/11/26; SOMO letter to Amer Rashid (June 24, 2002) (translated from Arabic) (approving contract M/12/62 for 1 million barrels of oil for "E.O.T.C. (Mr. Claude Kaspereit/President of the Association for the Children of Iraq"); SOMO sales contract, no. M/12/62 (June 23, 2002); SOMO bill of lading, ck/5215 (Sept. 19, 2002) (relating to M/12/62); Committee oil surcharge table, contract no. M/12/62. SOMO oil allocation tables for Kaspereit.

¹⁰⁸ Confidential source; Marc Rich + Co. Investment AG fax to E.O.T.C. (Jan. 26, 2001) (marked to the attention of "Mr. Claude Kaspereit – General Manager") (confirming transaction dated January 25, 2001 for a purchase of 2 million barrels of oil from E.O.T.C. with lifts scheduled for February 2001); Marc Rich + Co. Investment AG telex to E.O.T.C. (undated) (marked to the attention of "Mr. Claude Kaspereit – General Manager") (refers to "new transaction with your company" for the purchase of 2 million barrels of oil from E.O.T.C. with lifts scheduled for April and May 2001); SOMO sales contracts, nos. M/09/39 (Jan. 30, 2001), M/10/02 (July 11, 2001), M/11/26 (Dec. 19, 2001), and M/12/62 (June 23, 2002) (signed by Claude Kaspereit, General Manager, E.O.T.C.); see, e.g., BNP record, E.O.T.C. Letter of Authorization for Issuing a Letter of Credit in the Name of E.O.T.C. But Under the Full Responsibility of Marc Rich + Co. Investment AG Zug (May 5, 2001) ("irrevocably" directing BNP to follow instruction from Marc Rich + Co.); Marc Rich + Co. Undertaking Letter from to BNP (undated) (assuming all obligations of E.O.T.C. "as if we originally were the applicant thereof"); Confidential witness interview; Vitol Record, Banque Cantonale Vaudoise, Marc Rich Group Credit Application (undated); A former employee at a Marc Rich entity described Marc Rich + Co. as the link "in the middle of the chain" between the "supplier" and the "customer" in a crude oil trade transaction. Confidential witness interview.

¹⁰⁹ SOMO letters to Amer Rashid (Feb. 1, 2001) (approving contract M/09/39 for 2 million barrels of oil for "E.O.T.C."), (Feb. 11, 2001) (stating that it has been agreed that "E.O.T.C." would receive an increase of 2 million barrels of oil under contract M/09/39), (Apr. 7, 2001) (approving an increase of 2 million barrels of oil for contract M/09/39 for "European Oil Trading Co.") (each translated from Arabic); SOMO bills of lading, ck/4954 (Feb. 23, 2001) (relating to M/09/39), ck/4975 (Mar. 27, 2001) (relating to M/09/39), ck/4999 (May 2, 2001) (relating to M/09/39), ck/5014 (May 23, 2001) (relating to M/09/39); Marc Rich + Co. Investment AG fax to E.O.T.C. (Jan. 26, 2001) (marked to the attention of "Mr. Claude Kaspereit – General Manager") (confirming transaction dated January 25, 2001 for a purchase of 2 million barrels of oil from E.O.T.C. with lifts scheduled for February 2001); SOMO sales contract, no. M/09/39, Arts. 3, 10 (Jan. 30, 2001); Oil overseers fax to E.O.T.C. (Apr. 4, 2001) (approving an amendment providing E.O.T.C. with

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an increase of 2 million barrels of oil under contract M/09/39); E.O.T.C. (Isabel Lignereux) fax to Marc Rich + Co. (Ann Bickerstaffe) (Apr. 19, 2001) (attaching Oil Overseers approval of the amendment to contract M/09/39); Marc Rich + Co. Investment AG fax to E.O.T.C. (Jan. 26, 2001) (marked to the attention of “Mr. Claude Kaspereit – General Manager”) (confirming transaction dated January 25, 2001 for a purchase of 2 million barrels of oil from E.O.T.C. with lifts scheduled for February 2001) (“Payment to be effected from the letter of credit opened by the buyer on behalf of ‘E.O.T.C.’ in favour [sic] of the United Nations in BNP, New York. ‘E.O.T.C.’ will provide buyer, in a format acceptable to buyer and buyer’s bankers, with their authorization to open the letter of credit on behalf of ‘E.O.T.C.’”); Marc Rich + Co. Investment AG telex to E.O.T.C. (undated) (marked to the attention of “Mr. Claude Kaspereit – General Manager”) (refers to “new transaction with your company” for the purchase of 2 million barrels of oil from E.O.T.C. with lifts scheduled for April and May 2001) (using the same language); Scott Shepherd e-mail to BNP Paris (Patrice Alberti) (Mar. 20, 2001) (forwarding a letter of credit and instructions to “Please issue the following letter of credit under the full and entire responsibility of Marc Rich Investment AG, whose name must not be mentioned” by order of E.O.T.C. in favor of the United Nations); Marc Rich + Co. Investment AG (Tony Monckton) e-mail to BNP Paris (Patrice Alberti) (Mar. 20, 2001) (forwarding the letter of credit application by order of E.O.T.C. in favor of the United Nations under “full and entire responsibility of Marc Rich + Co. Investment AG” and specifying that “name of Marc Rich is not to appear on any transmission to BNP New . . . [Yor]k); Scott Shepherd e-mail to BNP (Mar. 23, 2001) (regarding an amendment to “our L/C...issued by your Paris office by order of: E.O.T.C. in favour [sic] of: The United Nations for a maximum amount of Euro 17,686,000.00); Marc Rich + Co. Investment AG (Scott Shepherd) telex to BNP Paris (Patrice Alberti) (Apr. 4, 20, 2001) (requesting that BNP Paris issue a “letter of credit under . . . and entire responsibility of Marc Rich + Co. investment ag. . . the name of marc rich is not to appear on any transmission to bnp new york.”); Marc Rich + Co. Investment AG e-mail to BNP Paris (Apr. 20, 2001) (forwarding the letter of credit application by order of E.O.T.C. in favor of the United Nations under “full and entire responsibility of Marc Rich + Co. Investment AG” and also specifying that the name of “Marc Rich + Co. Investment AG” “must not . . . [be me]ntioned”) (this document was only partially legible). In each instance, Marc Rich + Co. requested the issuance of the letter of credit and regularly directed that its name not be mentioned in transmissions to BNP New York. BNP invoiced and debited all costs and fees for these oil purchases to Marc Rich + Co. BNP Paris record, Marc Rich + Co. Investment AG, debit advice (Apr. 25, 2001) (informing Marc Rich + Co. Investment AG that its account was debited €1,889,389.78, including €7,677.37 for “BNP Paribas NY fees”); BNP Paris (Yannick Poirrier) telex to Marc Rich + Co. Investment AG (Scott Shepherd) (Apr. 25, 2001) (referencing €1,871,712.41 as the total drawing amount for the United Nations as the beneficiary covering 1,001,819 barrels of Kirkuk crude oil); BNP Paris telex to Marc Rich + Co. Investment AG (Scott Shepherd) (June 5, 2001) (advising that €27,814,065.84 would be debited from Marc Rich + Co. Investment AG for the benefit of the United Nations); Marc Rich Investment Ltd. telex to BNP Paris (May 18, 2001) (requesting an amendment to the letter of credit to adjust the price per barrel for and on behalf of Marc Rich and Co, Investment AG in reference to an order of E.O.T.C. in favor of the United Nations in the amount of €27,077,026.57); SOMO commercial invoice, C/74/2001 (May 23, 2001) (stating that the total value for the lift is €30,208,047.07); BNP Paris telex to Marc Rich + Co. Investment AG (June 19, 2001) (providing a documentary credit message noting that the Marc Rich + Co. Investment AG account would be debited for a payment of €30,232,513.51 to the United Nations with €30,208,047.47 for “documents value” and €24,466.44 for BNP New York’s fees); BNP Paris record, Marc Rich + Co. Investment AG, debit advice (June 21, 2001) (informing Marc Rich + Co. Investment AG that its account was debited €30,232,513.51).

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E ISSUE THE FOLLOWING LETTER OF CREDIT UNDER THE FULL AND ENTIRE
INSIBILITY OF MARC RICH AND CO INVESTMENT AG, WHOSE NAME MUST NOT
NTIONED.

Figure: Marc Rich entity (Tony Monckton) e-mail to BNP Paris (Patrice Alberti) (Mar. 16, 2001).

FOR OUR TELECON PLEASE ISSUE THE FOLLOWING LETTER OF CREDIT UNDER
FULL AND ENTIRE RESPONSIBILITY OF MARC RICH AND CO INVESTMENT AG
NAME OF MARC RICH IS NOT TO APPEAR ON ANY TRANSMISSION TO BNP NEW

Figure: Marc Rich entity (Scott Shepherd) e-mail to BNP Paris (Patrice Alberti) (Apr. 20, 2001).

Prior to each of the four oil lifts in Phase IX, Mr. Kaspereit authorized Marc Rich + Co.'s account managers at BNP Paris to issue letters of credit to the United Nations in the name of E.O.T.C. but under the full responsibility of Marc Rich + Co. Investment Ag, Zug:¹¹⁰

E.O.T.C. hereby authorizes BNP Paribas, Paris to issue a letter of credit
indicating, E.O.T.C. as the applicant and United Nations as the beneficiary,
*under the sole authority, direction and financial obligations of Marc Rich + Co.
Investment AG, Zug.*¹¹¹

3. Surcharge Payments

A total of \$1.83 million in surcharges were levied on three of E.O.T.C.'s four contracts under the Programme. E.O.T.C. paid a total of \$1.4 million in surcharges on contracts M/09/39 and M/10/02 in Phase IX and Phase X, respectively.¹¹²

On January 30, 2001, Mr. Kaspereit provided a written commitment that E.O.T.C. would pay the surcharges on contract M/09/39 to SOMO.¹¹³

¹¹⁰ Claude Kaspereit letter to BNP Paris (Feb. 8, 2001); Claude Kaspereit letter to BNP (Mar. 20, 2001); Claude Kaspereit letter to BNP Paris (Apr. 23, 2001); Claude Kaspereit letter to BNP Paris (May 10, 2001).

¹¹¹ Claude Kaspereit letter to BNP Paris (Feb. 8, 2001); Claude Kaspereit letter to BNP (Mar. 20, 2001) (emphasis added); Claude Kaspereit letter to BNP Paris (Apr. 23, 2001); Claude Kaspereit letter to BNP Paris (May 10, 2001).

¹¹² Committee oil surcharge table, contract nos. M/09/39, M/10/02, M/11/26, M/12/62 (referencing that the total amount of surcharges levied on E.O.T.C. contracts was \$1,830,491). Although E.O.T.C. executed contracts under Phases XI and XII, the company did not pay the surcharges assessed and SOMO records show these payments as due. Committee oil surcharge table, contract nos. M/09/39, M/10/02, M/11/26 and M/12/62.

¹¹³ Claude Kaspereit letter to Saddam Z. Hassan (Jan. 30, 2001).

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OIL TRANSACTIONS AND ILLICIT PAYMENTS

DATE : 30/1/2001

TO : MR. SADDAM Z. HASSAN
EXECUTIVE DIRECTOR GENERAL
STATE OIL MARKETING (SOMO)

SUBJ: UNDERTAKING

E.O.T.C. (EUROPEAN OIL TRADING COMPANY) UNDERTAKES TO PAY TO SOMO'S DESIGNATED BANK ACCOUNT AN AMOUNT OF US DLR 0.30/BBL (FOR U.S. DESTINATION) AND OR US DLR 0.25/BBL (FOR EUROPE DESTINATION) FOR THE QUANTITY OF KIRKUK CRUDE OIL TO BE LIFTED UNDER CONTRACT M/09/39 DATED 30/1/2001 WITHIN 30 DAYS OF BILL OF LADING DATE.

E.O.T.C. (EUROPEAN OIL TRADING COMPANY) SHALL ARRANGE A BANK GUARANTEE TO COVER THE ABOVE AMOUNT WITHIN 10 DAYS FROM SIGNATURE OF THE SAID CONTRACT ABOVE.

Bangkok the 30th January 2001

CLAUDE KASPEREIT
GENERAL MANAGER

E.O.T.C.
231 RUE DE L' HONORE
75001 PARIS
RCB PAR 33 418 0,9 374

Figure: Claude Kaspereit letter to Saddam Z. Hassan (Jan. 30, 2001).

E.O.T.C. paid the full amount of surcharges owed on contract M/09/39 in five installments. The payments were deposited in a SOMO account at Jordan National Bank. Each of E.O.T.C.'s surcharge payments were made contemporaneous with each of the oil lifts under M/09/39.¹¹⁴

Mr. Kaspereit was aware that E.O.T.C. arranged for the payment of surcharges on these oil contracts. He knew that the surcharges were illicit. He had indicated to other individuals that he knew the overwhelming majority of the companies were paying surcharges at the time, and that a refusal to pay the surcharges would have resulted in Iraq's refusal to grant him oil allocations.¹¹⁵

¹¹⁴ Jordan National Bank record, SOMO account, credit advices (Mar. 21, Apr. 29, May 2, June 7, and Nov. 11, 2001) (showing three payments by E.O.T.C. to SOMO's account by cash deposits and two of the payments by wire transfer) (translated from Arabic); Committee oil surcharge table, contract nos. M/09/39, M/10/02; SOMO bills of lading, ck/4954 (Feb. 23, 2001) (relating to M/09/39), ck/4975 (Mar. 27, 2001) (relating to M/09/39), ck/4999 (May 2, 2001) (relating to M/09/39), ck/5014 (May 23, 2001) (relating to M/09/39). The final surcharge payment under M/09/39 was made at the same time that the surcharges were paid under M/10/02.

¹¹⁵ Confidential source.

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Mr. Kaspereit was also aware that the premium paid by Marc Rich + Co. covered a commission to E.O.T.C. and the surcharge levied on the contract. According to an individual familiar with the relationship between E.O.T.C. and Marc Rich + Co., Mr. Kaspereit's associate at E.O.T.C., Mr. Khalef Awad, informed his contacts at Marc Rich + Co. about the imposition of surcharges. E.O.T.C. and Marc Rich + Co. representatives discussed the surcharges. They agreed that the premium paid by Marc Rich + Co. would incorporate the additional cost of the surcharges.¹¹⁶

In Phase IX, Marc Rich + Co. agreed to pay a \$0.30 to \$0.40 per barrel premium on the oil purchased from E.O.T.C. Marc Rich + Co. wire transferred the payment to E.O.T.C.'s account at Kredietbank. To avoid paying the surcharges directly, Mr. Kaspereit transferred a portion of the premium to an account operated by Khalef Awad. Using funds from Marc Rich + Co., Mr. Awad paid the surcharges on behalf of E.O.T.C. by wiring money to a SOMO account at Jordan National Bank.¹¹⁷

In Phase X, Ministry of Oil records show that a total of \$501,393.75 was levied on E.O.T.C.'s contract. E.O.T.C. paid close to the full amount of the surcharges on that contract. According to bank records, E.O.T.C. made a single cash deposit of \$497,370 to a SOMO account to cover the surcharges on M/10/02. E.O.T.C. did not pay surcharges on other oil contracts in later phases.¹¹⁸

Marc Rich + Co. has denied any involvement in the payment of surcharges.¹¹⁹

E. SERGE BOIDEVAIX

Serge Boidevaix, a French consultant and former diplomat, was hired to obtain Iraqi crude oil contracts for Vitol S.A. ("Vitol"), a Swiss company based in Geneva. He received allocations of over 32 million barrels of oil from the Government of Iraq over ten phases. Almost 30 million

¹¹⁶ Confidential source. According to one senior French official, it was well known that surcharges ranged from somewhere between \$0.10 and \$0.25 per barrel depending on where the oil was to be sold. France official #6 interview (Mar. 22, 2005); see also Iraq official interview (stating that the surcharges ranged from \$0.30 to \$0.25 per barrel depending on the destination of oil).

¹¹⁷ Marc Rich + Co. Investment AG fax to E.O.T.C. (Jan. 26, 2001) (confirming transaction dated January 25, 2001 for a purchase of 2 million barrels of oil from E.O.T.C. with lifts scheduled for February 2001) (indicating that Marc Rich + Co. would pay E.O.T.C. a commission of \$0.30 per barrel of oil); Marc Rich + Co. Investment AG telex to E.O.T.C. (undated) (refers to "new transaction with your company" for the purchase of 2 million barrels of oil from E.O.T.C. with lifts scheduled for April and May 2001) (indicating that Marc Rich + Co. would pay E.O.T.C. a commission of \$0.40 on the first lift of 1 million barrels of oil and a \$0.35 commission on the second lift of 1 million barrels of oil); Committee oil company table, contract no. M/09/39; Confidential source; Jordan National Bank record, SOMO account, credit advices (Mar. 21, Apr. 29, May 2, June 6, and Nov. 11, 2001) (translated from Arabic).

¹¹⁸ Committee oil surcharge table, contract nos. M/10/02, M/11/26 and M/12/62; Jordan National Bank record, SOMO account, credit advice (Nov. 1, 2001) (translated from Arabic).

¹¹⁹ Marc Rich Group letter to the Committee (Oct. 24, 2005).

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barrels of oil designated to Mr. Boidevaix were purchased by Vitol. Mr. Boidevaix has denied that the allocations were made to him personally. According to Mr. Aziz, Mr. Boidevaix was given the oil because of his support for Iraq. In dealings with SOMO, however, Mr. Boidevaix represented himself as a Vitol officer. Mr. Boidevaix admitted that he became aware of the Iraqi regime's imposition of surcharges in Phase IX. He stated that he warned Vitol not to pay surcharges and that Vitol stopped getting oil contracts. In Phase X, Vitol lifted oil designated to Mr. Boidevaix. In Phase XI, Mr. Boidevaix nominated another company that worked with Vitol, Devon Petroleum, Ltd. ("Devon Petroleum"), a Cyprus-based company, to lift oil allocated to him but the contract was not signed.

1. Background

Mr. Boidevaix, a career diplomat in France, served as Director of the Department for North Africa and the Middle East in the French Ministry of Foreign Affairs from 1980 to 1983. During this period, Mr. Boidevaix visited Iraq where he met Saddam Hussein, Mr. Aziz and Mr. Rashid. In December 1993, after retiring from the Ministry of Foreign Affairs, Mr. Boidevaix was sent by the French Minister of Foreign Affairs on a mission to Iraq to secure the release of a French national who was arrested in Iraq. On this occasion, Mr. Boidevaix met with Mr. Aziz and Mohammed Said Al-Sahaf, then the Iraqi Minister for Foreign Affairs.¹²⁰

After his retirement from the French government, Mr. Boidevaix established a consulting firm, S.B. Consultants in Paris. Beginning in 1996, Mr. Boidevaix started traveling to Iraq on a regular basis in an attempt to secure contracts for the various companies he represented. In 1999, Mr. Boidevaix served as president of the Franco-Iraqi Economic Cooperation Association, and in 2002, he became the President of the French-Arab Chamber of Commerce.¹²¹

¹²⁰ Serge Boidevaix interview (Oct. 4, 2005); French Ministry of Foreign Affairs record, Press briefing (Dec. 13, 1993) (translated from French) (referring to Mr. Boidevaix's mission and his meeting with Mr. Aziz and Mr. Sahhaf). Mr. Boidevaix served as a Counselor for International Affairs and Cooperation to the then-Prime Minister Chirac in the mid-1970s. After serving as the French ambassador to Poland and Germany, from 1992 to 1993, he served as the Secretary-General of the Ministry of Foreign Affairs. From 1993 to 1997, he served as a member of the *Conseil d'État* (Council of State) with the title, *Conseiller d'État en Service Extraordinaire* (Councilor of State) (translated from French). Serge Boidevaix interview (Oct. 4, 2005). At the time of Mr. Boidevaix's mission to Iraq, the spokesman of the French Ministry of Foreign Affairs commented that France had no diplomatic relations with Iraq and this visit did not change France's position towards Iraq. French Ministry of Foreign Affairs record, Press briefing (Dec. 13, 1993) (translated from French).

¹²¹ Serge Boidevaix interview (Oct. 4, 2005); *Chambre de Commerce Franco-Arabe*, "Who we are," <http://www.ccfranco-arabe.com/english/bureau.php>; *Qui est Qui en France* (36th Ed.) (Jacques Lafitte S.A., 2004) (translated from French), p. 302; The International Who's Who, "Boidevaix, Serge Marie-Germain," <http://www.worldwhoswho.com/views/entry.html?id=boi1018&ssid=1069318307&n=1>.

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2. Oil Allocations

In April 1998, Robin D'Alessandro, Vitol's main trader for Iraqi crude oil, approached SOMO Executive Director Saddam Z. Hassan during an OPEC meeting in Vienna in an attempt to secure Iraqi oil contracts for Vitol. Ms. D'Alessandro was advised that SOMO was under pressure to trade with French, Russian, and Chinese entities. After conducting some research and learning about Mr. Boidevaix's connections in Iraq, Ms. D'Alessandro approached Mr. Boidevaix and offered him a consultancy agreement to assist Vitol in gaining a foothold in the Iraqi oil market.¹²²

According to Mr. Boidevaix, when he met with Iraqi officials in the spring of 1998 to request oil for Vitol, they did not seem interested and were sensitive about the nationality of Vitol's officers (British and American) and refinery location (Canada). After his trip, however, in a letter to the Ministry of Oil, Mr. Boidevaix wrote that "we met at SOMO the following day to discuss our future contract," and promised to send a request for a specific amount of oil for the next phase. Mr. Rashid forwarded the letter to SOMO with a handwritten note stating: "Urgent- Executive Director of SOMO: I ask that you help as much as possible, [Mr. Boidevaix] is a friend of Iraq and is recommended by the Deputy Prime Minister."¹²³

In June 1998, Mr. Boidevaix again traveled to Baghdad, this time, with Ms. D'Alessandro from Vitol. Ms. D'Alessandro and Mr. Boidevaix met briefly with Mr. Aziz, and she handed Mr. Aziz a company brochure. At the end of the meeting, she left and Mr. Boidevaix had a private conversation with Mr. Aziz. Shortly thereafter, Mr. Boidevaix signed Vitol-France's first contract with SOMO. According to Mr. Aziz, Mr. Boidevaix "was given allocations because he was a friend who supported Iraqi issues." Mr. Boidevaix has acknowledged that, among other actions, he wrote an article arguing that, with the exception of military sanctions, the embargo on Iraq should be lifted. Mr. Boidevaix also attended anti-sanctions conferences and appeared as a speaker in some of these conferences.¹²⁴

¹²² Robin D'Alessandro interview (Oct. 10, 2005); Saddam Z. Hassan interview (Mar. 9, 2005) (confirming that SOMO would not have sold oil to Vitol as a Swiss company, and Vitol opened a French division with Mr. Boidevaix as its head).

¹²³ Serge Boidevaix interview (Oct. 4, 2005); Serge Boidevaix letter to Amer Rashid (May 17, 1998) (acknowledging meeting Mr. Rashid and Mr. Aziz, and discussing the possibility of an urgent oil lift for a refinery in Sudan; with a handwritten note from Mr. Rashid dated May 20, 1998 (translated from Arabic)); Robin D'Alessandro interview (Oct. 10, 2005) (recalling that Mr. Boidevaix traveled to Baghdad).

¹²⁴ Robin D'Alessandro interview (Oct. 10, 2005); Serge Boidevaix interview (Oct. 4, 2005) (stating that in their attempts to gain oil allocations "we just had a hint of success after the second visit"); Tariq Aziz interview (Aug. 16, 2005) (stating that he knows Mr. Boidevaix and considers him to be a friend); Iraqi Ministry for Foreign Affairs letter to the Iraqi Embassy in Amman (June 4, 1998) (translated from Arabic) (requesting a visa be issued to Ms. D'Alessandro "to whom a visa was issued previously [and] will be accompanying a French delegation presided by Mr. Serge Boidevaix"); SOMO sales contract, no. M/04/08 (June 4, 1998); *Ensemble Contre l'Embargo* (Together Against the Embargo) programs of conferences, "Irak, 9 ans d'embargo" (Nov. 17, 1999), "Irak, 10 ans après" (Nov. 25, 2001),

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During the next ten phases of the Programme, Mr. Boidevaix was granted allocations totaling approximately 35.1 million barrels.¹²⁵ Under his agreement with Vitol, Mr. Boidevaix assisted the company in obtaining crude oil contracts. Mr. Boidevaix was given the title of “President of Vitol-France,” an entity that did not exist. He signed SOMO contracts as the President of Vitol France, “for and on behalf of Vitol, Geneva, Switzerland.” Mr. Boidevaix played no role in the

<http://france.irak.free.fr/pages/action1.htm#top> (indicating that Mr. Boidevaix was a speaker at both conferences). During the sanctions on Iraq, Mr. Boidevaix was also a member of the Support Committee of the *Association Etudiants Contre l'Embargo* (Association of Students Against the Embargo) (translated from French). *L'Association Ensemble Contre l'Embargo, “Qui Sommes-Nous,”* <http://france.irak.free.fr/pages/association.htm>. Ms. D’Alessandro did not know the subject of the private conversation between Mr. Aziz and Mr. Boidevaix. Robin D’Alessandro interview (Oct. 10, 2005). Other Iraqi officials have also confirmed that Mr. Boidevaix was a friend of Mr. Aziz who received political allocations. Saddam Z. Hassan interview (Mar. 9, 2005) (stating that Mr. Boidevaix had a friendship with Mr. Aziz and that Mr. Boidevaix visited SOMO as the head of Vitol France); Iraq official interviews (stating that Mr. Boidevaix nominated Vitol to lift his oil allocations and that he represented Vitol in France, but it was understood that the allocations to Mr. Boidevaix were political). When interviewed by a journalist in early 2005, Mr. Boidevaix stated that he “always worked on behalf of Vitol,” and that “the company had allocations, not me personally.” Alan Freeman, “Hussein’s oil flowed to Canada; Controversial Iraqi crude was refined at Come By Chance, Alan Freeman discovers,” *The Globe and Mail*, Feb. 4, 2005, p. A1.

¹²⁵ Committee oil beneficiary table, contract nos. M/04/08, M/05/36, M/06/40, M/07/30, M/08/34, M/09/97, M/10/78, M/13/74. Mr. Boidevaix received oil allocations from Phases IV through XIII (no contract was executed for his allocations in Phases XI or XII) and his oil allocations were classified under the Government of Iraq’s category of special requests for France. SOMO letters to Amer Rashid (June 6, 1998) (approving contract M/04/08 for 2 million barrels of oil for Vitol “(Mr. Boidevaix the former French official”), (June 8, 1998) (approving contract M/04/16 for 400,000 barrels of oil for Vitol “(Mr. Boidevaix the former French official”), (June 20, 1998) (approving an increase in Vitol’s Phase IV allocation to 4.6 million barrels), (Dec. 28, 1998) (approving contract M/05/36 for 3.5 million barrels of oil for Vitol “Mr. Boidevaix—the former French official”), (June 3, 1999) (approving contract M/06/40 for 5 million barrels of oil for Vitol “Mr. Boidevaix—the former French official”), (Dec. 29, 1999) (approving contract M/07/30 for 1.5 million barrels of oil for Vitol “(Mr. Boidevaix”)), (Apr. 5, 2001) (approving contract M/09/97 for 2 million barrels of oil for Vitol (stating “with reference to your Excellency’s approval (during your meeting with Mr. Boidevaix in Vienna on the side of the recent Ministerial meeting of OPEC)”), (Sept. 9, 2001) (approving contract M/10/78 for 1 million barrels of oil for Vitol “(Boidevaix, French”)), (Jan. 11, 2003) (approving contract M/13/74 for 5 million barrels of oil for Vitol “Name of Owner of Allocation: Mr. Boidevaix”) (translated from Arabic) (hereinafter “Approval letters for Boidevaix contracts”); SOMO oil allocation tables for Phase IV (Nov. 6, 1998) (indicating an allocation of 5 million barrels of oil for “Vitol (Boidevaix”)), Phase V (Nov. 28, 1998) (indicating an allocation of 5 million barrels of oil for “Vitol (Boidevaix”)), Phase VI (undated) (indicating an allocation of 5 million barrels of oil for “Boidevaix”), Phase VII (Dec. 17, 1999) (indicating an allocation of 1.5 million barrels of oil for “Boidevaix”), Phase VIII (June 14, 2000) (indicating an allocation of 1.5 million barrels of oil for “Boidevaix”), Phase X (Aug. 4, 2001) (indicating an allocation of 2 million barrels of oil for “Boidevaix”), Phase XI (Dec. 1, 2001) (indicating an allocation of 1.5 million barrels of oil for “Boidevaix/Vitol”), Phase XII (May 19, 2002) (indicating an allocation of 1.5 million barrels of oil for “Boidevaix/Vitol”), Phase XIII (Nov. 17, 2002) (indicating an allocation of 1 million barrels of oil for “Boidevaix/Vitol”) (translated from Arabic) (hereinafter “SOMO oil allocation tables for Boidevaix”).

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oil transactions other than securing the allocations and signing the contracts. Regular communication with SOMO was directly conducted by Vitol. Correspondence sent by Mr. Boidevaix was prepared by Vitol. Though Mr. Boidevaix has insisted that only 22 million barrels of oil were lifted under his allocations, Ministry of Oil records show that 29.5 million barrels of oil were lifted.¹²⁶

Vitol paid Mr. Boidevaix a fee of \$30,000 per phase, in addition to \$0.01 per barrel, which was later raised to \$0.03 per barrel for all barrels after Vitol had lifted three million barrels of oil. Mr. Boidevaix received a total of \$367,808.77 in commissions from Vitol for the period between Phases VIII and XII.¹²⁷

Mr. Boidevaix admitted that he was aware that the Iraqi regime had imposed surcharges on oil contracts. According to Mr. Boidevaix, at an OPEC meeting in Vienna in 2001, during Phase IX, SOMO officials informed him of the requirement to pay surcharges and warned him that without paying the surcharges Vitol would not be able to sign further contracts. Mr. Boidevaix stated that he informed Vitol of this conversation and advised the company not to pay the illegal surcharges.

¹²⁶ Vitol record, Vitol consultancy agreement with S.B. Consultants (Apr. 27, 1998); Serge Boidevaix interview (Oct. 4, 2005) (stating that his communication with SOMO was through Ms. D'Alessandro, in London, and Roland Favre, in Geneva, and that he rarely called SOMO, and only when directed to do so by Vitol); Serge Boidevaix business card (the address and telephone number on this Vitol business card for "Serge Boidevaix, President—France," had the address and telephone number for Mr. Boidevaix's residence from where he operated his consulting business); Robin D'Alessandro interview (Oct. 10, 2005) (confirming that Vitol-France did not exist, and the name was created to give a "French angle" to Vitol S.A., and that the business cards were provided by Vitol S.A.); SOMO sales contracts, nos. M/04/08 (June 4, 1998), M/05/36 (Dec. 22, 1998), M/06/40 (June 1, 1999), M/07/30 (Dec. 15, 1999), M/08/34 (June 26, 2000), M/09/97 (Apr. 3, 2001), M/10/78 (Sept. 4, 2001), M/13/74 (Jan. 9, 2003) (contracting with Vitol) (signed "For Buyer Serge Boidevaix, President/Vitol-France on behalf of Vitol S.A. Geneva-Switzerland" or "Serge Boidevaix, President/Vitol-France for and on behalf of Vitol S.A. Geneva-Switzerland") (hereinafter "Boidevaix sales contracts"); Jean-René Farthouat and Nathalie Roret letter to the Committee (Oct. 17, 2005); Committee oil beneficiary table, contract nos. M/04/08, M/05/36, M/06/40, M/07/30, M/08/34, M/09/97, M/10/78, M/13/74. Jean-René Farthouat and Nathalie Roret are counsel for Mr. Boidevaix.

¹²⁷ Robin D'Alessandro interview (Oct. 10, 2005) (stating that Mr. Boidevaix was paid \$60,000 annually); Vitol record, Vitol consultancy agreement with S.B. Consultants, art. 5 (Apr. 27, 1998); Attachment to Vitol letter to State Secretariat for Economic Affairs (Switzerland) (Aug. 11, 2005) (list of payments from Vitol to Mr. Boidevaix between Phases VIII and XII). This calculation does not include the commission paid for the Phase XIII contract for 8.9 million barrels. Mr. Boidevaix confirmed the list of payments provided by Vitol and acknowledged that Vitol honored this agreement. Serge Boidevaix interview (Oct. 4, 2005). Mr. Boidevaix only referred to the original agreement between him and Vitol, without referring to the late increase in his commission to \$0.03 per barrel. Ms. D'Alessandro, however, indicated that the agreement was later amended without being documented, and remained in place until 2004. The payments between Phases VIII and XII confirm the increase in the commission. Ibid.; Robin D'Alessandro interview (Oct. 10, 2005).

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According to Mr. Boidevaix, for that reason no allocation was given to Vitol in Phases XI and XII.¹²⁸

A surcharge was paid on the Vitol and Mr. Boidevaix contract in Phase IX. Mr. Boidevaix admitted that he heard details about the payment. Two undated handwritten documents were recovered from Mr. Boidevaix that relate to the surcharge payment on the contract in Phase IX. The following handwritten notes are on one piece of paper: "250217.25 Peakwilli Hong Kong." Another paper has the following handwritten notes: "250217.25 Peackwilli Hong Kong 31 May Elik." The notes appear to reference the *Eliki* vessel that lifted oil under a Vitol and Mr. Boidevaix contract on May 31, 2001. The reference to \$250,217.25 appears to be the amount of the first surcharge payment made to SOMO on the Phase IX contract. Additionally, the surcharge was paid through an entity named Peakville Limited. Vitol is discussed in Section VI.E below.¹²⁹

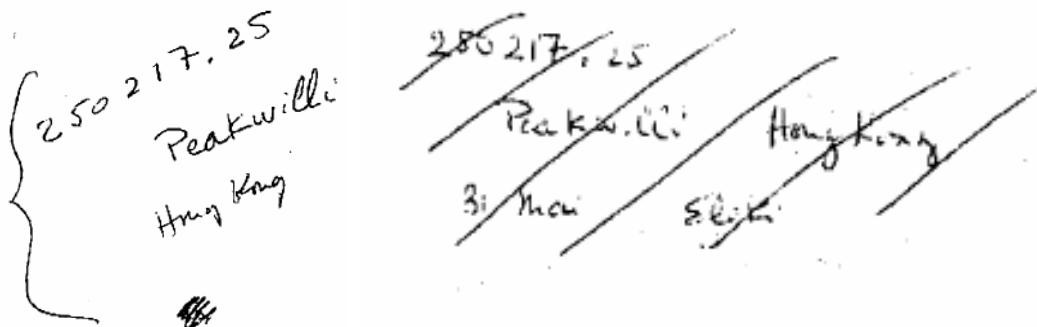


Figure: Serge Boidevaix handwritten notes (undated).

¹²⁸ Serge Boidevaix interview (Oct. 4, 2005); Robin D'Alessandro interview (Oct. 10, 2005).

¹²⁹ Committee oil surcharge table, contract nos. M/09/97, M/10/78; Fransabank record, SOMO account, credit advices (June 25 and Aug. 31, 2001); Boidevaix record, handwritten notes (undated) (showing notes related to "Peakwilli Hong Kong"); Committee oil surcharge table, contract no. M/10/07; SOMO bill of lading, bbl/3123 (May 31, 2001) (relating to M/10/07); Serge Boidevaix interview (Oct. 4, 2005); Confidential document; Committee oil company table, contract no. M/09/97 (showing that surcharges in the amount of \$545,801 were paid); Fransabank record, SOMO account, credit advices (June 23, 2001) (showing transfer of \$250,217.00 from Peakville Limited's account at HSBC Hong Kong), (Aug. 31, 2001) (showing transfer of \$108,000.00 from Peakville Limited's account at HSBC Hong Kong), (Aug. 31, 2001) (showing transfer of \$187,583.70 from Peakville Limited's account at HSBC Hong Kong) (each translated from French and Arabic); Wire transfers through HSBC Hong Kong correspondent account at HSBC New York (Aug. 27, 2002), (July 23, 2003), (Aug. 25, 2003); Credit Lyonnais (Suisse) S.A. record, Vitol S.A. account opening documentation (Sept. 28, 2000) (showing Mr. Favre as having individual signing authority over the account and Vitol S.A.'s address as "Rue des Bains 33, P.O. Box 162, 1211, Geneva"); Jordan National Bank record, SOMO account, credit advice (Jan. 16, 2003) (translated from Arabic).

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When asked about the second note, Mr. Boidevaix stated that one day he received a call from a female employee of Vitol, not Ms. D'Alessandro, who instructed him to write this information down. After getting off the telephone call with her, he tried to call Ms. D'Alessandro, but was initially unable to reach her. According to Mr. Boidevaix, when he reached her a few days later, he told her that Vitol should not pay surcharges, and she confirmed that Vitol would not. He said that about two weeks later, she called him and informed him that SOMO would no longer sell oil to Vitol.¹³⁰

Ministry of Oil records show that surcharges were also paid on a Vitol and Mr. Boidevaix contract in Phase IX, after this conversation between Mr. Boidevaix and Vitol. In Phases IX and X, \$786,789 in surcharges was paid on their contracts. Additionally, Ministry of Oil records contain a letter from Mr. Boidevaix nominating Devon Petroleum to lift his allocation in Phase XI. However, the oil was never lifted. As explained in Section VI.E., Vitol financed other oil transactions through Devon Petroleum in surcharge phases.¹³¹

¹³⁰ Serge Boidevaix interview (Oct. 4, 2005); Robin D'Alessandro interview (Oct. 10, 2005); Confidential source; Jean-René Farthouat and Nathalie Roret letter to the Committee (Oct. 17, 2005).

¹³¹ Committee oil surcharge table, contract nos. M/09/97, M/10/78; Fransabank record, SOMO account, credit advices (June 25 and Aug. 31, 2001) (translated from French and Arabic); Jordan National Bank record, SOMO account, credit advice (Jan. 16, 2003) (translated from Arabic); SOMO record, Serge Boidevaix letter to SOMO (Mar. 6, 2002) (nominating Devon Petroleum to lift any allocation to Mr. Boidevaix in Phase XI; the letter is marked as being received by SOMO on March 6, 2002); Committee oil financier table, contract nos. M/10/34, M/10/62, M/10/85, M/11/46, M/11/100.

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TO: MR AMER RASHID
MINISTER OF OIL
BAGHDAD, IRAQ
FAX: 00 9641 886 9900

CC: MR ALI HASSAN
ACTING EXECUTIVE DIRECTOR GENERAL
SOMO
FAX: 00 9641 774 2797

NUMBER OF PAGES: 1

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فرنك تسویق البترول / مكتب الوفد التقني
CNP / E/21
الرقة / ٢ / ٢٠٠٢
الجلسة

DEAR YOUR EXCELLENCE,

I WOULD BE MOST GRATEFUL IF YOU WOULD CONSIDER ALLOWING ME TO PUT ANY ALLOCATION GIVEN ME FOR PHASE II, UNDER THE COMPANY NAME OF DEVON PETROLEUM LIMITED.

I UNDERSTAND THAT YOU HAVE PUT OTHER ALLOCATIONS UNDER THIS COMPANY, AND HOPE THAT THIS WOULD NOT CAUSE ANY DIFFICULTY.

I WILL BE IN VIENNA MARCH 14-15, ON THE OCCASION OF THE OPEC MEETING, AND WOULD VERY MUCH LIKE TO MEET WITH YOU DURING THAT TIME TO GIVE YOU MY OPINION OF THE CURRENT SITUATION. I WILL CONTACT MR ALI HASSAN TO SEE IF THIS CAN BE ARRANGED.

WITH BEST PERSONAL REGARDS,

SERGE BOIDEVAIX

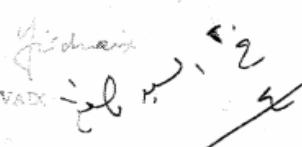


Figure: Serge Boidevaix letter to SOMO nominating Devon (Mar. 6, 2002).

F. GILLES MUNIER

Gilles Munier, Secretary-General of the French-Iraqi Friendship Association (“AFI”) and a longtime advocate for Iraq, has acknowledged that he received allocations—a total of 11.8 million barrels of oil—from the Government of Iraq. Aredio signed the contracts for Mr. Munier’s allocations. In return, Aredio funded AFI’s anti-sanctions activities. Surcharges were levied and paid on the Aredio contracts for oil designated to Mr. Munier in Phases X and XI. Although Mr. Munier knew that surcharges were imposed on contracts generally, he stated that even if surcharges were paid on his allocations, “that wasn’t my problem.”¹³²

¹³² Committee oil surcharge table, contract nos. M/10/86, M/11/80; Gilles Munier interview (Sept. 23, 2005) (translated from French).

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1. Background

Mr. Munier has been Secretary-General of AFI since 1986. The group opposed military action against Iraq prior to the Gulf War and later advocated for the lifting of sanctions against Iraq.¹³³ As early as June 1996, one month after the Memorandum of Understanding for the Oil-for-Food Programme was concluded, Mr. Munier led a delegation of representatives from French businesses to Iraq where they met with various senior Iraqi officials, including Mr. Aziz. Mr. Munier's work against the sanctions regime continued throughout the Programme.¹³⁴

2. Oil Allocations

Between Phases V and XIII, Mr. Munier received eight allocations totaling 11.8 million barrels oil.¹³⁵ According to Iraqi officials, Mr. Munier received oil allocations because of his pro-Iraq

¹³³ Gilles Munier interview (Sept. 23, 2005); “French Peace Activists to Keep Tabs on Iraq Arms Inspections,” *Agence France Presse*, Jan. 11, 2003; Michel Zlotowski, “French Defense Minister Accused of Link with Iraq,” *The Jerusalem Post*, Aug. 26, 1990, p. 2; see also AFI, “Historique,” http://amiraq.free.fr/historique/story_01.html; AFI, “La Bataille pour la levée de l’embargo,” <http://amiraq.free.fr/historique/bataille.html>; Rone Tempest, “Europeans Have Much to Lose in the Gulf Puzzle,” *Los Angeles Times*, Sept. 4, 1990, p. 1. In 1990, he led a private French delegation that was credited with securing the release of nine French hostages. Abdul Jalil Mustafa, “Nine Frenchmen Held Hostage in Iraq Arrive in Amman,” *Associated Press*, Oct. 3, 1990; William Drozdiak, “Iraq Orders 9 French Hostages Released,” *San Francisco Chronicle*, Oct. 2, 1990, p. A15. Mr. Munier stayed in Baghdad for two weeks, working to convince the Iraqi government of the strength of pro-Arab support in France. Robert Cottrell, “French President Arrives in UAE Hoping to Secure Hostage Release,” *The Independent*, Oct. 4, 1990. Mr. Munier reportedly described Saddam Hussein’s release of the prisoners as a “message of peace from Iraq,” and urged France to relax its policy towards Iraq. “Nine Frenchmen Freed by Saddam Arrive in Jordan,” *Reuters News*, Oct. 3, 1990; Abdul Jalil Mustafa, “Nine Frenchmen Held Hostage in Iraq Arrive in Amman,” *Associated Press*, Oct. 3, 1990. In the mid-1990s, Mr. Munier began coordinating an anti-sanctions conference in Baghdad. Mr. Munier continued to lead these conferences in Iraq every six months throughout the Programme. Gilles Munier interview (Sept. 23, 2005).

¹³⁴ “French Businessmen Discuss Exports to Iraq,” *Agence France Presse*, June 8, 1996; “Iraqi oil minister holds talks in France,” *Agence France Presse*, June 9, 1996 (after their meetings, in an interview with *Agence France Presse*, Mr. Rashid stated, “Friendly countries which supported us, like France and Russia, will certainly take priority when it comes to signing contracts”); Gilles Munier interview (Sept. 23, 2005) (describing his work in Iraq since the mid-1970s and stating that very few people besides himself are coming to the defense of Iraq these days and that many of those people on the allocation lists have “turned their backs on Baghdad”) (translated from French). Mr. Munier stated that he was not involved with companies engaged in importing humanitarian goods to Iraq during the Programme. After the Programme terminated, he advised an ambulance company on conducting business in Iraq and, in return, the company agreed to provide financial assistance to AFI, in particular, for the publication of an illustrated book of Iraqi history. Gilles Munier interview (Sept. 23, 2005).

¹³⁵ Tariq Aziz interview (Mar. 1, 2005); Iraq official interview; SOMO letters to Amer Rashid (Mar. 2, 1999) (approving contract M/05/66 for 1.8 million barrels of oil for Aredeo (“Iraqi-French Friendship Society”)), (June 12, 1999) (approving contract M/06/69 for 1.8 million barrels of oil for Aredeo (“Iraqi-French Friendship Society”)), (Dec. 21, 1999) (approving contract M/07/40 for 1.2 million barrels of oil for

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activities and his association with AFI, which effectively served as a lobby group for the Government of Iraq. Alluding to his anti-sanctions efforts, Mr. Munier stated: “In some cases, I wonder for some of the allocation holders where the return was for the Iraqis—in my case, I would understand.” He arranged the sale of approximately 10.5 million barrels to Aredio, a company affiliated with the Taurus Group, and discussed below in Section VI.C.¹³⁶

Mr. Munier’s share of the oil proceeds were used to support AFI’s anti-sanctions efforts. Throughout the 1990s, the Iraqi Interest Section in Paris had been the major source of funds for AFI’s pro-Iraq/anti-sanctions activities. By 1995, however, the Iraqi Interest Section was running out of money. In 1998, Jean-Loup Michel, the Managing Director of Aredio, approached Mr. Munier to assist his company in importing oil from Iraq. Mr. Munier agreed to “present” Mr. Michel’s company to Mr. Aziz and request allocations. In return, Mr. Michel would provide

Aredio “(Iraqi-French Friendship Society)”, (Sept. 11, 2001) (approving contract M/10/86 for 2 million barrels of oil for Aredio “(Mr. Munier/Iraqi-French Friendship Society)”), (Jan. 19, 2002) (approving contract M/11/80 for 1.5 million barrels of oil for Aredio “(Mr. Munier/Iraqi-French Friendship Society)”), (Oct. 20, 2002) (approving contract M/12/122 for 1.5 million barrels of oil for Aredio “(for the benefit of Mr. Munier/Iraqi-French Friendship Society)”), (Dec. 24, 2002) (approving contract M/13/42 for 0.5 million barrels of oil for Aredio, noting that the total allocation for the phase is 1.5 million barrels of which 1 million barrels is from the Phase XII contract, and naming the recipient of the contract as “Mr. Munier (Iraqi-French Friendship Society)”) (each translated from Arabic) (hereinafter “Approval letters for Munier contracts”); SOMO oil allocation tables for Phase VI (undated) (indicating allocations of 1.8 million barrels of oil for “Friendship Society” in Phase V and Phase VI), Phase VII (Dec. 17, 1999) (indicating an allocation of 1.2 million barrels of oil to “Friendship Society”), Phase VIII (June 14, 2000) (indicating an allocation of 1.5 million barrels of oil to “Friendship Society”), Phase X (Aug. 4, 2001) (indicating an allocation of 2 million barrels of oil to “Iraqi-French Friendship Society/Mr. Munier”), Phase XI (Dec. 1, 2001) (indicating an allocation of 1.5 million barrels of oil to “Iraqi-French Friendship Society/Mr. Munier”), Phase XII (May 19, 2002) (indicating an allocation of 1.5 million barrels to “Iraqi-French Friendship Society/Mr. Munier”), Phase XIII (Nov. 17, 2002) (indicating an allocation of 1.5 million barrels of oil to “Iraqi-French Friendship Society/Mr. Munier”) (each translated from Arabic) (hereinafter “SOMO oil allocation tables for Munier”).

There is a discrepancy between United Nations Treasury data and SOMO records regarding the total number of barrels lifted under Mr. Munier’s contracts. This may be because Aredio also lifted oil for other beneficiaries and United Nations Treasury data for Aredio combines information for different Aredio contracts.

¹³⁶ Gilles Munier interview (Sept. 23, 2005) (describing AFI as a lobby group that would consult with Iraqis and provide them with advice); Tariq Aziz interview (Mar. 1, 2005) (confirming that Mr. Munier received oil allocations because he was the head of AFI (described above) and stating that the profits from these allocations were intended to support the activities of this association); Iraq official interview (confirming that Mr. Munier received oil allocations and headed a French-Iraqi group); Committee oil beneficiary table, contract nos. M/05/66, M/06/69, M/07/40, M/08/56, M/10/86, M/11/80, M/12/122, M/13/42; Approval letters for Munier contracts. SOMO records indicate that all eight allocations lifted by Aredio are noted as being for AFI; several of these records note that the allocation is for “Mr. Munier/Iraqi-French Friendship Society.”

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financial support to AFI and remunerate Mr. Munier for his campaign to have sanctions against Iraq lifted.¹³⁷

To obtain allocations and Aredio's contracts, Mr. Munier first met with Mr. Aziz late in 1998 and then, through Mr. Aziz's office, he met with SOMO officials. Mr. Munier also submitted a letter recommending that SOMO contract with Aredio for his allocations. Starting in Phase V, and at the outset of every phase thereafter, Mr. Munier faxed SOMO a nomination letter recommending that Aredio "lift and market the barrels of my usual allocation." When shown a copy of this letter from January 2002, Mr. Munier stated that this was a typical example of what he would submit to SOMO in each phase of the Programme.¹³⁸

Mr. Munier claimed that he has neither drawn a salary for his work at AFI nor has he received a commission from Aredio. He has, however, acknowledged that Aredio and Taurus remunerated him for his efforts as an intermediary by covering his expenses for his work at AFI. According to Mr. Munier, his arrangement with Aredio was such that Mr. Munier would submit AFI's "global invoices" to Mr. Michel every two to six months and Aredio would reimburse AFI by check. Mr. Munier also submitted AFI invoices to and was reimbursed by Taurus. To coordinate these payments, Mr. Munier stated that he met with Martin Schenker "of Aredio" and Ben Pollner, the Director of Taurus. Mr. Munier explained that had he not been compensated, he would "not have been happy."¹³⁹

¹³⁷ Gilles Munier interview (Sept. 23, 2005). According to Mr. Munier, "smaller companies needed my contacts—that's why I worked with Michel." Gilles Munier interview (Sept. 23, 2005). Mr. Munier's allocations were classified under "Special Requests for France" in SOMO's allocations records. SOMO oil allocation tables for Munier.

¹³⁸ Gilles Munier interview (Sept. 23, 2005) (recalling that this meeting occurred in either November or December 1998); Iraq official interviews (describing that during his regular trips to Iraq, Mr. Munier would personally visit SOMO and would meet with Mr. Aziz, among others); SOMO sales contract, no. M/05/66 (Mar. 2, 1999); Gilles Munier letter to Saddam Z. Hassan (Jan. 10, 2002).

¹³⁹ Gilles Munier interview (Sept. 23, 2005); Brit Hume, et al., "Special Report with Brit Hume," *Fox News Network*, Feb. 16, 2004 (reporting that Mr. Munier has stated that during the Programme, he had "served as an intermediary and in exchange for that, got some benefits"); Philip Delves Broughton and Jack Fairweather, "Saddam's Web of Bribery 'went round the world,'" *The Daily Telegraph*, Jan. 28, 2004, p. 13 (admitting that he and AFI had received commissions for introducing businesses to contacts in Iraq, and stated that all of these interactions were legal and within the rules of the Programme); see also Lara Marlowe, "Gaullist MP and Ex-minister Linked to Saddam Oil Scandal," *Irish Times*, Jan. 29, 2004; Rory McCarthy and Owen Bowcott, "Iraqi Council List of Alleged Bribes," *The Guardian*, Jan. 30, 2004; Gilles Munier interview (Sept. 23, 2005) (stating that he met with Mr. Schenker "of Aredio" once or twice and with Mr. Pollner two or three times); see also Martin Schenker fax to Gilles Munier (Apr. 9, 2003) (promising to send "the results" and "the details" to Mr. Munier the following day). AFI's activities and expenses included funding anti-sanctions advertisements in newspapers, publishing an Iraq history and guidebook, and, although the plan was never realized, chartering a Boeing flight to Baghdad. Gilles Munier interview (Sept. 23, 2005) (clarifying that occasionally Aredio would make payments for AFI directly to a service provider and estimating that he sent six invoices to Aredio). Martin Schenker was the signatory on seven of Aredio's 14 oil sales contracts with SOMO. SOMO oil allocation tables for Munier.

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However, Mr. Munier's relationship with Taurus was more formal than he has previously described. Mr. Munier signed a consultancy agreement with Taurus and received "advisor's fees" to "seek [and] supply contracts in the region, with particular emphasis on Iraqi Crude under the Oil-for-Food program." Mr. Munier was to receive \$0.07 per net barrel from Taurus, and Taurus paid him over \$240,000.¹⁴⁰

3. Surcharge Payments

A total of \$647,600 in surcharges was levied and paid on two of Aredio's contracts for oil allocated to Mr. Munier in Phases X and XI. Mr. Munier stated that by 2001, he had heard about the imposition of surcharges—"everyone was talking about surcharges"—and that Iraqi officials had threatened to stop contracting with companies which refused to pay them. According to Mr. Munier, Mr. Michel informed him that Aredio had refused to pay them. Mr. Munier stated that he was never asked to pay surcharges, and he never provided a guarantee that he would pay surcharges. Mr. Munier, however, continued to receive allocations under the Programme and Aredio continued to contract with SOMO on Mr. Munier's behalf, during the surcharge phases and until the Programme ended.¹⁴¹

Mr. Schenker also assisted Mr. Munier with organizing a flight to Baghdad. AB Air Broker Center e-mail to Martin Schenker (Sept. 18, 2000) (forwarding communication indicating that Islandsflug would be willing to operate a flight from Paris to Baghdad; a handwritten note indicates that this document should be forwarded to "J-L Michel" and copied to "Mr. G. Munier"); Islandsflug e-mail to Martin Schenker (Nov. 2, 2000) (stating that Islandsflug had sent a letter to the United Nations Security Council requesting permission to fly to Baghdad and stating that Islandsflug was not willing to operate a flight to Baghdad without this permission). On February 19, 2001, Mr. Munier sent Ben Pollner of Taurus a bill for \$2,700 of expenses from his trip to Baghdad from January 30, 1999 to February 10, 1999. Gilles Munier invoice to Ben Pollner (Feb. 15, 1999) (entitled "*Forfait – Participation aux Frais, Voyage et séjour à Baghdad de Gilles Munier,*" and listing a variety of expenses including a night at a hotel in Paris, a plane ticket from Paris to Amman, the purchase of medicines and presents, and expenses in Baghdad). Given how lucrative the oil trade was under the Programme, Mr. Munier also expressed regret that AFI and Aredio did not begin their involvement in the Programme until Phase V and that AFI had not created its own company "because we could have gotten money directly." Gilles Munier interview (Sept. 23, 2005).

¹⁴⁰ Confidential document.

¹⁴¹ Gilles Munier interview (Sept. 23, 2005); Committee oil surcharge table, contract nos. M/10/86, M/11/80, M/12/22, M/13/42; Committee oil company table, contract nos. M/10/86, M/11/80, M/12/22, M/13/42.

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V. OTHER POLITICAL BENEFICIARIES

A. GEORGE GALLOWAY

The Government of Iraq did not give preference to companies based in the United Kingdom in determining oil allocations under the Programme. Nonetheless, a total of over 18 million barrels of oil were allocated either directly in the name of George Galloway, a member of the British Parliament, or in the name of one of his associates, Fawaz Abdullah Zureikat (“Fawaz Zureikat”), to support Mr. Galloway’s campaign against the sanctions. Mr. Zureikat was a prominent Jordanian businessman. Mr. Zureikat received commissions for handling the sale of approximately 11 million barrels that were allocated in Mr. Galloway’s name.

Both Mr. Galloway and Mr. Zureikat have denied that Mr. Galloway was involved in obtaining the oil allocations or receiving any proceeds from the oil sales. Each of them has acknowledged, however, that Mr. Zureikat made large donations to the Mariam Appeal, a United Kingdom-based campaign for the lifting of sanctions against Iraq. Mr. Galloway was the founder of this organization. Mr. Galloway has denied that he was aware of the source of Mr. Zureikat’s donations. According to Iraqi officials, another oil beneficiary, Burhan Al-Chalabi, also received an allocation intended to benefit the Mariam Appeal. A portion of the profits from this allocation was deposited into an account of Mr. Galloway’s wife, Amineh Naji Daoud Abu Zayyad, who was also involved with the Mariam Appeal.

1. Background

Although a critic of Saddam Hussein’s regime, Mr. Galloway became an outspoken opponent of sanctions against Iraq in the British Parliament around the late 1990s. In 1998, Mr. Galloway became the first chairman of the Mariam Appeal, an organization established to provide medical aid to Iraq and arrange for the medical treatment of one particular Iraqi child outside of Iraq. In addition to raising funds for these medical costs, the Mariam Appeal also had the broader purpose of campaigning “against sanctions in Iraq.” From 1999 through 2002, the Mariam Appeal funded Mr. Galloway’s tour of over ten countries on a double-decker bus to campaign for the ending of sanctions, as well as separate trips to a number of countries, including Jordan, the United Arab Emirates, Lebanon, Iraq, Hungary, Belgium, the United States, and Romania.¹⁴²

¹⁴² United Kingdom Parliament record, Hansard, Column 1022 (Jan. 13, 1993), Column 573 (Jan. 21, 1993), Column 726 (Dec. 13, 1993), Column 728 (Feb. 2, 1998), Columns 938-939 and 941 (Feb. 17, 1998), Columns 618-619 (Nov. 16, 1998), Columns 147, 149, 150-151, and 157 (Nov. 25, 1998), Column 1108 (Dec. 17, 1998); Charity Commission for England and Wales, “The Mariam Appeal (2004),” sec. 2 (June 28, 2004); George Galloway interview (May 16, 2005); Davenport Lyons letter to the Charity Commission for England and Wales (Apr. 13, 2004); Iraq official interview; United Kingdom Parliamentary Register of Members’ Interests (1998-1999, 2000-2001 and 2001-2002). The costs of some of these trips were also met by the Great Britain-Iraq Society. United Kingdom Parliament record, Register of Members’ Interests (2000-2001, 2001-2002, and 2002-2003). In parliamentary speeches, Mr. Galloway

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According to Mr. Galloway, the Mariam Appeal records were sent to Amman and Baghdad in 2001 and could not be located. Bank and other records show that following its establishment in 1998, the Mariam Appeal received three large donations totaling over £1 million, including £500,000 from the United Arab Emirates, over £100,000 from Saudi Arabia, and at least £434,000 from Mr. Zureikat. The Mariam Appeal also received a donation of £6,750 from Neste Oil, which later became Fortum Oil and Gas Oy (“Fortum”). Neste Oil’s donation was made following the purchase of oil in a transaction facilitated by Mr. Al-Chalabi, an Iraqi businessman based in the United Kingdom and an early supporter of the Mariam Appeal. The only other donations received by the Mariam Appeal were small amounts from various individuals.¹⁴³

2. Oil Allocations and Contracts

Ministry of Oil records show that from Phases VIII through XIII, a total of 18 million barrels of oil were allocated to Mr. Galloway, either directly or indirectly through Mr. Zureikat, and nearly two-thirds of the oil was lifted. According to Iraqi officials, oil allocations were granted to fund Mr. Galloway’s anti-sanctions activities. Iraqi officials identified Mr. Zureikat as acting on Mr. Galloway’s behalf to conduct the oil transactions in Baghdad.¹⁴⁴

argued that sanctions against Iraq were responsible for chronic malnutrition, disease, and lack of adequate healthcare, as well as the deaths of 6,000 children monthly. United Kingdom Parliament record, Hansard, Columns 874 and 875 (Mar. 27, 1998), Columns 250 and 253 (June 29, 1999), Column 708 (Nov. 3, 1998). In other parliamentary speeches, Mr. Galloway argued that the lifting of sanctions would lead to business opportunities in Iraq; he claimed that the United Nations Special Commission (“UNSCOM”) was an American tool working with Israeli intelligence; he called Richard Butler, the head of UNSCOM, a “congenital liar and a provocateur”; he referred to problems with missing Iraqi paperwork for UNSCOM inspectors as a “ridiculous squall”; he described Iraqi opposition parties as terrorists and British support for them illegal; and he attacked the legitimacy and purpose of the no-fly zones, designed to protect the southern Shi’ite and northern Kurdish areas from Iraqi government attacks. United Kingdom Parliament record, Hansard, Column 725 (Dec. 13, 1993), Column 940 (Feb. 17, 1998), Column 707 (Nov. 3, 1998), Columns 152 to 157 (Nov. 25, 1998), pt. 9 (Dec. 17, 1998), Column 82WH (Mar. 6, 2002), Column 253 (June 29, 1999), Column 280WH (Jan. 10, 2001), Column 540 (July 9, 2001). Davenport Lyons are Mr. Galloway’s legal representatives. Davenport Lyons letter to the Charity Commission for England and Wales (Apr. 13, 2004).

¹⁴³ National Bank of Abu Dhabi record, Mariam Appeal account, credit advices (Apr. 13, 1999, Apr. 19, and Nov. 30, 2000) and bank statement (May 4, 1999); Lloyds TSB record, Mariam Appeal account, bank statements (undated) (transaction dates Aug. 4, 2000; Mar. 13 and July 11, 2001), bank statements (Nov. 1 and 29, 2001; June 13, July 25, Aug. 8, Sept. 5, and Dec. 12, 2002); George Galloway interview (May 16, 2005); Neste Oil letter to the Committee (June 30, 2005); Rod Gavshon interview (May 23, 2005); David Leigh and David Pallister, “Iraq Oil cash funded MP’s campaigns,” *The Guardian*, Feb. 17, 2004; Dominic Kennedy, “Globetrotter’s 14 trips paid for by appeal,” *The Times*, Apr. 23, 2003; Charity Commission of England and Wales record, “Income Abu Dhabi account” (undated); Charity Commission for England and Wales, “The Mariam Appeal (2004),” sec. 12 (June 28, 2004).

¹⁴⁴ Committee oil beneficiary table, contract nos. M/08/35, M/09/23; M/10/38, M/11/04, M/12/14, M/13/48; Iraq official interviews; Ghalib Al-Douri interview (Nov. 5, 2004); Saddam Z. Hassan interviews (Mar. 9 and July 28, 2005); Tariq Aziz interview (Mar. 1, 2005). When interviewed a second time, Mr.

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Of those allocations, 11 million barrels of oil were allocated directly to “Mr. Galloway” and classified as “United Kingdom” allocations and seven million barrels of oil were allocated to “Fawaz Zureikat,” also classified as “United Kingdom” allocations or noted specifically as allocations for the Mariam Appeal. Separately, Mr. Zureikat was allocated a total of five million barrels of oil, classified as “Jordan” allocations. In some phases, oil was allocated to both “Mr. Galloway/Fawaz Zureikat” under the “United Kingdom” classification and “Fawaz Zureikat” under the “Jordan” classification. Iraqi officials have confirmed that Mr. Zureikat’s allocations classified as “United Kingdom” were intended to benefit Mr. Galloway’s anti-sanctions campaign, and those classified as “Jordan” were for the benefit Mr. Zureikat personally. By Phase XI, the SOMO Requests for Approval of Contract also began referencing Mr. Galloway as the named beneficiary of the oil.¹⁴⁵

Aziz changed his previous assertion that Mr. Galloway had received oil allocations. Committee investigators were under the clear impression at this interview that Mr. Aziz believed that the purpose of the interview was to gather evidence to be used against him in subsequent legal proceedings. The Committee does not find the new denial credible under the circumstances. Tariq Aziz interview (Aug. 16, 2005). The only other allocations designated under United Kingdom “special requests” were for the Mujahadeen Khalq. Committee oil beneficiary table, contract nos. M/08/95, M/09/76, M/10/16; M/11/44, M/12/76. There is a small discrepancy between the SOMO records and United Nations records relating to contract M/08/35. United Nations records reflect an additional 100,000 barrels being lifted. Committee oil beneficiary and company tables, contract no. M/08/35.

¹⁴⁵ Iraq official interview; Amer Rashid interview (Feb. 20, 2005); Saddam Z. Hassan interview (July 28, 2005); Committee oil beneficiary table, contract nos. M/08/35, M/09/23; M/10/38, M/11/04, M/12/14, M/13/48; SOMO oil allocation tables for Phase X (Aug. 4, 2001) (indicating an allocation of three million barrels of oil for “Mr. Galloway/Fawaz Zureikat”), Phase XII (May 19, 2002) (indicating an allocation of three million barrels of oil for “Mr. Galloway/Fawaz Zureikat”), Phase XIII (Nov. 17, 2002) (indicating an allocation of three million barrels of oil for “Mr. Galloway/Fawaz Zureikat”) (each translated from Arabic); SOMO letters to Amer Rashid (Dec. 19, 2001) (approving contract M/11/04 for three million barrels of oil for “Mr. Galloway”), (June 23, 2002) (approving contract M/12/14 for three million barrels of oil for “Mr. George Galloway”), (Jan. 23, 2003) (approving contract M/13/48 for two million barrels of oil for “Mr. Galloway”) (each translated from Arabic).

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Table 1 – Allocations in the Names of George Galloway and Fawaz Zureikat

| Phase | Beneficiary Name on SOMO Allocation Table | Beneficiary Name on SOMO Request For Approval of Contract | Country Designation | Barrels of Oil Allocated |
|-------|---|---|---------------------|--------------------------|
| VIII | Fawaz Zureikat | Fawaz Zureikat | United Kingdom | 4 million |
| IX | Fawaz Zureikat | Fawaz Zureikat – Mariam Campaign | – | 3 million |
| | Fawaz Zureikat | Fawaz Zureikat | – | 2 million |
| X | Mr. Galloway/ Fawaz Zureikat | Fawaz Zureikat | United Kingdom | 3 million |
| XI | Mr. Galloway/ Fawaz Zureikat | Mr. Galloway | United Kingdom | 3 million |
| | Fawaz Zureikat | Fawaz Zureikat | Jordan | 1 million |
| XII | Mr. Galloway/ Fawaz Zureikat | Mr. Galloway | United Kingdom | 3 million |
| | Fawaz Zureikat | Fawaz Zureikat | Jordan | 1 million |
| XIII | Mr. Galloway/ Fawaz Zureikat | Mr. Galloway | United Kingdom | 2 million |
| | Fawaz Zureikat | Fawaz Zureikat | Jordan | 1 million |

Mr. Galloway denied requesting allocations of oil or receiving financial support from the Government of Iraq. Mr. Zureikat acknowledged that he received oil from the Government of Iraq for himself, but denied that he acted as a representative for Mr. Galloway in connection with any Iraqi oil transactions under the Programme. When asked about the Ministry of Oil records that reference his name and allocations with Mr. Galloway under the “United Kingdom” classification, Mr. Zureikat suggested that his name might have been linked with Mr. Galloway’s on SOMO documents because he often had been referred to in Iraq as a supporter and friend of Mr. Galloway.¹⁴⁶

Iraqi officials, however, stated that Mr. Zureikat negotiated both his own oil contracts at SOMO as well as those for the benefit of Mr. Galloway’s campaign. According to Iraqi officials, during some of his visits to SOMO to deal with oil contracts, Mr. Zureikat discussed the activities of the Mariam Appeal and repeated on more than one occasion that the oil allocated to Mr. Galloway

¹⁴⁶ George Galloway interview (May 16, 2005); Dominic Kennedy, Philip Webster, and Melissa Kite, “Galloway faces new allegation over misuse of charity funds,” *The Times*, Apr. 23, 2003; Full Statement of George Galloway MP, *The Guardian*, Apr. 22, 2003; Fawaz Zureikat interview (July 28, 2005).

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was being used to support the activities of the Mariam Appeal or that the allocations were for “George.”¹⁴⁷

Augusto Giangrandi, a trader for Bayoil and Italtech, discussed below in Section VI.B, stated that he had conversations with Mr. Galloway in Baghdad about oil sales under the Programme. While Mr. Galloway did not state explicitly to Mr. Giangrandi that he had received any oil allocations, over the course of informal meetings Mr. Galloway asked him to explain how the oil allocation process worked financially and how commissions were negotiated. Mr. Giangrandi encouraged Mr. Galloway to seek an oil allocation and gave Mr. Galloway his business card. Mr. Giangrandi had hired an Iraqi agent to provide information on potential allocation holders through his contacts at SOMO. Mr. Giangrandi inquired about Mr. Galloway through this agent and heard that oil had been given to “Abu Mariam” (as Mr. Galloway was known) and that Fawaz Zureikat was acting as his representative. Mr. Giangrandi subsequently attempted to negotiate the purchase of oil with Mr. Zureikat. The deal fell through when Mr. Zureikat reported that “his friend” had received a better offer from another company. Mr. Galloway has described this as a “cock and bull story.”¹⁴⁸

When asked about Mr. Giangrandi, Mr. Zureikat initially denied knowing him. Only when Mr. Zureikat was told that Mr. Giangrandi claimed to have met with him, did he acknowledge the meeting. Nevertheless, Mr. Zureikat stated that the meeting had lasted about five minutes, and he denied doing business with Mr. Giangrandi.¹⁴⁹

3. Surcharge Payments

Between Phases VIII and XII, Aredio and ASI Middle East Advanced Semiconductor Inc. (“Middle East Advanced Semiconductor”), Mr. Zureikat’s company which specialized in supplying electronic parts and had extensive commercial interests in Iraq, purchased approximately 11 million barrels of oil related to the allocations for Mr. Galloway and Mr. Zureikat (designated as “United Kingdom” allocations). Some of the oil contracts were financed by Taurus, which also purchased and financed some of the oil (designated as “Jordan”) allocations granted to Mr. Zureikat. Surcharges totaling \$2,103,034 were levied on four contracts corresponding to allocations for the benefit of Mr. Galloway and his campaign.¹⁵⁰

¹⁴⁷ Tariq Aziz interview (Mar. 1, 2005); Iraq official interviews; Saddam Z. Hassan interview (July 28, 2005).

¹⁴⁸ Augusto Giangrandi interviews (Apr. 25 and 27-28, and July 24-25, 2005); Confidential witness interview; George Galloway e-mail to the Committee (Oct. 17, 2005).

¹⁴⁹ Fawaz Zureikat interview (July 28, 2005).

¹⁵⁰ Committee oil beneficiary and financier tables, contract nos. M/08/35, M/09/23; M/09/118, M/10/38, M/11/04, M/11/10, M/12/14. In Phases VIII and IX, Aredio executed the contracts with SOMO to purchase over four million barrels of Mr. Galloway’s allocations. In Phases X through XII, Middle East Advanced Semiconductor executed the contracts with SOMO to purchase over 7.6 million barrels of Mr. Galloway’s allocations. Aredio is affiliated with Taurus, as discussed in Section VI.C below. Mr. Zureikat

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In Phase VIII, Ministry of Oil records show that approximately \$264,000 in surcharges was levied on Aredio's contract. As with other surcharges imposed in Phase VIII, the surcharges were not immediately paid, and, a year later, the Iraqi regime demanded payment before additional oil could be lifted. Indeed, in Phase X, a new contract with Middle East Advanced Semiconductor was approved subject to payment of the \$264,000 surcharges outstanding from Phase VIII. In December 2001, Taurus wire transferred \$264,000 to Mr. Zureikat's account at Jordan National Bank. Bank records show that three days later a transfer of \$264,000 was made from Mr. Zureikat's account into the SOMO account at Jordan National Bank for the payment of surcharges on the Aredio contract. Surcharges on the Phase IX contract lifted by Aredio were paid through wire transfers from a bank account associated with Taurus. The involvement of Taurus in the payment of the surcharge on this contract is discussed in Section VI.C.¹⁵¹

Some of the surcharges assessed on other contracts were paid in the name of Mr. Zureikat's company. In Phase X, Ministry of Oil records show that approximately \$825,822 was paid on a Middle East Advanced Semiconductor contract relating to a United Kingdom allocation. The surcharge was paid through deposits into two SOMO accounts at Jordan National Bank under the name of Middle East Advanced Semiconductor. Additionally, surcharges totaling \$502,476 were due on contracts relating to separate allocations for Mr. Zureikat (designated as "Jordan")

was President of Middle East Advanced Semiconductor. Fawaz Zureikat fax to oil overseers (Dec. 20, 2001) (citing himself as President of Middle East Advanced Semiconductor); George Galloway interview (May 16, 2005). United Nations records reflect that one million barrels of oil were lifted in relation to contract M/13/48. SOMO records relating this contract to Mr. Galloway's allocation show no oil lifted under this contract. The Committee believes that the oil shown as lifted under this contract by the United Nations records in fact may have been for the benefit of another beneficiary for whom Middle East Advanced Semiconductor acted as contract holder, Toujan Al-Faisal. SOMO records show a one million barrel lift by Middle East Advanced Semiconductor for Ms. Al-Faisal's benefit under contract M/13/50. United Nations records do not indicate that Middle East Advanced Semiconductor lifted this oil. Committee oil beneficiary table, contract no. M/13/50; Committee oil company table, contract no. M/13/48.

¹⁵¹ Committee oil company table, contract nos. M/08/35, M/09/23; M/10/38, M/11/04; SOMO letters to Amer Rashid (Dec. 19, 2001) (approving contract M/11/04 for three million barrels of oil for "Mr. Galloway"); Jordan National Bank record, Ziad and Fawaz Zureikat/Middle East Advanced Semiconductor account, bank statement (Jan. 1 to Dec. 31, 2001); Jordan National Bank record, SOMO account, bank statement (Jan. 1 to Dec. 31, 2001) (translated from Arabic). The request for approval of contract M/09/118 in the name of Mr. Zureikat also contains a reference to Mr. Zureikat promising to pay the sum of \$264,505 owed on "the contract of the Aredio company" (M/08/35) and thus being granted a delay in paying the surcharge due on his contract M/09/118. SOMO letter to Amer Rashid (May 8, 2001) (translated from Arabic) (approving contract M/09/118 for two million barrels of oil for "Mr. Fawaz Zureikat"); Confidential document; Jordan National Bank record, Ziad and Fawaz Zureikat/Middle East Advanced Semiconductor account, bank statement (Jan. 1 to Dec. 31, 2001) (translated from Arabic); Jordan National Bank record, SOMO account, bank statement (Jan. 1 to Dec. 31, 2001) (translated from Arabic); Committee oil company table, contract nos. M/08/35, M/09/23. The \$304,321 surcharge on M/09/23 was deposited in two stages on March 18 and 19, 2001 into the SOMO account. The deposits were made in the name of Salim Ahmad. Jordan National Bank record, SOMO account, bank statement (Jan. 1 to Dec. 31, 2001) (translated from Arabic). Section VI.C of this Chapter further discusses Taurus and Salim Ahmad.

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allocations) of which \$497,353 was paid, again under the name of Middle East Advanced Semiconductor.¹⁵²

4. Donations to the Mariam Appeal

From April 2001 to August 2003, Mr. Zureikat received a total of almost \$1.9 million from Taurus accounts. Payments from Taurus were split roughly between deposits into an account at the Arab Bank in his name and an account at Jordan National Bank in the name of Ziad and Fawaz Zureikat/Middle East Advanced Semiconductors.¹⁵³

Mr. Zureikat initially denied having heard of either Aredio or Taurus. In a subsequent interview, however, Mr. Zureikat acknowledged that Taurus had purchased some of the oil allocations in his name, but he refused to disclose the financial arrangements.¹⁵⁴

A letter addressed to SOMO Executive Director Saddam Z. Hassan, dated January 13, 2001 and signed by Mr. Zureikat, authorized Aredio to execute a contract with SOMO pursuant to his allocation. He further indicated that his allocation was linked with the Mariam Appeal.¹⁵⁵

¹⁵² Committee oil company table, contract nos. M/10/38, M/11/04, M/09/118, M/11/10; Jordan National Bank record, SOMO account, bank statement (Jan. 1 to Dec. 31, 2001) and credit advices (Nov. 12 and Dec. 4, 2001) (translated from Arabic).

¹⁵³ Jordan National Bank record, Ziad and Fawaz Zureikat/Middle East Advanced Semiconductors account, bank statements (Jan. 1 to Dec. 31, 2001; Feb. 17 to Dec. 31, 2002; Jan. 31 to Dec. 31, 2003) (translated from Arabic); Arab Bank record, Fawaz Zureikat account, credit advices (Oct. 18 and Nov. 20, 2001 (translated from Arabic); Jan. 18 and May 28, 2002); Banque Bruxelles Lambert record, Taurus account, debit advice (Apr. 18, 2001). Regarding the November 20, 2001 payment identified in the table above, a letter of credit was funded by Taurus in favor of the United Nations in the amount of €28,837,703.59. This was to fund a lift on October 16, 2001 of 1,917,528 barrels, part of contract M/10/38. On November 13, 2000, this exact amount was debited from Taurus's Credit Suisse First Boston account in Geneva. On November 19, 2001, Taurus wire transferred \$698,640.14 from Credit Suisse First Boston Geneva to an undisclosed account at Arab Bank Amman. On November 20, 2001, \$698,640.14 was deposited in Mr. Zureikat's account at Arab Bank. The reference on the Arab Bank credit advice is for "Eastern Power." The SOMO bill of lading indicates that the name of the ship which lifted the oil on October 16, 2001 was the "Eastern Power" and lists "Credit Suisse, Geneva" as the consignee. BNP New York letter to the United Nations (Nov. 14, 2001) (informing the United Nations that its account would be credited in the amount of €28,837,703.59); Credit Suisse First Boston Geneva record, Taurus account, debit advice (Nov. 13, 2001); Arab Bank record, Fawaz Zureikat account, credit advice (Nov. 20, 2001) (translated from Arabic); SOMO bill of lading bbl/3197 (Oct. 16, 2001) (relating to contract M/10/38). BNP operated during the Programme through various affiliates, including BNP New York, the branch responsible for maintaining the escrow account. These other branches and affiliates will hereinafter be referenced by the designation "BNP", followed by the location of the branch or affiliate (e.g. BNP Geneva, BNP Hong Kong, BNP New York).

¹⁵⁴ Fawaz Zureikat interviews (July 28 and Oct. 10, 2005).

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The handwritten letter is in Arabic. The top part reads: "الى سعادته شقيقه بنتي سود" (To my brother's son, Saddam Al-Zibn). The body of the letter says: "أعده شركه Aredio بـ ٣ ملايين بريل في فبراير (ماريم) واعطيه مدة انتهاء كالتالي: بـ ٣٠٠٠ بريل في ٢٨ فبراير ٢٠٠١. لـ ٣٠٠٠ بريل في ٢٩ فبراير ٢٠٠١. تسللا بقيمه مائة بريل". At the bottom, it says: "فواز عبد الله زريقات" and the date "١٣ / ١ / ٢٠٠١".

To the State Oil Marketing Company

Dear Mr. Saddam Al-Zibn

I give permission to the Aredio Company to contract for the quantity specified for me (Mariam Campaign) that is three million barrels until the end of February 2001. I also give permission to Mr. Martin Shenker to sign the contract.

Please accept my respects.

[Signature]

Fawaz Abdallah

13/1/2001

Figure: Fawaz Abdallah Zureikat letter to Saddam Z. Hassan (Jan. 13, 2001) (translated from Arabic).

Of the money deposited in the Arab Bank account, approximately \$55,000 was transferred in two deposits into the Mariam Appeal bank account at Lloyds Trustee Savings Bank (“Lloyds TSB”) in London. A review of Mr. Zureikat’s Arab Bank records shows that there were a total of \$973,300 in eight cash withdrawals from the Arab Bank account between October 2001 and January 2002; and a further \$101,000 was withdrawn in cash between June and July 2003. In addition, bank records show that from August 2000 through December 2002, Mr. Zureikat wire transferred funds from other accounts totaling approximately £400,000 into the Mariam Appeal bank account at Lloyds TSB in London.¹⁵⁶

¹⁵⁵ Fawaz Zureikat letter to Saddam Z. Hassan (Jan. 13, 2001) (translated from Arabic). Deposits to the Mariam Appeal’s account were made variously in the name of “Fawaz Zureikat” or “Fawaz Abdallah” [sic]. Lloyds TSB record, bank statements (undated) (transaction dates Aug. 4, 2000; Mar. 13 and July 11, 2001) and bank statements (June 13, July 25, Aug. 8, Sept. 5, and Dec. 12, 2002).

¹⁵⁶ Arab Bank record, Fawaz Zureikat account, credit advices (Oct. 18 and Nov. 20, 2001) and debit advices (Oct. 28-29, Nov. 11, 21, and 26, and Dec. 4 and 27, 2001; Jan. 7, 2002; June 30 and July 10, 2003) (translated from Arabic); Lloyds TSB record, Mariam Appeal account, bank statements (undated) (transaction dates Aug. 4, 2000; Mar. 13 and July 11, 2001), bank statements (Nov. 1 and 29, 2001; June 13, July 25, Aug. 8, Sept. 5, and Dec. 12, 2002); Arab Bank record, Fawaz Zureikat account, SWIFT messages (Nov. 24 and 26, 2001) (translated from Arabic); Fawaz Zureikat interview (July 28, 2005). On November 24, 2001, Mr. Zureikat transferred \$30,000 to the Mariam Appeal from the same Arab Bank

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Mr. Zureikat claimed he made donations to many other anti-sanctions campaigns—including a donation to one campaign of approximately £200,000. When asked to which other campaign he contributed funds, Mr. Zureikat replied: “That is none of your business.”¹⁵⁷

Mr. Galloway has acknowledged that Mr. Zureikat donated money to the Mariam Appeal, although he has offered varying estimates of the total amount of Mr. Zureikat’s donations. In April 2003, however, Mr. Galloway stated categorically that the Mariam Appeal had “received no money from Iraq.” More recently, when interviewed by Committee investigators, Mr. Galloway stated that he never asked Mr. Zureikat about the source of the money the latter donated to the Mariam Appeal.¹⁵⁸

5. Payments to Amineh Naji Daoud Abu Zayyad (Mr. Galloway’s Wife)

Burhan Al-Chalabi, an Iraqi businessman based in the United Kingdom, received an oil allocation in Phase VII. This oil allocation was granted to Mr. Al-Chalabi and designated as a United Kingdom allocation. Mr. Al-Chalabi nominated Fortum to purchase his allocations. Mr. Al-Chalabi told an Iraqi official that his allocation was to support “Galloway’s campaign.”¹⁵⁹

In April 2000, a donation of £6,750 was made by Fortum (in the name of Neste) to the Mariam Appeal. This was in response to a direct request from the Mariam Appeal for funding for medical

account into which the \$698,640.14 from Taurus had been paid; on November 26, a further \$25,000 was transferred. Arab Bank record, Fawaz Zureikat account, SWIFT messages (Nov. 24 and Nov. 26, 2001) (translated from Arabic).

¹⁵⁷ Fawaz Zureikat interview (July 12, 2005).

¹⁵⁸ George Galloway interview (May 16, 2005) (estimating that Mr. Zureikat provided £375,000 to the Mariam Appeal and saying he never asked Mr. Zureikat about the source of the funds); George Galloway letter to the United Kingdom Attorney-General (Apr. 24, 2003). In an interview for the British Broadcasting Corporation (hereinafter “BBC”), referring to Mr. Zureikat’s donations, Mr. Galloway stated: “I would have said it was of the order of about £200,000 over four years, a ballpark figure.” *BBC Newsnight*, George Galloway interview (Apr. 23, 2003); George Galloway e-mail to the Committee (Oct. 17, 2005).

¹⁵⁹ Committee oil beneficiary table, contract no. M/07/83; Iraq official interviews; SOMO oil allocation tables for Phase VII (Dec. 17, 1999) (indicating an allocation of four million barrels to “Burhan al-Chalabi”). In 1999, Neste Oil merged into Fortum. Neste Oil previously had attempted unsuccessfully to obtain oil allocations. SOMO fax to Neste Oil (Dec. 21, 1996); SOMO record, fax to Neste (Aug. 23, 1997); Neste Oil record, Neste Oil letter to SOMO (Mar. 17, 1998); Neste Oil record, Neste Oil letter to Zuhair Ibrahim, Iraqi Interests Section, London (Sept. 18, 1998); Neste Oil record, Neste Oil letter to the Minister of Oil (Sept. 18, 1998); Neste Oil record, Neste Oil letter to Mudhafar A. Amin, Iraqi Interests Section, London (Aug. 12, 1999); Neste Oil record, Neste Oil letter to Minister of Oil (Aug. 12, 1999). An Iraqi official familiar with allocations granted by Mr. Aziz has stated he was unaware of allocations being requested or granted for the benefit of Mr. Galloway’s campaign prior to Phase VIII. Iraq official interview.

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supplies. Fortum states there was no connection between its contract under the Programme and its donation to the Mariam Appeal.¹⁶⁰

Between January and June 2000, Mr. Al-Chalabi (through his company, Delta Services) received commission payments from Fortum totaling \$472,228 in relation to contract M/07/83. Soon after each deposit, a series of payments totaling over \$120,000 were transferred from the Delta Services bank account to the bank account of Amineh Naji Daoud Abu Zayyad, Mr. Galloway's wife. Ms. Abu Zayyad was the medical and scientific officer for the Mariam Appeal and one of the authorized signatories on one of the Appeal's bank accounts.¹⁶¹

In June 2000, a further portion of Mr. Al-Chalabi's commission in the amount of \$70,000 was transferred to Mr. Zureikat. Mr. Zureikat does not recall receiving \$70,000 and denied having any business links to Mr. Al-Chalabi. Mr. Al-Chalabi did not respond to Committee requests for an interview. In addition, \$15,000 was transferred from the Delta Services account to a bank account in Jordan in the name of Mudhafar Al-Amin. A transfer of \$135,481 was also made to an account held in the name of "Mudhafar A. Amin" listed in the account documents as "ambassador of Iraq." Mudhafar A. Amin was the name of the Iraqi chargé d'affaires in London at the time.¹⁶²

Mr. Galloway's response to the Committee's findings, in which he reiterates his previous denials, is annexed to the report. He states, "I had nothing to do with any oil deals done by Mr. Fawaz

¹⁶⁰ Neste Oil letter to the Committee (June 30, 2005); Rod Gavshon interview (Aug. 1, 2005); National Bank of Abu Dhabi record, Mariam Appeal account, credit advice (Apr. 19, 2000) and bank statement (Apr. 29, 2003); Mariam Appeal record, Stuart Halford letter to National Bank of Abu Dhabi (Apr. 12, 2000).

¹⁶¹ Lloyds TSB record, Delta Services account, credit advices (Jan. 21, Mar. 20, May 15, and June 29, 2000), bank statements (Jan. 31, Mar. 31, May 31, and June 30, 2000), debit advices (Jan. 24, Mar. 22, and May 16, 2000); National Bank of Abu Dhabi record, Mariam Appeal account, Mandate for Incorporated Associations (Aug. 18, 1999); Charity Commission for England and Wales record, Davenport Lyons letter to the Charity Commission for England and Wales (Apr. 13, 2004). Mr. Al-Chalabi was the beneficial owner of the Delta Services account. Lloyds TSB record, Delta Services account, bank account opening document (Apr. 15, 1998). \$82,738 was to be paid to "the AHLI Foundation." Bank records show this portion of the money actually was withdrawn in cash. Lloyds TSB record, Rawlinson & Hunter letter to Lloyds Bank Geneva (June 15, 2000) (requesting wire transfers from the Delta Services account); Lloyds TSB record, Delta Services account, bank statement (May 31, 2000).

¹⁶² Lloyds TSB record, Delta Services account, credit advice (June 29, 2000), debit advices (Jan. 24, Mar. 22, May 16, and June 30, 2000), and bank statement (June 30, 2000); Fawaz Zureikat interview (Oct. 10, 2005); Neste Oil record, Neste Oil letter to Dr. Mudhafar A. Amin (Aug. 12, 1999); Banque Nagelmackers record, Mudhafar A. Amin account, bank opening documents (Aug. 27, 1998) and SWIFT messages (Jan. 24, Mar. 23, and May 16, 2000). \$34,692 was to be paid to "the AHLI Foundation," but actually was withdrawn in cash. Lloyds TSB record, Rawlinson & Hunter letter to Lloyds Bank, Geneva (June 15, 2000) (requesting wire transfers from the Delta Services account); Lloyds TSB record, Delta Services account, bank statement (June 30, 2000).

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Zureikat or anyone else.” He also stated that his wife denied that she had ever “received \$120,000 from Dr. Burhan Chelabi [*sic*] or anyone else.”¹⁶³

B. ROBERTO FORMIGONI/MARCO MAZARINO DE PETRO

Iraqi officials and Ministry of Oil records show that the Government of Iraq granted a total of over 27 million barrels of oil over 11 phases in the name of Roberto Formigoni, the President of the Lombardy Region in Italy. Over 24.1 million barrels of this oil were lifted. These oil allocations, however, were handled not by Mr. Formigoni, but by Marco Mazarino de Petro, a friend of Mr. Formigoni’s for 30 years, who, at the time, was serving as a paid consultant in the office of the President of the Lombardy Region. Through an arrangement with a local company, Costieri Genovesi Petroliferi (“CO.GE.P.”), Mr. de Petro received almost \$800,000 in revenues from the sale of this oil, through a series of accounts held in the name of “Candonly Limited,” the name given to three shell companies he controlled.¹⁶⁴

Mr. de Petro stated that he contacted the office of Mr. Aziz to pursue oil purchases under the Programme. Mr. de Petro recalled that Mr. Formigoni mentioned CO.GE.P. to Iraqi officials during the officials’ visit to Italy in 1998, but asserted that he did not give any money from this activity to Mr. Formigoni. The Committee’s review of available information does not reveal that Mr. Formigoni received proceeds from the sale of this oil. Despite several attempts, however, the Committee was unable to obtain the cooperation of Mr. Formigoni or CO.GE.P. Mr. Formigoni has denied receiving oil allocations.

1. Background

Mr. Formigoni has served as the President of the Lombardy Region since 1995 and previously served as Undersecretary to the Italian Ministry of Environment. He became friendly with Mr. Aziz in 1990, when he traveled to Baghdad in an effort to obtain the release of Italian hostages. He maintained a relationship with Mr. Aziz and Iraqi officials throughout his Presidency—traveling to Baghdad and meeting with visiting Iraqi officials several times during the Programme, and attending the Baghdad Conference with Mr. Aziz in 1999. Mr. Formigoni was a supporter of Iraq long before the beginning of the Programme, and he openly was against the embargo.¹⁶⁵

¹⁶³ George Galloway e-mail to the Committee (Oct. 17, 2005). Mr. Galloway was interviewed by the Committee in May 2005. He refused a second interview stating he “had nothing more to say” to the Committee. Although Mr. Galloway stated he would consider answering written questions, it is not the Committee’s practice to conduct interviews in this manner. George Galloway e-mail to the Committee (Aug. 23, 2005).

¹⁶⁴ For the purposes of this Report, “Candonly Limited” refers to three Candonly entities: (1) Candonly Dublin; (2) Candonly Ltd. London; and (3) Candonly BV Amsterdam.

¹⁶⁵ Roberto Formigoni, “Biografia,” <http://www.formigoni.it/biografia.htm>; The International Who’s Who, “Roberto Formigoni,” <http://www.worldwhoswho.com/views/entry.html?id=for-0424&ssid+938641625>

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During much of the Programme, Mr. de Petro, a former parliamentarian and mayor, worked simultaneously as a consultant to the office of the President of the Lombardy Region and as a consultant to Italian companies seeking to do business in Iraq. Mr. de Petro stated that he had been working in the office of the President of the Lombardy Region since August 1998. In addition to their working relationship, Mr. Formigoni and Mr. de Petro are close friends; they have vacationed together for many years and have shared ownership of a boat since at least 2002.¹⁶⁶

Mr. Formigoni assisted Mr. de Petro in obtaining business opportunities for his clients under the Programme. After the signing of the Iraq-UN MOU, but before the Programme started, Mr. Formigoni wrote a letter to Mr. Aziz specifically recommending Mr. de Petro as a representative of Italian companies that wanted to resume business in Iraq:

[Mr. de Petro] represents many important Italian Companies that work in many sectors, food and drug included, and that want to recommence the trading collaboration with your nation immediately.

It would be very important for we all if you could introduce Mr. De Petro in the Government offices that supervise food and drug supply, but other sectors too, like infrastructures and technologies.¹⁶⁷

&n=1; Tariq Aziz interview (Mar. 1, 2005); Confidential witness interview; Marco Mazarino de Petro interviews (Sept. 28 and Oct. 12, 2005) (recalling attending a meeting with Mr. Formigoni and Mr. Rashid at an airport in 1998); “Italy, Iraq Closer to Dialogue,” *Il Sole 24 Ore*, Nov. 19, 2000 (translated from Italian) (noting that Mr. Formigoni had traveled to Iraq for the sixth time in ten years); Warren Strobel, “Iraq Agrees to Hold Talks with U.S.; Bush Rules Out Concessions,” *Washington Times*, Dec. 6, 1990; “Iraq’s Aziz to Meet Milan Region President 13 Feb.” *BBC Monitoring International Reports*, Feb. 9, 2003 (quoting Mr. Formigoni stating, “I have known Aziz for 12 years”); “Italian Paper Sees Iraqi Deputy Prime Minister’s Visit to Rome as ‘Hit,’” *La Stampa*, Feb. 14, 2003, p. 3 (quoting Mr. Formigoni as saying “I am very happy to meet my old friend [Tariq Aziz]” during Mr. Aziz’s trip to Rome); Roberto Formigoni letter to Tariq Aziz (Oct. 24, 1996) (“I would like to reaffirm by this letter my solidarity towards the Irakian [sic] people, in consideration of the recent events too that have caused new pains to your nation. I have showed my solidarity formally either to my Government or to the public opinion by declarations and interviews.”).

¹⁶⁶ Marco Mazarino de Petro interview (Sept. 28, 2005) (stating that, from 1976 to 1979, he was a member of the Italian Parliament; from 1983 to 1989, he was the mayor of Chiavari, a city near Genoa); Marco Mazarino de Petro record, Director General Nicolamaria Sanese, Personnel list for the office of the President, Regione Lombardia (undated) (translated from Italian) (citing a 1998 budget), and Elenco Componenti Segreteria del Presidente (undated) (translated from Italian) (listing Mr. de Petro as having been employed in early 1997); Italy Ministry of Infrastructure and Transportation record, Boat registration certificate, no. DIP/280/91 (July 4, 2002) (indicating purchase of a boat on this date to four people, including Roberto Formigoni and Oriana Ruozzi, Mr. de Petro’s spouse); Renzo Parodi, “Chiavari, l’ex sindaco ciellino che fece affair con Tarek Aziz,” *Il Secolo XIX*, (Feb. 10, 2005) (translated from Italian) (referring to Oriana Ruozzi as Mr. de Petro’s spouse).

¹⁶⁷ Roberto Formigoni letter to Tariq Aziz (Oct. 24, 1996) (written on his personal stationery, stating that “Mr. de Petro represents many important Italian companies that work in many sectors”). On at least one

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Mr. de Petro recalled that he delivered this letter to the office of Mr. Aziz.¹⁶⁸

By his own account, from 1997 through 2003, Mr. de Petro traveled to Iraq approximately once each phase to meet with SOMO officials regarding SOMO's relationship with CO.GE.P., and an additional two to three times with Italian entrepreneurs on official missions for the Region of Lombardy. He explained that he also did work in his capacity as a consultant for the office of the President of the Lombardy Region when he would travel to Baghdad for other clients.¹⁶⁹

2. Oil Allocations and Contracts

According to Iraqi officials and Ministry of Oil records, over 27 million barrels of oil were allocated in the name of Mr. Formigoni in Phases II through XIII during the Programme. Mr. Aziz confirmed that Mr. Formigoni received oil allocations, noting that Lombardy had a number of oil refineries. In SOMO allocation tables, Mr. Formigoni's name appears under "special requests" for Italy. According to one Iraqi official, the allocations made in Mr. Formigoni's name were negotiated and handled by Mr. de Petro and individuals associated with CO.GE.P. Mr. Formigoni, on the other hand, has denied receiving oil allocations.¹⁷⁰

other occasion Mr. Formigoni provided a reference to Mr. de Petro and a company Mr. de Petro represented. Roberto Formigoni letter to Tariq Aziz (Sept. 30, 1998) (written on his personal stationery, noting that Mr. de Petro represents the Italian company Alien).

¹⁶⁸ Roberto Formigoni letter to Tariq Aziz (Oct. 24, 1996) (stating to Tariq Aziz "you already know [Mr. de Petro] and he is the bearer of this letter"); Marco Mazarino de Petro interview (Sept. 28, 2005).

¹⁶⁹ Marco Mazarino de Petro interview (Sept. 28, 2005); Candonly Limited and CO.GE.P. contract (Mar. 3, 1998). From his first trip in 1995 until the first oil contract was signed, Mr. de Petro traveled at least seven times to Baghdad. He traveled to Iraq in June 1995 (by invitation of the Iraqi Ministry of Transport); May 1996 (by invitation of the Iraqi Ministry of Transport); December 1996, March 1997, May 1997, and January 1998 (by invitation of the Iraqi Ministry of Oil); and May 1998 (by invitation of the Iraqi Ministry of Oil). In addition, Mr. de Petro traveled to Jordan on five occasions during this period. Marco Mazarino de Petro record, Marco Mazarino de Petro passport.

¹⁷⁰ Committee oil beneficiary table, Roberto Formigoni. SOMO letters to Amer Rashid (Jan. 19, 1998) (approving contract M/03/32 for 1.8 million barrels of oil for CO.GE.P.), (June 13, 1998) (approving contract M/04/32 for 4 million barrels of oil for CO.GE.P.), (Dec. 19, 1998) (approving contract M/05/34 for 3 million barrels of oil for CO.GE.P.), (June 1, 1999) (approving contract M/06/32 for 4 million barrels of oil for CO.GE.P.), (Dec. 20, 1999) (approving contract M/07/34 for 2 million barrels of oil for CO.GE.P.), (Oct. 23, 2001) (approving contract M/10/98 for 2 million barrels of oil for CO.GE.P.), (May 23, 2002) (approving contract M/11/126 for 1.5 million barrels of oil for CO.GE.P. "for the benefit of Mr. Formigoni"), (June 1, 2002) (approving contract M/12/04 for 1.5 million barrels of oil for CO.GE.P. "for the benefit of Mr. Formigoni"), (Dec. 10, 2002) (approving contract M/13/12 for 1.5 million barrels of oil for CO.GE.P. "Name of holder of allocation: Formigoni") (each translated from Arabic) (hereinafter "Approval letters for CO.GE.P. contracts"); Financial Division of SOMO letter to Crude Oil Two Department (Feb. 28, 2001) (translated from Arabic) (detailing contract M/09/65 for 1 million barrels of oil for CO.GE.P.); SOMO oil allocation tables for the first 90 days of Phase II (June 19, 1997) (indicating an allocation of 10,000 barrels per day (equivalent to 1.8 million barrels for a phase) for "Costieri" from Italy),

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Ministry of Oil officials and records confirm that Mr. de Petro and CO.GE.P. officials served as the representatives for Mr. Formigoni's allocations and that over 24 million barrels of oil were lifted under CO.GE.P.'s contracts. A SOMO official stated that one day Mr. Rashid came back from a trip to Italy and announced the name of "Formigoni" as a new recipient of allocations. During a trip to Italy in April 1997, Mr. Rashid personally requested to meet with Mr. Formigoni, saying: "I ask permission to meet a friend of my Minister [Aziz] to give him regards." At the meeting, Mr. Formigoni told Mr. Rashid that he was dedicated in his efforts to lobby the Italian government to raise support to lift the embargo and asked Mr. Rashid to give his regards to Mr. Aziz.¹⁷¹

Following that meeting in May 1997, Mr. de Petro and a CO.GE.P. representative traveled to Baghdad to meet with SOMO officials. The next month, "the Italian company Costieri, mentioned in the special requests" was included in the oil allocations for Phase II for 10,000 barrels per day (the equivalent of 1.8 million barrels per phase). Phase II passed without CO.GE.P. lifting any oil, and, on December 22, 1997, Mr. de Petro wrote a letter to CO.GE.P. suggesting that it "renew" its efforts to obtain business with SOMO. In January 1998, Mr. Formigoni's name was placed on the SOMO allocation list for Phase III, and, on January 18, 1998, Mr. de Petro signed a contract between CO.GE.P. and SOMO for the 1.8 million barrels in that allocation. In March, Mr. de Petro executed an agreement with CO.GE.P., whereby he would

Phase III (Jan. 10, 1998) (indicating an allocation of 10,000 barrels per day (equivalent to 1.8 million barrels for a phase) for "CO.GE.P."), Phase IV (June 11, 1998) (indicating an allocation of 4 million barrels for "CO.GE.P. (Robert [sic] Formigoni")"), Phase V (Nov. 28, 1998) (indicating an allocation of 4 million barrels of oil for "CO.GE.P. (Formigoni")"), Phase VI (May 27, 1999) (indicating an allocation of 4 million barrels of oil for "Mr. Robert [sic] Formigoni"), Phase VII (Dec. 17, 1999) (indicating an allocation of 2 million barrels of oil for "Mr. Robert [sic] Formigoni"), Phase VIII (June 14, 2000) (indicating an allocation of 2 million barrels of oil for "Mr. Robert [sic] Formigoni"), Phase X (Aug. 4, 2001) (indicating an allocation of 2 million barrels of oil for "Formigoni"), Phase XI (Dec. 1, 2001) (indicating an allocation of 1.5 million barrels of oil for "Formigoni/CO.GE.P."), Phase XII (May 19, 2002) (indicating allocations of 1.5 million barrels of oil for "Formigoni/CO.GE.P."), Phase XIII (Nov. 17, 2002) (indicating allocations of 1.5 million barrels of oil for "Formigoni/CO.GE.P.") (each translated from Arabic) (hereinafter "SOMO oil allocation tables for Formigoni"); Iraq officials interviews (one official stating that a woman named "Maria" came to SOMO on Mr. Formigoni's behalf and designated CO.GE.P. as the company to lift this oil) (another official indicating that the allocations to CO.GE.P. were made only because Formigoni was a prominent figure who spoke out in support of Iraq); Tariq Aziz interview (Mar. 1, 2005) (stating that Mr. Formigoni had received oil allocations and that Lombardy had a number of oil refineries); Robert Formigoni letter to the Committee (Oct. 21, 2005).

¹⁷¹ Committee oil beneficiary table, Roberto Formigoni. SOMO oil allocation tables for Formigoni (translated from Arabic); Approval letters for CO.GE.P. contracts; SOMO sales contracts, nos. M/03/32 (Jan. 18, 1998), M/04/32 (June 13, 1998), M/05/34 (Dec. 17, 1998), M/06/32 (May 31, 1999), M/07/34 (Dec. 15, 1999), M/08/51 (June 26, 2000), M/09/65 (Feb. 21, 2001), M/10/98 (Oct. 18, 2001), M/11/126 (May 22, 2002), M/12/04 (May 30, 2002), M/13/12 (Dec. 8, 2002) (contracting with CO.GE.P.) (hereinafter "CO.GE.P. sales contracts"); Iraq official interview; Confidential witness interview.

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receive 45 percent of the net profits from these transactions, which later was amended to \$0.032 per barrel for the remainder of the Programme.¹⁷²

Mr. de Petro stated that he was first approached by CO.GE.P. around 1997 for assistance in conducting business under the Programme. But Mr. de Petro's early letters to CO.GE.P. indicate that it was he who sought CO.GE.P.'s assistance; indeed, Mr. de Petro apparently had solicited other individuals in the oil industry before approaching CO.GE.P.¹⁷³

When interviewed, Mr. de Petro explained that, although he had contacts with various Iraqi ministries from his previous work, he did not have any contacts at SOMO, so he called the secretary to Mr. Aziz, who agreed to help him. As a result, Mr. de Petro was able to arrange a meeting with SOMO and to obtain a contract for CO.GE.P. Mr. de Petro asked Mr. Aziz's secretary to put in a good word for him, but Mr. de Petro insisted that he never mentioned Mr. Formigoni's name either at Mr. Aziz's office or at SOMO, "even though they knew that I know Formigoni." However, other participants who attended the meetings at SOMO with Mr. de Petro and CO.GE.P. officials recall that Mr. Formigoni's name was mentioned as a beneficiary on more than one occasion.¹⁷⁴

Mr. de Petro was asked if Mr. Formigoni knew of Mr. de Petro's relationship and work with CO.GE.P. Mr. de Petro initially stated that Lombardy Region officials were not aware of his

¹⁷² Marco Mazarino de Petro record, Marco Mazarino de Petro passport (showing that Mr. de Petro traveled to Iraq from May 23 to 27, 1997); Candonly Limited letter to CO.GE.P. (May 5, 1997) (translated from Italian) (noting Mr. de Petro's availability to travel to Baghdad on May 22, 1997); Candonly Limited letter to CO.GE.P. (Dec. 22, 1997) (translated from Italian) (referring to a May 25, 1997 meeting with SOMO in which SOMO provided "a verbal response," and suggesting that CO.GE.P. "renew" its approach); Marco Mazarino de Petro interview (Sept. 28, 2005) (confirming that he wrote both letters and noting that he controlled all of the Candonly entities paid by CO.GE.P. (Candonly Dublin, Candonly Ltd. London, and Candonly BV Amsterdam)); Ministry of Oil record, Taha Yassin Ramadan letter to Amer Rashid (June 19, 2005) (translated from Arabic); SOMO oil allocation table for the first 90 days of Phase II (June 19, 1997) (translated from Arabic); Committee oil surcharge, company, and beneficiary tables, contract no. No contracting company (no contract was executed in this phase), M/03/32 (showing no lifts for Phase II); SOMO oil allocation list for Phase III (Jan. 12, 1998); CO.GE.P. record, Candonly Limited and CO.GE.P. "Associazione in Partecipazione" contract (Mar. 3, 1998); signed by Mr. de Petro and Natalio Catanese; Saverio Catanese letter to CO.GE.P. (Feb. 23, 1999) (defining the relationship between CO.GE.P., Candonly, and Mr. de Petro); Saverio Catanese letter to CO.GE.P. (Feb. 24, 1999) (modifying the agreement with Candonly to \$0.032 per barrel and stating that communication with Mr. de Petro will be handled by Saverio Catanese).

¹⁷³ Candonly Limited letter to CO.GE.P. (May 5, 1997) (translated from Italian); Candonly Limited letter to CO.GE.P. (Dec. 22, 1997) (translated from Italian) (suggesting that CO.GE.P. "renew" its approach); Marco de Petro interviews (Sept. 28 and Oct. 12, 2005); Confidential witness interview (one individual familiar with the oil market had been informed by at least one oil trader that Mr. de Petro had approached that trader before he had approached CO.GE.P.).

¹⁷⁴ Marco Mazarino de Petro interview (Sept. 28, 2005); Iraq official statement; Confidential witness interview.

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work, but he acknowledged that “in general, I must have told the President about my relation to CO.GE.P., it certainly wasn’t frequent and wasn’t a briefing.”¹⁷⁵

Mr. de Petro recalled that, on at least one occasion, Mr. Formigoni had communicated to Mr. Aziz to “keep CO.GE.P. in mind” and probably had done so in writing. He identified a June 8, 1998 letter written to Mr. Aziz in the name of Mr. Formigoni, which asked Mr. Aziz to remember the names CO.GE.P. and NRG Oil:

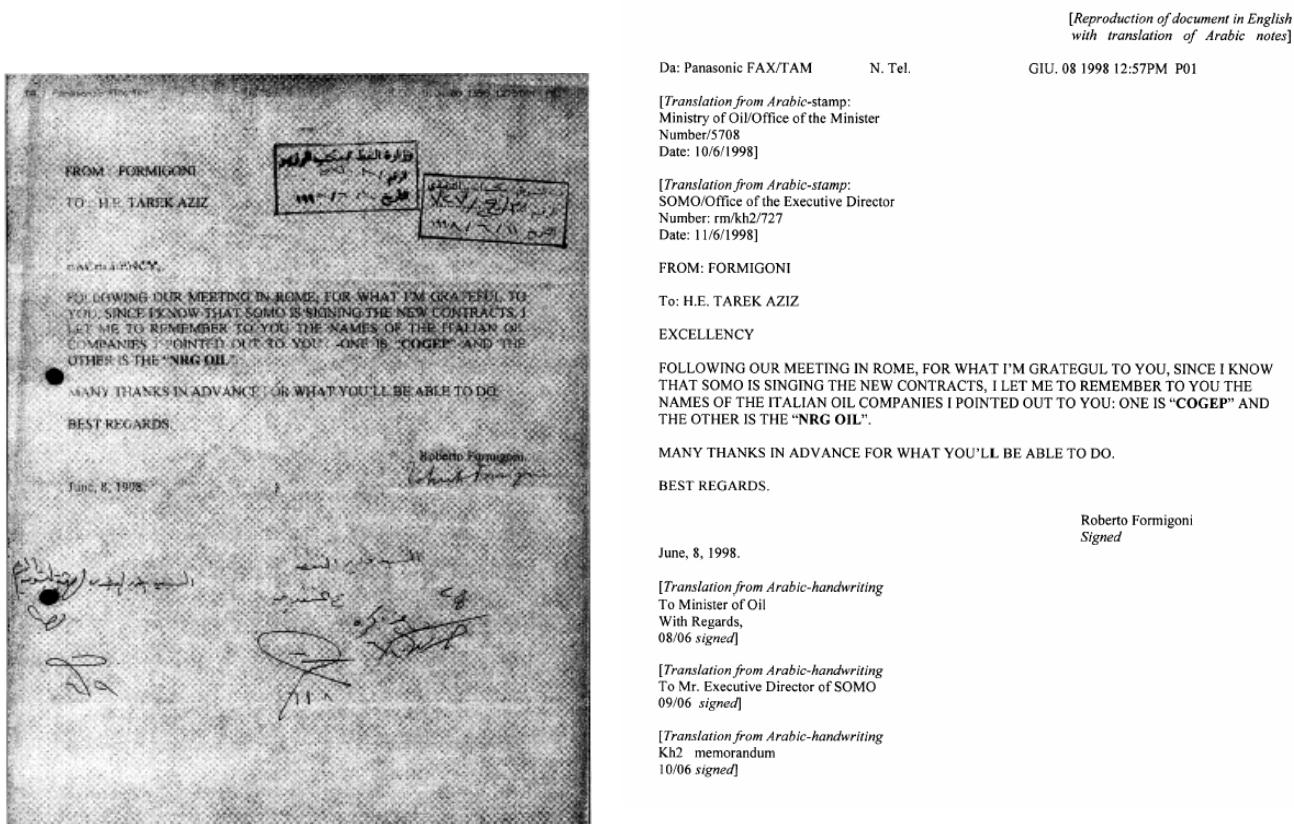


Figure: Letter to Tariq Aziz (June 8, 1998).

Mr. de Petro acknowledged that this letter was sent from his fax machine at his apartment. He initially stated that at the beginning of the phase (the letter is dated at about the beginning of Phase IV) he had asked Mr. Formigoni to remind SOMO about CO.GE.P. But in the same

¹⁷⁵ Marco Mazarino de Petro interview (Sept. 28, 2005).

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interview, he then stated that the signature was not Mr. Formigoni's, noting "you know people do sign on behalf of other people." Moments later, Mr. de Petro again said, "It could be that I asked Mr. Formigoni to send a fax to remind Mr. Aziz." In his second interview, Mr. de Petro stated that he could be the author of the letter, and, after initial hesitation, stated that he may have signed the letter. He then refused to answer further questions about the signature on the letter.¹⁷⁶

Mr. de Petro told the Committee that he was not involved at all in the operations of CO.GE.P. and only initiated the first contact with SOMO. After that, Mr. de Petro would travel to Iraq and visit SOMO "more or less" every phase to remind them of the CO.GE.P. allocations. After each lifting of oil, CO.GE.P. would notify Mr. de Petro, who then would make an invoice based on his or CO.GE.P.'s calculation in the name of Candonly Limited and submit the invoice to CO.GE.P. Mr. de Petro confirmed that he was the only person working for Candonly Limited, that there were no other employees, and that the fiduciary companies that ran the accounts of the companies received their instructions only from Mr. de Petro.¹⁷⁷

In his role as a consultant, Mr. de Petro received commissions on every lift of oil conducted by CO.GE.P. Over the course of his arrangement with GO.GE.P., Mr. de Petro earned a total of almost \$800,000 in addition to travel expenses. Although Mr. de Petro could not remember the details of payments he received from CO.GE.P., he generally confirmed the accuracy of the CO.GE.P. documents presented to him by the Committee.¹⁷⁸

¹⁷⁶ Roberto Formigoni letter to Tariq Aziz (June 8, 1998); Marco Mazarino de Petro interviews (Sept. 28 and Oct. 12, 2005). An Iraqi official also recalled a short visit by Mr. Formigoni to Iraq during which he met Mr. Aziz and told Mr. Aziz that Italian companies would appreciate business from Iraq. The same official remembered that Mr. Formigoni "actively promoted" a particular civil aviation company on a tender, but that a contract was never approved. Iraq official interview; Roberto Formigoni letters to Tariq Aziz (Oct. 24, 1996) (re-introducing Mr. de Petro as representing companies in different sectors and requesting assistance to Mr. de Petro), (Sept. 30, 1998) (intervening on behalf of Aliena in relation to a bidding process).

¹⁷⁷ Marco Mazarino de Petro interviews (Sept. 28 and Oct. 12, 2005).

¹⁷⁸ CO.GE.P. record, Candonly Limited invoice (June 2, 1998) (requesting payment of \$27,345); UEB record, CO.GE.P. account, debit advice (June 16, 1998) (indicating payment of \$27,345 to Candonly Limited); CO.GE.P. record, Candonly Limited invoices (May 14, 1998) (requesting payment of \$12,110), (Dec. 14, 1998) (requesting payment of \$70,000); UEB record, CO.GE.P. account, debit advice (Jan. 17, 2001) (indicating payment of \$70,000 to Candonly Limited); CO.GE.P. record, Candonly Limited invoice (Sept. 7, 1998) (requesting payment of \$53,752); Credito Bergamasco record, CO.GE.P. account, debit advice (Sept. 11, 1998) (indicating payment of \$53,752 to Candonly Limited); CO.GE.P. record, Candonly Limited invoice (June 21, 1999) (requesting payment of \$127,618); UEB record, CO.GE.P. account, debit advice (June 24, 1999) (indicating payment of \$127,618 to Candonly Limited); CO.GE.P. record, Candonly Limited invoice (Sept. 6, 1999) (requesting payment of \$63,595); UEB record, CO.GE.P. account, debit advice (Sept. 22, 1999) (indicating payment of \$63,595 to Candonly Limited); CO.GE.P. record, Candonly Limited invoice (Oct. 25, 1999) (requesting payment of \$32,000); UEB record, CO.GE.P. account, debit advice (Oct. 28, 1999) (indicating payment of \$32,000 to Candonly Limited); CO.GE.P. record, Candonly Limited invoice (Nov. 23, 1999) (requesting payment of \$31,744); UEB record, CO.GE.P. account, debit advice (Nov. 26, 1999) (indicating payment of \$31,744 to Candonly Limited); CO.GE.P. record, Candonly

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Mr. de Petro was questioned about whether he provided any of the proceeds he received to any government official or to Mr. Formigoni. Mr. de Petro stated that he made no payment from the proceeds of the oil sales to Mr. Formigoni or anyone in the office of the President.¹⁷⁹

3. Surcharge Payments

According to Ministry of Oil records and bank and financial documents, between December 14, 2000 and May 16, 2002, a total of over \$942,000 in surcharges levied on CO.GE.P. was paid directly by CO.GE.P. and its officers, including Paolo Lucarno and Andrea Catanese, to SOMO bank accounts.¹⁸⁰

CO.GE.P. officers learned of the surcharge requirement through Mr. Lucarno, who was informed by SOMO officials and who then told other CO.GE.P. officials. After some discussion, and with the understanding that CO.GE.P. would not be able to continue contracting with SOMO unless it paid the surcharges, CO.GE.P. officials agreed to do so and initiated payments. As was often

Limited invoice (Jan. 12, 2000) (requesting payment of \$60,450); UEB record, CO.GE.P. account, debit advice (Jan. 17, 2000) (indicating payment of \$60,450 to Candonly Limited); CO.GE.P. record, Candonly Limited invoice (Mar. 14, 2000) (requesting payment of \$3,352); UEB record, CO.GE.P. account, debit advice (Mar. 17, 2000) (indicating payment of \$3,352 to Candonly Limited); CO.GE.P. record, Candonly Limited invoice (Dec. 4, 2000) (requesting payment of \$60,000), (Dec. 4, 2000) (requesting payment of \$10,000); UEB record, CO.GE.P. account, debit advice (Jan. 17, 2001) (indicating payment of \$70,000 to Candonly Limited); CO.GE.P. record, Candonly Limited invoice (Sept. 12, 2000) (requesting payment of \$50,663); UEB record, CO.GE.P. account, debit advice (Oct. 23, 2000) (indicating payment of \$59,546 to Candonly Limited for Sept. 12, 2000 invoice and travel expenses); CO.GE.P. record, Candonly Limited invoice (Mar. 14, 2000) (requesting payment of \$3,552); UEB record, CO.GE.P. account, debit advice (Mar. 17, 2000) (indicating payment of \$3,552 to Candonly Limited); CO.GE.P. record, Candonly Limited invoice (Feb. 14, 2002) (requesting payment of \$161,204.52); UEB record, CO.GE.P. account, debit advice (Apr. 18, 2002) (indicating payment of \$161,204.52 to Candonly Limited); CO.GE.P. record, Candonly Limited invoice (Dec. 23, 2002) (requesting payment of \$15,000); UEB record, CO.GE.P. account, debit advice (Jan. 8, 2003) (indicating payment of \$15,000 to Candonly Limited); CO.GE.P. record, Candonly Limited invoice (Mar. 27, 2003) (requesting payment of \$17,500); Marco Mazarino de Petro interview (Oct. 12, 2005).

¹⁷⁹ Marco Mazarino de Petro interview (Sept. 28, 2005).

¹⁸⁰ Committee oil surcharge table, contract no. M/08/51; UBS Lugano record, Starna account, payment order (Dec. 11, 2000) (order signed by Igor Patscheider for the transfer of \$60,000 to a SOMO account at Fransabank) and debit advices (Dec. 12, 2000) (two payments of \$30,000 each to be transferred to Fransabank); Fransabank record, SOMO account, SWIFT message (Dec. 14, 2000) (translated from French and Arabic) (showing payment of \$30,000 from UBS Lugano to a SOMO account at Fransabank); Jordan National Bank record, SOMO account, credit advices (May 31, 2001) (showing payment of \$250,580 with reference "Catanese" from UBS Lugano), (Apr. 4, 2002) (showing payment of \$159,985 with "by order of Andrea Catanese"), (Apr. 8, 2002) (showing payment of \$319,287.45 with reference to "Andrea Catanese & Paolo Lucarno"), (May 16, 2002) (showing payment of \$152,985 "by order of Andrea Catanese") (each translated from Arabic).

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required by SOMO of contract holders, CO.GE.P. officers committed to making some of these surcharge payments by signing an undertaking.¹⁸¹

DATE: 15/10/2002

TO THE EXECUTIVE DIRECTOR GENERAL
STATE OIL MARKETING (SOMO)
BAGHDAD - IRAQ

SUBJ: UNDERTAKING

COGEPE UNDERTAKES TO PAY TO SOMO'S DESIGNATED BANK
AN AMOUNT OF U.S. DLR. 0.30/BBL (FOR U.S. DESTINATION)
AND OR U.S. DLR. 0.25/BBL (FOR EUROPE AND THE FAR EAST
DESTINATION) FOR THE QUANTITY OF 2,000,000 BBLS CRUDE
OIL TO BE LIFTED UNDER CONTRACT
m/11/26 DATED 22 /5/2002 WITHIN 30 DAYS OF BILL OF
LADING DATE .

PACOLO LUCARNO
MARKETING MANAGER

ANDREA CATANESE
MANAGING DIRECTOR

Figure: Paolo Lucarno and Andrea Catanese letter to Executive Director General of SOMO (Apr. 15, 2002).

The first payment occurred on December 13, 2000, in two transfers of \$30,000 each, from an account in the name of "Starna" at UBS Lugano to a SOMO bank account at Fransabank. The Starna account was opened by Andrea Catanese, managing director of CO.GE.P. The second surcharge payment of \$250,580 also originated from a UBS Lugano account and was transferred to a SOMO account at Jordan National Bank Amman. The remittance information on the SWIFT and a note on the credit advice reads "RIF: CATANESE."¹⁸²

¹⁸¹ Confidential witness interview; Paolo Lucarno and Andrea Catanese letter to SOMO (Apr. 15, 2002).

¹⁸² Fransabank record, SOMO account, SWIFT message (Dec. 14, 2000) (translated from French and Arabic) (showing payment of \$30,000 from UBS Lugano); UBS Lugano record, Starna account, payment order (Dec. 11, 2000) (order signed by Igor Patscheider for \$60,000 to be transferred to a SOMO account at Fransabank) and debit advices (Dec. 12, 2000) (two payments of \$30,000 each to be transferred to a SOMO account at Fransabank); Committee oil surcharge table, contract no. M/08/51; UBS Lugano record, Starna account, account opening statement (Feb. 2, 1998) (indicating that account was opened by Andrea Catanese and that Igor Patscheider had power of attorney over the account); Jordan National Bank record, SOMO account, credit advice (May 31, 2001) and SWIFT message (May 29, 2001) (each translated from Arabic).

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The remaining surcharge payments were paid from an account at Jordan National Bank controlled by CO.GE.P. officials Andrea Catanese and Paolo Lucarno. A total of \$632,257 was transferred through this account to a SOMO account in the same bank.¹⁸³

Mr. de Petro stated that he had heard about the issue of surcharges, but neither Mr. Aziz, his representatives, nor SOMO ever informed him about the requirement to pay surcharges. He also claimed that CO.GE.P. never raised the issue with him, and he did not know what CO.GE.P. had done in this regard. Bank records, however, show that the first surcharge payment originated from a Candonly account controlled by Mr. de Petro. On December 11, 2000, \$60,000 was transferred from the Candonly account at BSI AG bank to the Starna account. Two days later, the first surcharge payments (\$30,000 each) were made from the Starna account to a SOMO account at Fransabank.¹⁸⁴

When questioned about this transaction, Mr. de Petro explained that, on one occasion around 1999 or 2000, CO.GE.P. needed money in Switzerland for its activities in Albania and in the rice trade. CO.GE.P. asked Mr. de Petro to make the payment through Candonly's account in Switzerland to an account indicated by CO.GE.P. and to issue an invoice to CO.GE.P. Mr. de Petro stated, however, that he did not know the company Starna, and he denied any knowledge that this money was used for payment of surcharges to SOMO.¹⁸⁵

¹⁸³ Jordan National Bank record, Andrea Catanese and Paolo Lucarno account, account opening documents (Mar. 3, 2002) and account activity statements for Mar. 31 to Dec. 31, 2002 (Sept. 11, 2003) (each translated from Arabic); see also Andrea Catanese e-mail to Jordan National Bank (Apr. 4, 2002) (translated from Arabic) (instructing the bank to transfer the sum of the money available in the account to a SOMO account (the balance in the account at the time was \$319,287.45)). These CO.GE.P. officials had agreed to pay to SOMO an amount of \$0.25 or \$0.30 per barrel (depending on the destination of the oil purchased under contract M/11/126) within 30 days of bill of lading dates. Andrea Catanese and Paolo Lucarno letter to SOMO (Apr. 15, 2002); Jordan National Bank record, SOMO account, credit advices (Apr. 4, 2002) (showing payment of \$159,985 "by order of Andrea Catanese"), (Apr. 8, 2002) (showing payment of \$319,287.45 with reference to "Andrea Catanese & Paolo Lucarno"), (May 16, 2002) (showing payment of \$152,985 "by order of Andrea Catanese") (each translated from Arabic).

¹⁸⁴ Marco Mazarino de Petro interview (Sept. 28, 2005); BSI AG record, Candonly account, payment order (Dec. 6, 2000) (order by Candonly Limited to BSI AG for payment of \$60,000 to the account of Starna at UBS Lugano); UBS Lugano record, Starna account, credit advice (Dec. 11, 2000) (receipt of \$60,000 by order of Candonly Limited), payment order (Dec. 11, 2000) (order signed by Igor Patscheider for \$60,000 to be transferred to a Fransabank account), and debit advices (Dec. 12, 2000) (two payments of \$30,000 each to be transferred to Fransabank); Fransabank record, SOMO account, SWIFT message (Dec. 14, 2000) (translated from French and Arabic) (showing receipt of \$30,000 from UBS Lugano); Committee oil surcharge table, contract no. M/08/51.

¹⁸⁵ Marco Mazarino de Petro interview (Oct. 12, 2005) (stating also that, on another occasion, CO.GE.P. asked him to transfer an amount of \$100,000). When first asked about Starna and any payments from him or Candonly to CO.GE.P. or people or companies associated with CO.GE.P., Mr. de Petro responded that he did not know Starna and that no payments were made from Candonly or him to CO.GE.P. However, during his second meeting with the Committee, Mr. de Petro acknowledged that he made a payment, and assumed that CO.GE.P. had asked him for this favor because CO.GE.P. could not move the money around

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C. FATHER JEAN-MARIE BENJAMIN AND ALAIN BIONDA

Alain Bionda, a Swiss attorney, businessman, and oil trader based in Geneva, used his friendship with activist Father Jean-Marie Benjamin to obtain from the Government of Iraq over two million barrels of oil under the Programme. Father Benjamin and Mr. Bionda both denied that Father Benjamin had any interest in the Iraqi oil or proceeds from its sale. After Mr. Bionda sold the rights to the oil, he gave \$140,000 of the oil proceeds to Father Benjamin as a donation. Father Benjamin has stated that he accepted the money as a donation without knowing the source of the funds.

1. Background

From 1991 to 1994, Father Benjamin, an ordained priest, worked as an assistant to the Vatican State Secretary, Cardinal Agostino Casaroli. In 1997, Father Benjamin began campaigning on issues relating to Iraq, including advocating for the lifting of sanctions. In his initial visit to Iraq in 1998, Father Benjamin became friendly with Mr. Aziz, the sole Christian member of Saddam Hussein's cabinet, while producing the documentary "Iraq: The Birth of Time." In 1999, Father Benjamin founded the Benjamin Committee for Iraq. In April 2000, Father Benjamin was a passenger on an unauthorized flight from Rome to Baghdad that purposefully defied the embargo. In 2001, Mr. Aziz reportedly expressed his appreciation for Father Benjamin's "prodigious efforts to establish the principles of justice and right." In February 2003, Father Benjamin helped organize a trip to Italy for Mr. Aziz.¹⁸⁶

Mr. Bionda owns and operates Zyrya Management Services. In 2000, he was representing certain companies in prospective business ventures in Iraq and attempting to break into the Iraqi crude oil market. Mr. Bionda's efforts to obtain an oil allocation by directly approaching SOMO and Mr. Aziz failed. Mr. Bionda then decided to follow advice he had received from an Iraqi national to find someone with links to either the regime or to a country favored by Iraq. That individual

without an invoice. Mr. de Petro could not explain, however, why the invoice was not issued directly by CO.GE.P.'s business partners in Albania. Marco Mazarino de Petro interviews (Sept. 28 and Oct. 12, 2005).

¹⁸⁶ Ezzedine Said, "Father Benjamin, a priest on a mission to save Iraq," *Agence France-Presse*, Sept. 18, 2002; Fondazione Beato Angelico, "Foundation," <http://www.beatoangelico.org/organigrammaGB.htm>; Benjamin for Iraq, "Biography of Jean-Marie Benjamin," http://www.benjaminforiraq.org/Benjamin_biografia_GB.html; "The Priest and the Prisoner," *SBS Current Affairs Transcripts*, Apr. 20, 2005; "French priest says he has Pope's blessing for going to Iraq," *Agence France Presse*, Dec. 2, 2000; "Deputy Premier receives chairman of Benjamin Committee," *BBC Monitoring Middle East – Political*, Apr. 30, 2001; David Rennie, "Tough questions for 270 named in Iraqi documents," *The Daily Telegraph*, Apr. 23, 2004, p. 17; Phil Stewart, "Catholic priest says has legal aid for Tareq Aziz," *Reuters News*, Dec. 12, 2004; "Italian papers sees Iraqi deputy prime minister's visit to Rome as 'hit,'" *BBC Monitoring Europe*, Feb. 16, 2003; "Papal envoy meets northern Iraqi Christians ahead of audience with Saddam," *Agence France-Presse*, Feb. 13, 2003; Richard Owen, "Vatican rolls out red carpet for Christian Aziz – Iraq Crisis," *The Times*, Feb. 13, 2003, p. 17.

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introduced Mr. Bionda to Father Benjamin, and the two developed a friendship. In 2001, Father Benjamin asked Mr. Bionda to deliver a letter from Pope John Paul II to Mr. Aziz.¹⁸⁷

Mr. Bionda admitted that during one of their trips into Iraq in 2001, he persuaded Father Benjamin to “accompany him in soliciting Aziz for an oil allocation.” Father Benjamin also acknowledged that Mr. Bionda had made this request and that he had joined Mr. Bionda in a meeting with Mr. Aziz. However, Father Benjamin stated that he merely told Mr. Aziz that Mr. Bionda was a “good man.” An Iraqi official involved in allocations at the time confirmed that Father Benjamin did not request an oil allocation. Ministry of Oil records show that, following this meeting with Mr. Aziz, an allocation of two million barrels was granted in Father Benjamin’s name and sold by Mr. Bionda. Father Benjamin and Mr. Bionda denied that Mr. Bionda promised money to Father Benjamin in exchange for this allocation of oil. Mr. Bionda stated that Father Benjamin did not want anything to do with the oil.¹⁸⁸

2. The Oil Contract and Surcharge Payment

Mr. Bionda stated that Father Benjamin called him one morning in September 2001 to inform him that the oil allocation had been approved for Zyrya Management Services. To finance, lift, and trade the oil, Mr. Bionda negotiated an arrangement with Ben Pollner and Amr Bibi of the Taurus Group in London. They agreed on a premium of \$0.40 per barrel. Mr. Bionda signed the contract using his own company, Zyrya Management Services. Taurus financed the letter of credit issued in the name of Zyrya Management Services, arranged for the lifting of the oil, and instructed Mr. Bionda to inform SOMO of the name of the vessel that had been chartered. Bank records show that, between December 2001 and March 2002, Taurus made three wire transfers totaling approximately \$811,886 to Mr. Bionda. Taurus is discussed below in Section VI.C.¹⁸⁹

Ministry of Oil records reflect that a surcharge totaling \$616,375 was imposed on the oil lifted through Taurus. This surcharge was paid in two separate transactions. Bank records indicate that the first payment of approximately \$60,000 was transferred from a bank account associated with Taurus to a SOMO bank account. Ministry of Oil records show the wire transfer was applied to the surcharges owed on contract M/10/80. Bank records show that, on January 21, 2002, the \$556,414.80 in remaining surcharges was transferred out of Mr. Bionda’s bank account at the Jordan National Bank. On that same day, records show a \$556,414.80 deposit into a SOMO account at Jordan National Bank, which referenced Alain Bionda as the source of the deposit. Ministry of Oil records show that the money was used to satisfy the surcharge balance on contract

¹⁸⁷ Alain Bionda interviews (Dec. 13-14, 2004 and Sept. 16, 2005); Jean-Marie Benjamin interview (Jan. 21, 2005).

¹⁸⁸ Tariq Aziz interview (Aug. 16, 2005); Alain Bionda interviews (Dec. 13-14, 2004 and Sept. 16, 2005); Jean-Marie Benjamin interview (Jan. 21, 2005); SOMO oil allocation table for Phase X (Aug. 4, 2001) (translated from Arabic); see also Alain Bionda written statement (Dec. 15, 2004); Committee oil beneficiary and company table, contract no. M/10/80.

¹⁸⁹ Ibid.; Alain Bionda interviews (Dec. 13-14, 2004 and Sept. 16, 2005); Confidential document.

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M/10/80. When initially interviewed, Mr. Bionda denied having an account in Jordan. In a later interview, however, he admitted having this bank account at Jordan National Bank.¹⁹⁰

When interviewed, Mr. Bionda denied paying or agreeing to pay surcharges. He acknowledged that he was well aware that surcharges were being demanded by the Iraqi regime. Mr. Bionda stated that he hired an Iraqi agent to coordinate his Iraqi oil transactions and had the agent sign a contractual provision disclaiming any involvement in the payment of surcharges. Mr. Bionda did not produce a copy of this agreement. Mr. Bionda remarked: “If the agent did something illegal that was his problem.” He acknowledged, however, that he was aware that companies were hiring agents for the purpose of paying surcharges and requiring them to sign similar disclaimers.¹⁹¹

3. Donation to Father Benjamin

After receiving money from the sale of the oil, Mr. Bionda stated that he felt a moral obligation to donate some of it to Father Benjamin. On December 27, 2001, Mr. Bionda transferred \$140,000 from the oil proceeds to Father Benjamin’s account at UBS Geneva. The same day that the money was deposited, Father Benjamin transferred \$90,000 to his personal account at the Vatican Bank, Istituto per le Opere di Religione, and another \$20,150 and CHF5,000 was withdrawn in cash. In June 2002, Father Benjamin withdrew \$18,025 in banknotes from this account. The remaining money could not be traced.¹⁹²

Mr. Bionda denied that Father Benjamin requested this payment or that they had agreed to share the oil proceeds. Father Benjamin also denied having any agreement with Mr. Bionda about the sale of the oil or any knowledge of the source of this donation. Father Benjamin admitted that he received money from Mr. Bionda, but claimed that the donation was made by an individual, and “not made by an oil company of another trader” to the Beato Angelico Foundation, and that the donation was not made to him.¹⁹³

Father Benjamin provided the Committee with access to his bank records from the Istituto Opere di Religione. The records show that of the \$90,000 deposited in that account, only €28,000 (approximately \$24,734) was transferred directly to the Fondazione Beato Angelico. Over €3,000 was withdrawn in banknotes. Father Benjamin stated that he needed banknotes for his activities in Iraq because the economy was cash driven. Although Father Benjamin stated that he

¹⁹⁰ Jordan National Bank record, Alain Bionda account, bank statement (Jan. 21, 2002); Jordan National Bank record, SOMO account, credit advice (Jan. 22, 2002) and bank statement (Jan. 2002); Committee oil company table, contract no. M/10/80; Alain Bionda interviews (Dec. 13-14, 2004 and Sept. 16, 2005).

¹⁹¹ Alain Bionda interviews (Dec. 13-14, 2004 and Sept. 16, 2005).

¹⁹² Ibid.; UBS Geneva record, Jean-Marie Benjamin account, credit advice (Dec. 27, 2001). The credit advice had the reference of “In favour of Rev. Jean-Marie Benjamin.” Ibid.

¹⁹³ Alain Bionda interviews (Dec. 13-14, 2004 and Sept. 16, 2005); Jean-Marie Benjamin letter to the Committee (June 7, 2005) (translated from French).

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was preparing an accounting of his Iraq-related expenses, the Committee has not received this accounting. Father Benjamin stated that some of the money was used to finance Mr. Aziz's visit to the Vatican in conjunction with an audience with Pope John Paul II in 2003.¹⁹⁴

In January 2002, when he was offered an additional oil allocation to support his "activities and projects in favor of the Iraqi population," Father Benjamin told officials at SOMO and Mr. Aziz, both in person and by letter, that he could not accept any oil allocations. Ministry of Oil records confirm that, although oil allocations totaling 5.5 million barrels were granted to Father Benjamin in Phases XI through XIII, none of the oil was lifted.¹⁹⁵

4. Additional Oil Contracts for Mr. Bionda

Mr. Bionda continued to trade in Iraqi oil through the end of the Programme. In Phases XI and XIII, Mr. Bionda purchased a total of two million barrels that had been allocated in the name of Abdul Qader Bin-Moussa of the National Society for Algerian Zawya. In Phase XI, Mr. Bionda sold the oil to TOTSA Total Oil Trading SA ("Total"). Total financed the oil purchase, arranged for lifting the oil, and paid Mr. Bionda a commission. Ministry of Oil records show that approximately \$250,000 in surcharges was imposed and paid on the contract. The surcharges were paid through two deposits in a SOMO bank account, and each payment referenced "Alain Bionda."¹⁹⁶

Mr. Bionda said that this allocation was obtained by his agent, Mohammad Abdul Kareem Ali. Mr. Bionda did not know who the allocation holder was nor did he pay a premium directly to the allocation holder. Mr. Ali denied paying the surcharge and stated that Mr. Bionda paid it himself. In the interview, Mr. Bionda indicated that he had knowledge of the surcharges on these contracts. He volunteered that a surcharge had not been required on the last allocation he had purchased in 2003, and, for that reason, he had paid his agent a lower commission.¹⁹⁷

¹⁹⁴ Alain Bionda interviews (Dec. 13-14, 2004 and Sept. 16, 2005); Jean-Marie Benjamin letters to the Committee (Jan. 28, June 7, and Oct. 12, 2005); Jean-Marie Benjamin e-mails to the Committee (Oct. 13 and Oct. 21, 2005).

¹⁹⁵ Jean-Marie Benjamin letter to Tariq Aziz (Jan. 25, 2002); Alain Bionda interviews (Dec. 13-14, 2004); Jean-Marie Benjamin letter to the Committee (Jan. 28, 2005); SOMO oil allocation tables for Phase XI (Dec. 1, 2001), Phase XII (May 19, 2002), and Phase XIII (Nov. 17, 2002) (translated from Arabic).

¹⁹⁶ Committee oil beneficiary table, contract nos. M/11/113, M/13/83; Alain Bionda interviews (Dec. 13-14, 2004 and Sept. 16, 2005); Committee oil company table, contract no. M/11/13; Jordan National Bank record, SOMO account, credit advices (Mar. 28 and July 8, 2002).

¹⁹⁷ Committee oil beneficiary table, contract nos. M/11/113, M/13/83; Mohammed Abdul Karim Ali interview (June 23, 2005); Alain Bionda interviews (Dec. 13-14, 2004); Iraq official interview.

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D. SANDI MAJALI

One example in the Programme of exploitation of the symbiotic relationship between a country's closely aligned political and business figures and the Government of Iraq, is that of Montega Trading (Pty) Limited ("Montega Trading") and Invume Management (Pty) Ltd. ("Invume"). As described below, the principals of these two companies used their relationships with South African political leaders to obtain oil allocations under the Programme.

Throughout the Programme, South Africa and Iraq were actively developing business and political ties. In late November 1999, South Africa's Deputy Foreign Minister Aziz Pahad led a delegation of 30 South African companies with interests in oil, electricity, and other sectors to Iraq. One purpose of the visit was "to expose South African businesses with already established interests in the so-called 'oil-for-food' programme with Iraq to the processes involved in winning such UN-approved contracts."¹⁹⁸

Deputy Prime Minister Tariq Aziz and other Iraqi officials were also interested in gaining the political support of South Africa and its leaders. At the time, South Africa chaired several influential political alliances. South African President Thabo Mbeki was Chair of the Non-Aligned Movement ("NAM") and had been the President of South Africa's ruling party, the African National Congress ("ANC"), since 1997. He was also Chairman of the African Union. Within weeks after Mr. Pahad returned from his trip, Iraq established its Embassy in Pretoria, and, by 2001, Iraq had accredited a full Ambassador to South Africa using Iraqi funds that had been frozen until then.¹⁹⁹

South African officials also pushed to improve trade relations. In October 2002, the South African Department of Foreign Affairs ("DFA") sent a delegation of senior officials to Iraq. Both sides reportedly expressed satisfaction with the state of relations between their respective countries, which had been boosted by Mr. Aziz's then recent visit to South Africa. Later that

¹⁹⁸ South African Government Information, "The Official Visit To South Africa By The Deputy Prime Minister Of Iraq," <http://www.info.gov.za/speeches/2002/02070309461011.htm>; Iraq official interview; South Africa official #1 interview (July 5, 2005); South African Government Information, "Statement On Visit By Deputy Foreign Minister Aziz Pahad To The Middle East," <http://www.info.gov.za/speeches/1999/991122116p1005.htm>.

¹⁹⁹ South African Government Information, "The Official Visit To South Africa By The Deputy Prime Minister Of Iraq," <http://www.info.gov.za/speeches/2002/02070309461011.htm>; Iraq official interview; South Africa #1 official interview (July 5, 2005); South African Government Information, "Statement On Visit By Deputy Foreign Minister Aziz Pahad To The Middle East," <http://www.info.gov.za/speeches/1999/991122116p1005.htm>; Iraq official interview; African National Congress, "Address by the Chairperson of the Non-Aligned Movement, President Thabo Mbeki of South Africa, to the NAM Ministerial Meeting, September 23, 1999," <http://www.anc.org.za/ancdocs/history/mbeki/1999/tm0923.html>; Republic of South Africa Department of Foreign Affairs, "Iraq (Republic of)," <http://www.dfa.gov.za/foreign/bilateral/iraq.html>; South African Government Information, "Statement By Deputy Minister Of Foreign Affairs, Mr. Aziz Pahad, On The South African Humanitarian Flight To Iraq On 22 To 25 February 2001," <http://www.info.gov.za/speeches/2001/0102121145a1001.htm>.

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month, the DFA issued a statement that Mr. Pahad would visit Iraq to represent South Africa at the annual Baghdad International Trade Fair in November. During his visit, Mr. Pahad reportedly met with Saddam Hussein and conveyed a message to him from President Mbeki. He also met with Mr. Ramadan and Mr. Aziz, and the Foreign Minister, the Minister of Trade, and the Minister of Electricity. According to the public statement of Mr. Pahad, Saddam Hussein told South African officials that he would instruct his ministers to “observe special care” with respect to economic, technical, and scientific relations with South Africa.²⁰⁰

Mr. Aziz perceived that South Africa could be supportive of Iraq. During his July 2002 official visit of Mr. Aziz to South Africa, Mr. Aziz attended a farewell dinner hosted by the ANC with members of South Africa-Iraq Friendship Association (“SAIFA”) and the business community at the Cabanga Conference Center, which was funded by Imvume, which—as described below—had been purchasing oil from Iraq under the Programme. In October 2002, during a United Nations weapons inspection crisis, NAM supported the Security Council’s efforts to explore a peaceful resolution to the situation. NAM issued a statement calling for inspectors to return to Iraq. That month, South Africa dispatched Mr. Pahad for discussions with China, Russia, and France concerning Iraq, and similar discussions with those countries occurred one month later. In January 2003, Mr. Pahad traveled to Italy, Belgium, United Arab Emirates, Bahrain, Iran, Yemen, and Saudi Arabia to discuss Iraq and to present the views of South Africa and NAM. As chair of NAM, South Africa successfully called for three emergency Security Council meetings to broaden the debate on Iraq and included non-Security Council members so that Council members could hear the views of the wider United Nations membership before adopting a resolution. During February 2003, South Africa dispatched its own team of weapons inspectors to Iraq to supplement the efforts of UNMOVIC inspectors. This action was designed to demonstrate that weapons inspections were still possible and that Iraq was prepared to cooperate with them, thereby negating a key justification for war. When war broke out in Iraq in March 2003, Kgalema Motlanthe, Secretary-General of the ANC, assured Iraq of the ANC’s support for all “efforts to end the unilateral aggression of the United States and other countries.”²⁰¹

²⁰⁰ South African Government Information, “Statement On The Visit To Iraq By A Delegation Of Senior Officials From The Department Of Foreign Affairs, 17 October 2002,” <http://www.info.gov.za/speeches/2002/02101809461002.htm>.

²⁰¹ South African Government Information, “The Official Visit To South Africa By The Deputy Prime Minister Of Iraq,” <http://www.info.gov.za/speeches/2002/02070309461011.htm>; Standard Bank record, Imvume Management account, check paid to “Cabanga” in the amount of R40,311.80 (Aug. 6, 2002) (equating to \$3,858); SOMO sales contract, no. M/12/78 (July 27, 2002) (contracting with Imvume Management); Committee oil surcharge table, contract no. M/12/78; Non-Aligned movement (“NAM”), “Letter Concerning Iraq to the President of the UN Security Council by South Africa’s Permanent Representative to the UN, Ambassador DS Kumalo, on Behalf of the NAM,” <http://www.nam.gov.za/media/020810ir.htm>; South African Government Information, “The Deputy Minister Of Foreign Affairs Meets With The Ambassadors Of China, The Russian Federation, And The Charge D’Affaires Of France, Pretoria, 4 October 2002,” <http://www.info.gov.za/speeches/2002/02100414461002.htm>; South African Government Information, “Deputy Minister Aziz Pahad To Visit Italy, Belgium, The United Arab Emirates, Bahrain, The Islamic Republic Of Iran, Yemen And Saudi Arabia,” <http://www.info.gov.za/speeches/2003/03012010461001.htm>; South African Government Information, “Media Alert,”

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One of the areas in which the political and commercial interests of South Africa and Iraq coincided was in the Oil-for-Food Programme. During the Programme, two South African companies that profited from Iraq's efforts to deliver business opportunities to South Africa in return for political support were Montega Trading and Imvume. South African businessmen formed the companies to take advantage of the oil contracts available under the Programme, and they were able to obtain a total of eight million barrels of oil in allocations.

1. Montega Trading (Pty) Limited

An Iraqi-American, Shakir Al-Khafaji, helped facilitate the granting of oil allocations to Sandi Majali, a self-proclaimed advisor to the ANC and President Mbeki, through his joint venture with Mr. Majali and Rodney Hemphill, a South African businessman, called Montega Trading Limited. Mr. Al-Khafaji had access to Mr. Aziz; indeed, Mr. Aziz specifically asked Mr. Al-Khafaji to help strengthen the ties between Iraq and South Africa. In December 2000, Mr. Al-Khafaji travelled to Baghdad with Mr. Majali and Mr. Hemphill to meet with Iraqi officials. During their meetings in Iraq, Mr. Majali described himself as an advisor to both the ANC and President Mbeki. After several days of meetings, Mr. Majali was allocated two million barrels of oil. The SOMO contract of approval explicitly referenced "Sandi Majali—Advisor to the President of South Africa."²⁰²

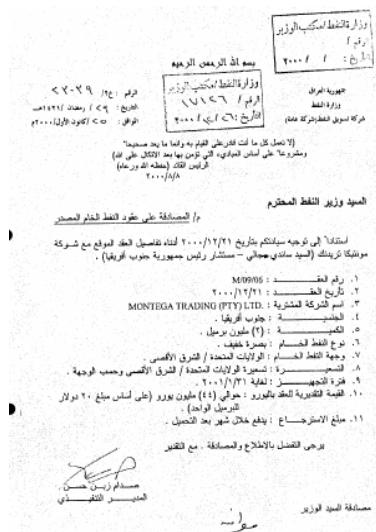
<http://www.info.gov.za/speeches/2003/03020309461003.htm>; Provisional record of Security Council meeting, S/PV.4625 (Oct. 16, 2002); Provisional record of Security Council meeting, S/PV.4709 (Feb. 13, 2003); Provisional record of Security Council meeting, S/PV.4717 (Mar. 11, 2003); African National Congress, "ANC On Latest Developments In The War Against Iraq," <http://www.anc.org.za/ancdocs/pr/2003/pr0326d.html> (Mar. 26, 2003).

²⁰² Rodney Hemphill interview (July 4, 2005); Sandi Majali interview (June 30, 2005); Iraq official interview; SOMO sales contract, no. M/09/06 (Dec. 21, 2000) (contracting with Montega Trading) (hereinafter "Majali sales contract"); Deloitte & Touche Corporate Finance Ltd. due diligence review (Jan. 2002) (based on their interview of Mr. Majali et al. on Jan. 23, 2001); SOMO letter to Amer Rashid (Dec. 25, 2000) (approving contract M/09/06 for 2 million barrels of oil for "Mr. Sandi Majali – Advisor to the President of South Africa") (translated from Arabic) (hereinafter "Approval letter for Majali contract").

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| | |
|--|--|
| | [Translation from Arabic- document 100103] |
| | In the Name of God the Merciful the Benevolent |
| | Republic of Iraq |
| | Ref No: kh2/22029 |
| | Oil Ministry |
| | Date: 25 Dec 2000 |
| | Oil Marketing Company (public Co.) |
| | [(Stamp): |
| | Oil Minister/Minister's Office |
| | No.: 17126 |
| | Date: 26 Dec 2000] |
| | [Quote from Saddam Hussein] |
| | The Oil Minister, |
| | Subject: <u>Approval of Crude Oil Contract</u> |
| | With reference to your instruction on 21/12/2000 please find below the details of the contract concluded with Montega Trading (Mr. Sandi Majali-Advisor to the President of South Africa). |
| | 1. Contract No.: M/09/06 |
| | 2. Date: 21/12/2000 |
| | 3. Name of purchasing company: MONTEGA TRADING (PTY) LTD [in English] |
| | 4. Nationality: South Africa |
| | 5. Quantity: 2 Million Barrels |
| | 6. Type of crude oil: Basra Light |
| | 7. Destination of Crude oil: US/Far East |
| | 8. Pricing: Pricing for US/Far East depending on destination |
| | 9. Delivery period: Before 31/1/2001 |
| | 10. Approximate value of contract in USD: around Euro44 Million (based on a price of \$20 per barrel) |
| | 11. Amount of surcharge: to be paid during the month after delivery |
| | Grateful for your attention and approval. |
| | Saddam Zibn Hassan (Signed) Executive Director |
| | Approval of the Minister (signed) 1/1 |

Figure: SOMO approval letter for contract no. M/09/06 (Dec. 21, 2000) (translated from Arabic).

Mr. Majali used Montega Trading as the contracting company to purchase the oil. Montega Trading arranged to sell the oil through Sopak SA (“Sopak”), a wholly-owned subsidiary of Glencore. Glencore financed the contract with a \$46,585,093 letter of credit through BNP, and it arranged for lifting and selling the oil. Although Glencore was backing Montega Trading’s SOMO contract, the company insisted that its name be concealed from disclosure to any third parties:²⁰³

²⁰³ South Africa Mission note verbale to 661 Committee, S/AC.25/2000/OIL/HUM 986/COMM.383 (Dec. 21, 2000); Deloitte & Touche Corporate Finance Ltd. due diligence review (Jan. 2002) (based on their interview of Mr. Majali et al. on Jan. 23, 2001); George Poole letter to Paul Major and Kirk Lazarus (Mar. 5, 2001); Paul Major fax to Rodney Hemphill (Mar. 7, 2001); Clyde & Co. letter to Bell Dewar & Hill

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AS DISCUSSED WITH LUCY COLLINSON PLEASE ISSUE THE FOLLOWING LETTER OF CREDIT IN FAVOUR OF UNITED NATIONS ON BEHALF OF MONTEGA TRADING (PTY) LTD. GLENCORE INTERNATIONAL AG, BAAR HEREBY GUARANTEES ALL THE OBLIGATIONS OF MONTEGA TRADING (PTY) LTD L/C ISSUED UNDER THE FULL RISK AND RESPONSIBILITY OF GLENCORE INTERNATIONAL AG IN RESPECT OF THIS L/C. HOWEVER PLEASE NOTE GLENCORE INTERNATIONAL AG'S NAME MUST NOT APPEAR ON ANY CORRESPONDENCE YOU SEND TO THIRD PARTIES. PLEASE FORWARD THE L/C TO BNP PARIBAS, NEW YORK, TELEX NO. 6737018. PLEASE ALSO SEND A COPY TO MONTEGA TRADING (PTY) LTD ON THE FAX NO. QUOTED ABOVE.

Figure: Glencore draft letter of credit request to BNP (Jan. 19, 2001).

Glencore did not have the oil delivered to the United States, as agreed in the contract, but instead had it shipped to Singapore. Over 1.85 million barrels were lifted on Montega's contract at a total value of \$45,502,470, using a United Nations pricing formula that took into account that the final destination would be the United States. As a result of Glencore's change in shipping destination, Montega Trading, as the contracting company, owed millions of dollars to SOMO for the price differential.²⁰⁴

According to Mr. Hemphill, Montega Trading was not involved in the decision to ship the oil to Singapore, and he requested and received a letter from Sopak confirming that the intended destination had been the United States. Despite being Glencore's wholly-owned subsidiary, Sopak denied involvement in Glencore's decision to change the destination of the oil under the Montega Trading contract. Ultimately, Sopak and Montega Trading reached a settlement on their dispute over liability for the increased costs of lifting the oil. While the dispute between the parties was settled, the outstanding surcharges on the Montega Trading oil purchases were not. According to Ministry of Oil records, a surcharge of approximately \$464,632 (\$0.25 per barrel) was imposed on the oil that Glencore had lifted. As part of their agency agreement, Sopak agreed to pay a fee to Montega Trading of \$0.30 per barrel, which would have covered the surcharge as

(Mar. 7, 2001); Glencore letter to Strategic Fuel Fund Association (Jan. 28, 2002); Committee oil financier table, contract no. M/09/06; Oil overseers approval of contract no. M/09/06, S/AC.25/2001/OIL/1330/OC.05 (Jan. 2, 2001); Rodney Hemphill interview (July 4, 2005); Paul Major fax to Rodney Hemphill (Jan. 19, 2001) (addressed to "Rog Hempman" and regarding Montega Trading contract M/09/06); Oil Inspections Limited fax to "Glencore UK Ltd Attn: Paul Major" (Feb. 7, 2001) (advising Mr. Major of the status of the *Ocean Jewel* at Mina al-Bakr); Sandi Majali interview (June 30, 2005); Sopak record, Montega Trading and Sopak sales agreement (Jan. 16, 2001), purchase agreement (Jan. 16, 2001), and agency agreement (Jan. 29, 2001); Glencore draft letter of credit request to BNP (Jan. 19, 2001). Paul Major is copied on other correspondence relating to the Montega. Lucy Collinson e-mail to BNP (Jan. 19, 2001) (regarding Glencore's letter of credit backing Montega Trading and their guarantee of all obligations on behalf of Montega Trading and copying Paul Major).

²⁰⁴ Committee oil company table, contract no. M/09/06; Sopak record, Montega Trading and Sopak sales agreement (Jan. 16, 2001) and settlement agreement (Apr. 26, 2001); SOMO fax to Montega Trading (Mar. 2, 2001); SOMO fax to Montega Trading (Feb. 26, 2001); Rodney Hemphill interview (July 4, 2005); Sandi Majali interview (June 30, 2005).

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well as a commission of \$0.05 per barrel. Neither Montega Trading nor its directors ever paid SOMO the required surcharge on the contract executed with Sopak.²⁰⁵

2. Imvume Management (Pty) Limited

After the shipping incident, Mr. Majali continued to receive oil allocations through a new company, Imvume. Because Montega Trading had failed to pay the outstanding surcharges, SOMO refused to sell oil to Mr. Majali in Phase X. When Mr. Majali complained to Iraqi officials, SOMO was ordered to allocate oil to Mr. Majali in Phase XI. Imvume managed to obtain two Iraqi oil contracts in Phases XI and XII.²⁰⁶

Prior to the renewal of his oil allocations, Mr. Majali had been very involved in strengthening ties between South Africa and Iraq. In September 2001, as Chairperson of both the SAIFA and the South African Business Council for Economic Transformation (“SABCETT”), Mr. Majali led a South African delegation to Baghdad, which included officials from the South African Strategic Fuel Fund Association and South African Department of Minerals and Energy. The delegation was involved in discussions on strengthening ties between the ANC and the Iraq Friendship Association and Arab Ba’ath Socialist Party (“Ba’ath Party”), as well as building better oil trade relationships between the two countries. Mr. Majali undertook the trip as a recognized representative of the ANC. In a letter to the Iraq Friendship Association, Mr. Motlanthe stated that Mr. Majali’s position as Chairperson of SAIFA had the ANC’s “full approval and blessing.” He also confirmed the ANC’s approval of Mr. Majali “as a designated person to lead the implementation processes arising out of our economic development programmes.”²⁰⁷

²⁰⁵ SOMO fax to Montega Trading (Mar. 2, 2001); SOMO fax to Montega Trading (Feb. 26, 2001); Rodney Hemphill interview (July 4, 2005) (confirming the original price of €22.125/barrel, which is the original price based upon a United States destination); Paul Major fax to Rod Hemphill (Feb. 27, 2001) (stating that “[a]s shippers we confirm that the final destination of this cargo is the US Gulf coast”); Montega Trading fax to Sopak (Feb. 28, 2001); George Poole letter to Paul Major and Kirk Lazarus (Mar. 5, 2001); Paul Major fax to Rodney Hemphill (Mar 7, 2001); Clyde & Co. letter to Bell Dewar & Hill (Mar. 7, 2001); Glencore letter to Strategic Fuel Fund Association (Jan. 28, 2002); Sopak record, Montega Trading and Sopak agency agreement (Jan. 29, 2001) and settlement agreement (Apr. 26, 2001); George Poole letter to Rodney Hemphill (Apr. 17, 2001); Majali sales contract; Approval letter for Majali contract; Sandi Majali interview (June 30, 2005); Iraq official interview.

²⁰⁶ Committee oil beneficiary table, contract nos. M/11/72, M/12/78; Iraq official interview; Committee oil company table, contract no. M/09/06.

²⁰⁷ Sandi Majali letter to Iraq Friendship Society (Sept. 10, 2001) (writing on behalf of SAIFA); Sandi Majali letter to Khalid Tabra (Sept. 20, 2001) (writing on behalf of SABCETT); Sandi Majali letter to Saddam Z. Hassan (Sept. 20, 2001) (writing on behalf of Imvume); Sandile Nogxina, “Official (Technical) Visit to Iraq By Minerals and Energy Delegates From 10 to 14 September 2001,” *Annexure A* (Sept. 7, 2001); Kgalema Motlanthe letter to Khalid Tabra (Sept. 10, 2001). Mr. Nogxina was the Director-General of the South African Department of Minerals and Energy. Sandile Nogxina, “Official (Technical) Visit to Iraq By Minerals and Energy Delegates From 10 to 14 September 2001,” (Sept. 7, 2001).

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After these meetings, Mr. Majali wrote two letters to the Iraqi authorities in which he referred to a request for oil allocations that had been made to support South Africa's political activities in connection with Iraq. In a letter to the President of the Iraqi Friendship Association, dated September 20, 2001, in his capacity as "Chairman" of SABCETT, Mr. Majali expressed the view that a "joint effort between the ANC and the Arab Ba'ath Party will add a lot of value towards achieving the common political objectives" and "will result in an effective strategy geared towards campaigning for the lifting of sanctions." He went on to advise the President that, as had been discussed in their meeting in Baghdad, a letter had been sent to SOMO requesting an allocation of 12 million barrels of oil and requested that the transaction be facilitated:

with particular attention to the competitive advantage pricing of this transaction for the benefit of both parties in order to build financial resources to support political programmes. I am convinced that you do appreciate that such financial resources are crucial for the long term sustainability of the political programmes that [the ANC and Ba'ath] parties will be implementing and to run seminars, workshops in order to develop effective political development strategies.²⁰⁸

A second letter dated September 20, 2001, with Imvume letterhead, was sent to Saddam Z. Hassan, thanking Iraq's newly appointed Deputy Minister of Oil for his hospitality towards the South African delegation. In the letter Mr. Majali requested allocations of 12 million barrels to be lifted in December 2001 and February 2002, noting that the order for oil "is required by the South African government for its strategic reserves and . . . it will be undertaken by Imvume on behalf of the South African Department of Minerals and Energy." Mr. Majali also expressed an interest in attending the conference in Baghdad in support of lifting the Iraq sanctions held in November 2001 and that the "ANC will be sending a high level delegation." These increased allocations do not appear to have been granted.²⁰⁹

A couple of months later, Imvume obtained a contract to supply two million barrels of oil to the South African Strategic Fuel Fund Association. This association is responsible for the procurement and management of the strategic crude oil and petroleum products of South Africa. Because of concerns raised during the comprehensive due diligence of Imvume in the bidding process, Glencore sent a letter to the South African Strategic Fuel Fund Association ("SFF") representing that it backed Imvume "as its strategic partner." As part of the contract conditions, Glencore was liable for performance of the contract, and Imvume needed approval to lift oil from SOMO by March 2002.²¹⁰

²⁰⁸ Sandi Majali letter to Khalid Tabra (Sept. 20, 2001) (writing on behalf of SABCETT).

²⁰⁹ Sandi Majali letter to Saddam Z. Hassan (Sept. 20, 2001) (writing on behalf of Imvume); Committee oil beneficiary table, contract no. M/11/72.

²¹⁰ R. Mokate letter to M. Mandela (Jan. 18, 2002); ANZ letter to SFF (Jan. 25, 2002) (attaching draft performance bond); Dr. Mokate letter to Imvume (Jan. 28, 2001); ANZ Bank Performance Bond, no. GTEE 02/05 (Feb. 7, 2002); SFF record, SFF and Imvume (operating as Imvume Resources) supply

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When Mr. Majali requested oil in Baghdad, there was \$464,000 due in outstanding surcharges that had not been paid on the Montega Trading oil contract in Phase IX. In letters to the Ministry of Oil, Mr. Majali promised to settle this debt in two installments with the proceeds from the sale of the crude oil that he hoped to get from Iraq. In early March 2002, SOMO confirmed that Imvume had been allocated two million barrels of oil. The Iraqi Ambassador to South Africa's March 7, 2002 cover letter to Mr. Aziz states that it included a letter to Mr. Aziz from Mr. Motlanthe. The Committee was unable to obtain a copy of the letter to Mr. Aziz, but the cover letter also contains the following handwritten note to the Director of SOMO: "obtained the permission of the Vice President of the Republic and Deputy Prime Minister Mr. Aziz for allocation of 2 million barrels" and "the amount requested by Mr. Sani Majali [sic]."²¹¹

Because of the problems with outstanding surcharge debts, SOMO required Mr. Majali to provide a written undertaking of his surcharge obligation:

agreement (Mar. 6, 2002); Glencore letter to SFF (Jan. 23, 2002); Dr. Mokate letter to Imvume (Jan. 23, 2002); Goodfellow letter to Dr. Mokate (Mar. 8, 2002).

²¹¹ Sandi Majali letter to Ali Hassan Rajab (Feb. 26, 2002); Sandi Majali letter to Amer Rashid (undated) (bearing stamp, "Ministry of Oil, Minister's Office June 19, 2002") (translated from Arabic); South Africa Ambassador letter to Tariq Aziz (Mar. 7, 2002) (translated from Arabic) (referencing an attached letter from Kgalema Motlanthe, which the Committee was unable to obtain); SOMO sales contract, no. M/11/72 (Mar. 27, 2002) (contracting with Imvume Management). The letter from Ambassador Al-Omar to Mr. Aziz accompanied a sealed envelope to be delivered to Mr. Aziz. Iraq official interview.

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IMVUME MANAGEMENT (PTY) LTD
12 Charles Crescent Eastgate Extension Sandton
South Africa 2041
Tel: + 2711 444 3615 Fax: + 27 11 444 3509 Mobile 27 82 3364823
E- Mail: imvume @ makwedi.com

State Oil Marketing Organization
Somo
ACTING EXECUTIV DIRECTOR GENERAL

MR ALI R HASSAN

Subject: UNDERTAKING.

I SANDI MAJALI REPRESENTATIVE OF IMVUME MANAGEMENT (PTY) LTD UNDERTAKE TO PERFORM ALL MY OBLIGATION ACCORDINGLY TO SOMO'S REQUIREMENTS REGARDING THE RETURN MONEY (I.E US\$ 0.30/BBL FOR US DESTINATION OR (US\$ 0.25/BBL) FOR FAR EAST DESTINATION FOR THE QUANTITY OF 2.0 MILLION BARRELS OF BLACKLIGHT CRUDE OIL GRADE TO BE LIFTED WITHIN 30 DAYS OF BILL OF LADING.

THANKS YOURS FAITHFULLY

SANDI MAJALI


Figure: Sandi Majali letter to SOMO (undated).

In the letter, Mr. Majali explicitly represented that he would “undertake to perform my obligation accordingly [sic] to SOMO’s requirements regarding the return money (i.e., US \$0.30/BBL) for US destination or (\$0.25/BBL) for Far East destination for the quantity of 2.0 million barrels.” Although the letter is undated, the surcharge rates are those imposed during the majority of the surcharge phases.²¹²

Ultimately, Imvume did not sell the oil under its SOMO contract (M/11/72) to fulfill its obligation to supply oil to SFF. Imvume had Glencore purchase four million barrels from two Russian companies for shipping to South Africa.²¹³

²¹² Sandi Majali letter to SOMO (undated) (agreeing to pay surcharges).

²¹³ Sandi Majali interview (June 30, 2005). Only two shipments of Iraqi oil were shipped to South Africa during this phase. SOMO sales contract, no. M/11/103 (Feb. 5, 2002) (contracting with Joint Stock Company (“JSC”) Slavneft); Roman A. Ivanov letter to oil overseers (Mar. 14. 2002); Oil overseers letter to JSC Slavneft, S/AC.25/2002/OIL/1382/OC.93/add.1 (Mar. 18, 2002); SOMO sales contract, no. M/11/79 (Jan. 16, 2002) (contracting with Machinoimport).

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Mr. Majali still had to deal with the unresolved contract (M/11/72). On May 10, 2002, Mr. Majali had a meeting in Baghdad with Mr. Aziz and Mr. Rashid to address the contract. The meeting was memorialized by Mr. Majali in a letter sent the following month to Mr. Rashid. In the letter, Mr. Majali stated that Mr. Motlanthe was at the meeting at which Mr. Majali addressed the oil contract with Mr. Aziz. In the letter, Mr. Majali also requested an extension to perform contract M/11/72 and to pay the outstanding surcharges. In the same letter, in handwritten notes in Arabic dated June 20, 2002, the Minister of Oil directed SOMO to grant Imvume six million barrels over the next two phases, two in Phase XI, and four in Phase XII. When shown the June 19, 2002 letter, Mr. Majali stated that the letter “worried him” since the content appeared to be correct and the signature was “very much like” his, but that Mr. Motlanthe was not present at the May 10, 2002 meeting. Mr. Majali stated that Mr. Motlanthe was in Baghdad at that time.²¹⁴

Later that month, after this meeting with Mr. Aziz and Mr. Rashid, a surcharge payment was made on Imvume contract M/11/72. Ministry of Oil records show that, on May 20, 2002, an “advance” surcharge payment of \$60,000 was deposited at the Central Bank of Iraq. The payment was made on behalf of Imvume Management in connection with contract M/11/72.²¹⁵

²¹⁴ Sandi Majali letter to Amer Rashid (undated) (stamped as received by “Ministry of Oil, Minister’s Office, June 19, 2002, and including handwritten notes in Arabic and written on behalf of Imvume) (translated from Arabic); Sandi Majali interview (June 30, 2005).

²¹⁵ SOMO record, Surcharge payment receipt, contract no. M/11/72 (May 20, 2002). This payment is not shown on the Committee oil surcharge or company tables as it was an advance payment for a contract that never was executed.

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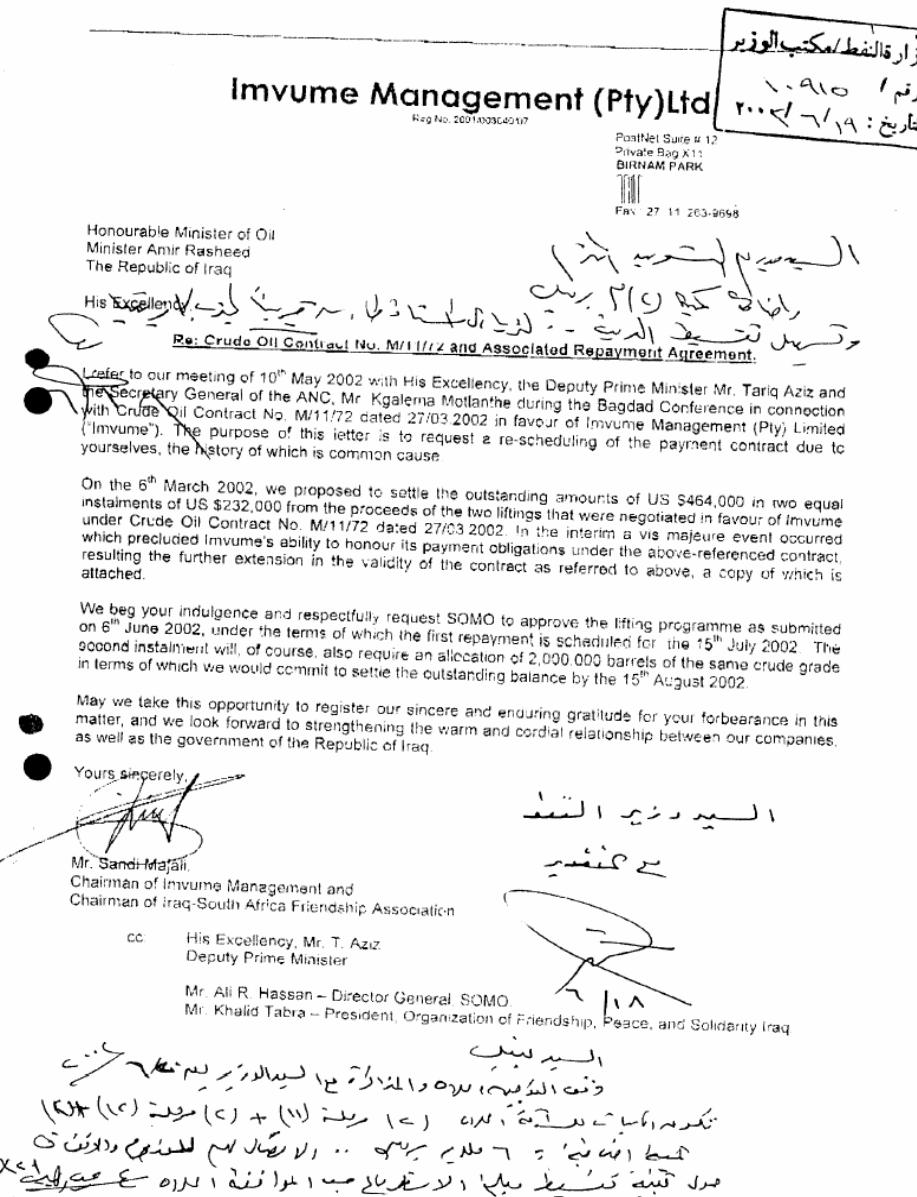


Figure: Sandi Majali letter to Amer Rashid (undated) (translated from Arabic) (promising to pay surcharges owed for Montega Trading contract and bearing stamp that indicates it was received by Ministry of Oil on June 19, 2002).

Mr. Majali denied paying surcharges on any oil contracts during the Programme. He stated that he made his refusal to pay surcharges clear to Mr. Aziz. Mr. Majali, however, has admitted that

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he told Mr. Aziz that he was unable to pay surcharges unless he was allocated additional oil at a sufficiently discounted price.²¹⁶

²¹⁶ Sandi Majali interview (June 30, 2005).

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VI. OIL TRADERS AND THE PHASE IX CRISIS

A. INTRODUCTION

Four traders and companies financed and lifted over 60 percent of the Iraqi crude oil during the exporting crisis in Phase IX. The top financiers of Iraqi crude oil in that phase were Bayoil, Taurus, Glencore, and Vitol.²¹⁷

B. BAYOIL

Bayoil and Bayoil (USA) Inc. (hereinafter “Bayoil”), oil trading companies based in the Bahamas and the United States, respectively, received only two direct allocations of oil in the initial phases of the Programme. After the Government of Iraq imposed a general ban on selling crude oil to companies from the United States, Bayoil did not obtain another Programme contract to purchase Iraqi crude oil. Nonetheless, Bayoil was responsible for lifting over 403 million barrels of Iraqi oil sold under the Programme. In the initial eight phases, Bayoil purchased most of its oil from Russian companies. Later, David B. Chalmers, Jr., President of Bayoil, and a former business associate, Augusto Giangrandi, used a front company, Italtech SRL (“Italtech”), to solicit oil allocations in Iraq.²¹⁸

When the Ministry of Oil initially faced strong resistance to the imposition of surcharges immediately preceding Phase IX, it turned to oil traders to keep exports flowing. The Government of Iraq allocated nearly 30 million barrels of oil within the first three months of that phase to Italtech. Through Italtech, Bayoil managed to finance 8.1 percent of the Iraqi oil sold in Phase IX. Although attempts were made to avoid the payment of surcharges imposed in that phase, Bayoil and Italtech eventually paid over \$6 million in surcharges to the Iraqi regime through the Al Wasel & Babel General Trading LLC (“Al Wasel & Babel”). Bayoil also used the Al-Hoda International Trading Co. (“Al-Hoda”) as a conduit for paying some of the surcharges owed on other Iraqi oil contracts during the surcharge phases.²¹⁹ Bayoil employees denied Committee requests for formal interviews.

²¹⁷ Committee oil financier table. Some companies lifted the oil contracted under previous phases in phase IX. This chart reflects only contracts executed in Phase IX, as opposed to the quantity of oil lifted in Phase IX, as mentioned in other parts of the report.

²¹⁸ Committee oil company and financier tables, contract nos. M/01/07, M/02/04; Committee oil financier table. Bayoil Supply & Trading Limited is based in Nassau, Bahamas. Bayoil record, power of attorney agreement (Sept. 7, 1999).

²¹⁹ Committee oil company and surcharge tables, contract no. M/09/07; TaR (Dec. 1996 to Mar. 2003).

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1. Bayoil's Purchases from Russian Companies

Prior to Phase IX, Bayoil purchased approximately 215 million barrels of Iraqi crude oil from companies that had received allocations under the Programme. Bayoil purchased over half of its Iraqi oil from Russian companies holding SOMO contracts, including Alfa Eco (JSC), Tatneft (OAO), Lukoil, Tyumen Oil Company, Nafta Moskva (JSC), ACTEC, and Zarubezhneft. Bayoil continued to purchase oil from Russian companies after the imposition of surcharges. Between Phases IX and XIII, Bayoil purchased approximately 64 million barrels from them.²²⁰

Agency agreements with two Russian companies, Nafta Moskva and Machinoimport, indicate that Bayoil paid commissions as low as \$0.03 to \$0.05 per barrel to companies hired to obtain Iraqi crude oil contracts. Under one agreement, Machinoimport sold approximately two million barrels of oil to Bayoil under contract M/12/01. Bayoil corporate records show that, after each lifting, Machinoimport was paid \$55,000 and \$45,000, which correspond to commissions of \$0.05 per barrel.²²¹

2. Bayoil's Use of Italtech to Solicit Iraqi Oil Contracts

In 1998, Mr. Chalmers appointed a former business associate, Mr. Giangrandi, as a director of Bayoil to solicit Iraqi oil contracts for Bayoil. Mr. Chalmers met Mr. Giangrandi while Mr. Giangrandi was involved in selling weapons to Iraq in the late 1980s. According to Mr. Giangrandi, he assisted in the building of an armaments factory in Iraq to produce cluster bombs during the Iraq-Iran war. Through his work, Mr. Giangrandi also became familiar with Mr. Rashid, who was then an Iraqi Army General involved in developing Iraqi military equipment. Because Iraq was experiencing a foreign currency shortfall at the time, Mr. Giangrandi arranged to get paid for the factory construction with Iraqi crude oil. Mr. Giangrandi turned to Mr. Chalmers, then head of the crude oil department of Carey Oil, to assist him in trading the oil. Mr. Giangrandi and Mr. Chalmers eventually established Bayoil as a joint-venture to trade the oil. After Bayoil expanded to other markets, Mr. Giangrandi sold his half of the company to Mr. Chalmers. Several years later, Mr. Chalmers and Mr. Giangrandi were involved in forming Italtech to fund a business venture that ultimately was abandoned. Italtech was largely a dormant company until it was used as a front company for Bayoil in connection with the Programme.²²²

²²⁰ Committee oil financier table.

²²¹ Ibid.; Bayoil record, Bayoil and Nafta Moskva agency agreement (Feb. 19, 1999); David Chalmers letter to BNP Suisse (June 3, 1999) (instructing BNP to pay commission fees of \$29,699 on 989,975 barrels); Bayoil record, Bayoil and Machinoimport agency agreement (Oct. 3, 2002); Bayoil record, Transaction detail by account (Jan. 1995 to Dec. 2003) (listing payments to Machinoimport on October 23 and November 26, 2002).

²²² Augusto Giangrandi letter to Taha Yassin Ramadan (May 1, 1999) (as Chairman of Bayoil S.A. Luxembourg); Augusto Giangrandi letter to Ministry of Oil (Sept. 9, 1999) (as Chairman of Bayoil Supply & Trading Co.); Bayoil record, Power of attorney agreement (Sept. 7, 1999); Augusto Giangrandi

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Mr. Giangrandi stated that he and Mr. Chalmers agreed to use Italtech as an agent for Bayoil in the Iraqi crude oil market. They entered into a written agreement in June 2000, and again in May 2002, when it was amended. The agreement provided that Italtech would request oil from the Government of Iraq and solicit Iraqi oil from other companies and beneficiaries. For his services, Mr. Giangrandi was to be paid a commission of \$0.015 and later \$0.02 per barrel. No financial or logistical arrangements were undertaken by Italtech on the oil transactions. Bayoil was responsible financing letters of credit, and lifting and trading the oil.²²³

Mr. Giangrandi stated that all oil transactions conducted by Italtech in Iraq were done on behalf of Bayoil. In Iraq, Mr. Giangrandi identified himself as a representative for Bayoil. His efforts to obtain SOMO contracts prior to Phase IX failed. According to Mr. Giangrandi, in October 1999, Mr. Aziz denied his request (made at Bayoil's instruction) to grant direct oil allocations to Italtech. Mr. Aziz explained to Mr. Giangrandi that Italtech and Bayoil furthered Iraq's political objectives by acting as conduits for other beneficiaries to cash in their oil allocations. Mr.

interviews (Mar. 11-12, and Apr. 25 and 27-28, 2005). Italtech's original purpose was to research and develop new mini-submarine propulsion systems. *Ibid.*

²²³ Augusto Giangrandi interviews (Apr. 25 and 27-28, and July 24-25, 2005); Hobi Sabih fax to Lucio Moriconi, (Oct. 27, 1999) (containing a draft letter to be forwarded to SOMO by Mr. Moriconi, Managing Director of Italtech, describing Italtech and Bayoil as "sister companies with common directors"); Italtech record, Bayoil and Italtech teaming agreement (June 4, 2000) (superseded by Revision 1 agreement (Dec. 15, 2000)); Italtech record, Bayoil and Italtech revenue sharing agreement (Dec. 27, 2000); Italtech record, Bayoil and Italtech revised teaming agreement (Feb. 20, 2001) (increasing Italtech's commission to \$0.02); Bayoil record, Power of attorney agreement (Sept. 7, 1999) (granting Augusto Giangrandi the power to execute contracts with SOMO in Bayoil's name); Bayoil record, Transaction detail by account (Jan. 1995 to Dec. 2003) (denoting payments to the United Nations escrow account, finance charges for letters of credit, payments to contract holders, sales to end-users, insurance and freight costs for lifts, and payments from refineries in relation to contracts M/08/120, M/09/07 (Italtech), M/09/15 (Al-Hoda), and M/10/14 (PTSC)); Augusto Giangrandi letter to David Chalmers (Oct. 10, 2000) (confirming an agreement to deposit \$1 million in operating capital to an Italtech account at UEB Geneva for the sole purpose of financing Italtech's purchases of Iraqi oil); Jean Johnston letter to Augusto Giangrandi (Sept. 10, 2001) (requesting the return of the \$1 million deposit with interest); Augusto Giangrandi letter to David Chalmers (July 12, 2000) (requesting the deposit of funds for a bank guarantee); Italtech letter to UEB Geneva (Dec. 20, 1999) (authorizing the bank to issue a letter of credit in favor of the United Nations "under the sole authority, direction and financial obligation of Bayoil Supply & Trading Co"); Bayoil fax to Cosmos (May 25, 2000) (instructing Cosmos, a company affiliated with Italtech, to retype the shipping nomination on Italtech letterhead and forward to the Director-General of Iraqi Ports); Italtech letter to BNP (Jan. 27, 2001) (authorizing Bayoil to open letters of credit under the name of Italtech). Italtech invoiced Bayoil for the fees to register as an oil buyer with the United Nations and for its office expenses, as well as gifts for regime officials, such as a jet ski for Uday Hussein (Saddam Hussein's son). Italtech record, Invoice (Dec. 20, 1999) (for \$19,698); Augusto Giangrandi fax to Jean Johnston (Sept. 29, 2000) (requesting reimbursement of expenses).

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Giangrandi also stated that Mr. Rashid apparently enjoyed the irony of a United States company indirectly assisting in the financing of Iraq's lobbying effort against the sanctions.²²⁴

Mr. Giangrandi also had limited success in his initial efforts to obtain oil on Bayoil's behalf from other beneficiaries. Italtech obtained one oil contract in Phase VII for oil allocated under the name of Fouad Sirhan, an Iraqi based in Brazil. The oil was purchased by Bayoil. For Phase VIII, Italtech obtained oil contracts for over 11 million barrels on Bayoil's behalf.²²⁵

Surcharges initially were imposed in Phase VIII. Mr. Giangrandi insisted that he never was contacted directly by SOMO when the surcharges were announced. He admits, however, that the imposition of surcharges by the Iraqi regime was discussed openly in the oil trading community beginning in the fall of 2000. Mr. Giangrandi also confirmed that he discussed the demand for surcharges with Mr. Chalmers, as well as the notice by the United Nations Oil Overseers in December 2000 warning companies not to pay the illegal surcharges. Mr. Giangrandi stated that, in their discussions, Mr. Chalmers stressed the illegality of the surcharge payments proposed by the Iraqi regime.²²⁶

²²⁴ Augusto Giangrandi interviews (Apr. 25 and 27-28, and July 24-25, 2005); Iraq official interview; Jean Johnston e-mail to Lucio Moriconi (Oct. 8, 1999) (providing wording for an Italtech letter to the Minister of Oil); Committee oil company table, contract no. M/09/07 (noted as the first direct allocation to Italtech without an additional beneficiary). When interviewed in the presence of investigators from the Iraq Special Tribunal, the former Minister of Oil denied that the Ministry of Oil understood Italtech was acting as an agent for Bayoil. Amer Rashid interview (Aug. 22, 2005). The Committee does not find the denial credible under the circumstances. Letters from Mr. Giangrandi to Iraqi officials, at that time, explicitly identified himself as acting on behalf of Bayoil. Augusto Giangrandi letter to Ministry of Oil (Sept. 9, 1999) (describing himself to SOMO as Chairman of Bayoil Supply & Trading Ltd.); Augusto Giangrandi letter to Taha Yassin Ramadan (May 1, 1999) (detailing, as Chairman of BOTCO S.A., Mr. Giangrandi's relationship to Bayoil); Augusto Giangrandi letter to Taha Yassin Ramadan (May 1, 1999) (lamenting the "huge commissions" payable by Bayoil to intermediaries and requesting direct allocations).

²²⁵ Augusto Giangrandi interviews (Apr. 25 and 27-28, and July 24-25, 2005); SOMO sales contract, no. M/07/51 (Dec. 18, 1999) (for 1.5 million barrels of Basra Light oil); Committee oil beneficiary, company, and financier tables, contract nos. M/07/51, M/08/116, M/08/116, M/08/120 (combined), M/08/120; Fouad Sirhan letter to SOMO (Nov. 22, 1999); Fouad Sirhan letter to Augusto Giangrandi (Nov. 22, 1999); Fouad Sirhan and Augusto Giangrandi letter to Ministry of Oil (Dec. 21, 1999). The beneficiaries for the allocations in Phase VIII were NIS Yugopetrol and Shakir Al-Khafaji. Italtech record, Zivojin Veljkovic and Augusto Giangrandi meeting minutes (Sept. 25, 2000); Augusto Giangrandi interviews (July 24-25, 2005); Committee oil beneficiary table, contract nos. M/08/116, M/08/116, M/08/120 (combined), M/08/120.

²²⁶ Augusto Giangrandi interviews (Apr. 25 and 27-28, and July 24-25, 2005); SOMO sales contract, no. M/07/51 (Dec. 18, 1999) (for 1.5 million barrels of Basra Light oil); Committee oil beneficiary, company, and financier tables, contract nos. M/07/51, M/08/116, M/08/116, M/08/120 (combined), M/08/120; Fouad Sirhan letter to SOMO (Nov. 22, 1999); Fouad Sirhan letter to Augusto Giangrandi (Nov. 22, 1999); Fouad Sirhan and Augusto Giangrandi letter to Ministry of Oil (Dec. 21, 1999); Italtech record, oil overseers fax to "Buyers of Iraqi Crude Oil" (Dec. 15, 2000).

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3. Direct Oil Allocations for Italtech in Phase IX

When the Ministry of Oil had problems selling Iraqi oil in Phase IX, Mr. Giangrandi took the opportunity to renew his request for direct oil allocations for Italtech and Bayoil. According to Mr. Giangrandi, he met with Mr. Rashid and others in Baghdad to discuss the crisis that was stalling Iraqi oil exports. There are conflicting accounts of the meeting. According to Mr. Giangrandi, Mr. Rashid reportedly begged Mr. Giangrandi and Mr. Chalmers to begin lifting as much Iraqi oil as they wanted in order “to open the gate” so that other oil traders would follow suit. Mr. Giangrandi claimed that, at the meeting, Mr. Rashid did not mention surcharges. Mr. Giangrandi stated that he raised the issue that paying the surcharges would be a problem for Mr. Chalmers. According to Mr. Giangrandi, Mr. Rashid responded that they would work out that problem later. Mr. Giangrandi stated that, after this meeting, he discussed the proposal with Mr. Chalmers, and Mr. Chalmers agreed to lift the Iraqi oil that was offered through Italtech.²²⁷

According to Iraqi officials, they were obligated to enforce the surcharge scheme beginning in Phase IX of the Programme. The Ministry of Oil was experiencing a crisis because there was a dearth of oil traders willing to pay the surcharges at that time. They claim that Italtech was granted large oil allocations because Mr. Giangrandi was one of the few oil traders willing to pay the surcharges being demanded at the beginning of Phase IX.²²⁸

For the first three months of Phase IX, Bayoil lifted a total of approximately 29 million barrels of oil that had been allocated directly to Italtech. Ministry of Oil records show that a total of over \$11 million in surcharges was owed by Italtech in March 2001 on the Phase IX contract, as well as a contract from the prior phase. Neither Bayoil nor Italtech had made any efforts to pay the surcharges imposed on these contracts up to that point.²²⁹

²²⁷ Augusto Giangrandi interviews (Apr. 25 and 27-28, and July 24-25, 2005); see also Augusto Giangrandi letter to Amer Rashid (July 21, 2002) (concerning outstanding surcharge payments owed to SOMO by Italtech/Bayoil). In this letter to Mr. Rashid, Mr. Giangrandi accepted the role that he and Bayoil had played “when [he and Mr. Chalmers] re-opened the lifting during the difficult period of December 2000 and did everything possible to help S.O.M.O. to ‘open the gate.’” Ibid.

²²⁸ Iraq officials interviews.

²²⁹ Committee oil company and financier tables, contract nos. M/08/116, M/08/116, M/08/120 (combined), M/08/120, M/09/07; Augusto Giangrandi interviews (Apr. 25 and 27-28, and July 24-25, 2005) (insisting that he believed Italtech and Bayoil could avoid surcharges and claiming that he did not promise to pay surcharges before getting the allocations in Phase IX or discuss the surcharge issue with the Iraqis prior to March 2001). In addition to the 29 million barrels allocated directly to Italtech in Phase IX, Italtech contracted for approximately five million barrels allocated to Shakir Al-Khafaji in Phase VIII, but not lifted, and combined this purchase with approximately three million barrels allocated to NIS Yugopetrol, also not lifted in Phase VIII. Committee oil company table, contract nos. M/08/116, M/08/116, M/08/120 (combined), M/08/120; Bayoil record, Shakir Al-Khafaji and Bayoil cooperation agreement (Oct. 20, 2000); SOMO letter to Amer Rashid (Oct. 10, 2000) (indicating an allocation of five million barrels for Mix Oil (Shakir Al-Khafaji)); Italtech record, Zivojin Veljkovic and Augusto Giangrandi meeting minutes (Sept. 25, 2000).

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In March 2001, Mr. Giangrandi was summoned to a meeting at the Ministry of Oil. According to Mr. Giangrandi, prior to the meeting, he met with Mr. Chalmers to prepare a list of discussion points in response to what they expected to be a demand by Iraq that surcharges be paid on the Italtech contracts. At the meeting, Mr. Rashid, while making clear his appreciation for the oil purchases made by Italtech and Bayoil during a difficult period for Iraq, warned Mr. Giangrandi that their outstanding surcharges had to be paid. Mr. Giangrandi offered a series of excuses for his inability to pay surcharges, including insufficient profits, fluctuating oil prices, significant demurrage, and a lack of safe channels to pay the surcharges. Mr. Rashid warned Mr. Giangrandi that Saddam Hussein himself had directed that Italtech pay the surcharges. Mr. Rashid commiserated with Mr. Giangrandi about the imposition of surcharges on oil exports, but implied that he himself would suffer consequences if they were not paid.²³⁰

Afterwards, Mr. Rashid warned Mr. Giangrandi not to leave Baghdad before arranging for the payment of the surcharges. Mr. Rashid suggested that Mr. Giangrandi use his time in Iraq to contact Al Wasel & Babel for assistance in disguising the surcharges owed. Al Wasel & Babel was owned by Ibrahim Lootah and the Government of Iraq. The following day, in a meeting with Iraqi officials, Mr. Giangrandi provided Al Wasel & Babel with a series of checks totaling \$8,026,089, from a bank account with insufficient funds. According to Mr. Giangrandi, the checks were considered a guarantee to cover the surcharges.²³¹

4. Surcharge Payments by Italtech and Bayoil

According to Mr. Giangrandi, he had no intention of paying the surcharges until he discussed the matter with Mr. Chalmers. Upon his return, Mr. Giangrandi consulted with lawyers about the legality of the surcharges. Despite being advised of their illegality, Mr. Giangrandi admitted that he discussed the surcharges with Mr. Chalmers, and they concluded that they had no choice but to pay them. He explained that they both wished to continue their commercial activities in Iraq, and he also had safety concerns. According to Mr. Giangrandi, they decided that Bayoil would fund the surcharge payments and Italtech would arrange to have them paid.²³²

²³⁰ Augusto Giangrandi interviews (Mar. 11-12, Apr. 25 and 27-28, and July 24-25, 2005); Iraq official interview; David Chalmers letter to Augusto Giangrandi (Mar. 11, 2001).

²³¹ Confidential witnesses interviews; Augusto Giangrandi interviews (Mar. 11-12, and Apr. 25 and 27-28, 2005); Iraq official interview; SOMO record, Surcharge payment schedule by lift, contract no. M/09/07 (Mar. 12, 2001) (including a list of 17 individual check serial numbers, along with a receipt from SOMO). Mr. Rashid told Mr. Giangrandi that he could not leave Baghdad, but that he could contact Mr. Chalmers from his hotel or from the Minister's office. Mr. Rashid took and withheld Mr. Giangrandi's passport. Mr. Rashid told Mr. Giangrandi quite plainly that he was not going to leave Baghdad without definite arrangements for the payment of the surcharges being agreed between them. Confidential witness interview; Augusto Giangrandi interviews (Apr. 25 and 27-28, 2005).

²³² Augusto Giangrandi interviews (Apr. 25 and 27-28, 2005) (stating that he also feared incurring criminal charges for not honoring the checks, loss of business reputation in the Arab international market, and a threat to his and his family's safety); Hunton & Williams letter to Augusto Giangrandi (Mar. 21, 2001) (containing legal advice).

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Over a three week period, Bayoil provided the funds to Italtech to cover well over half of the surcharges owed. Bank records show that in April 2001, Italtech received in its bank account a series of transfers totaling €6,726,232 from a Bayoil account at BNP. Mr. Giangrandi then transferred a total of €6,872,470 to an Al Wasel & Babel account at the Abu Dhabi Commercial Bank. Ministry of Oil records show that Al Wasel & Babel then made four deposits totaling €6,872,470 into SOMO accounts on behalf of Italtech. These payments were used to satisfy outstanding surcharges on the Italtech oil contracts. A bank record shows that, on May 6, 2001, Al Wasel & Babel received one additional payment in its bank account, a €1,364,678 wire transfer from Mr. Giangrandi's company, United Management. According to Mr. Giangrandi, payments made by Italtech and United Management to Al Wasel & Babel were surcharge payments on behalf of Bayoil.²³³

²³³ BNP record, Italtech account, credit advices (Apr. 5-6, 19, and 23, 2001) and debit advices (Apr. 19, 23, and 30, 2001); Abu Dhabi Commercial Bank record, Al Wasel & Babel account, bank statement (May 31, 2001); Ibrahim Lootah interview (Mar. 3, 2005); Abdullah Lootah interview (Dec. 12, 2004); Committee oil surcharge table, contract no. M/09/07. United Management is based in Santiago, Chile. Augusto Giangrandi interviews (Apr. 25 and 27-28, 2005). Approximate totals are as per the exchange rate used by SOMO.

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Table 2 – Surcharges Financed by Bayoil Through Al Wasel & Babel

| Date | Bayoil Payment to Italtech | Italtech Payments to Al Wasel & Babel | Al Wasel & Babel Payments to SOMO |
|---------------------------|----------------------------|---------------------------------------|-----------------------------------|
| Apr. 5, 2001 | €42,162 | – | – |
| Apr. 5, 2001 | €761,311 | – | – |
| Apr. 5, 2001 | €1,024,721 | – | – |
| Apr. 6, 2001 | €3,608,016 | – | – |
| Apr. 19, 2001 | €432,872 | €1,531,943 | – |
| Apr. 23, 2001 | €57,147 | €2,258,341 | – |
| Apr. 30, 2001 | – | €1,717,518 | – |
| May 6, 2001 | – | €1,364,678 | – |
| Sept. 30, 2001 | – | – | €1,364,678.00 |
| Sept. 30, 2001 | – | – | €1,717,514.91 |
| Sept. 30, 2001 | – | – | €2,258,337.92 |
| Sept. 30, 2001 | – | – | €1,531,939.91 |
| Approximate Totals | \$6,022,208 | \$6,153,151 | \$6,153,143.59 |

According to Mr. Giangrandi, to disguise the purpose for the money transfers, Italtech and Al Wasel & Babel created bogus backdated invoices and contracts for 17 nonexistent oil deals. Each fake contract included a standard provision taken from Bayoil and Italtech contracts guaranteeing that no surcharge payment had been made to SOMO outside the United Nations escrow account in obtaining the crude oil being sold.²³⁴

Italtech still had an outstanding surcharge balance of over \$2 million. Mr. Giangrandi stated that Italtech withheld a portion of the surcharge to ensure that the Iraqis cooperated and pressed the United Nations to compensate Bayoil for demurrage. Mr. Giangrandi also was disputing other outstanding surcharges on an oil contract that Mr. Giangrandi had obtained in Phase VIII from Shakir Al-Khafaji, who is discussed above in Section V.D. According to Mr. Giangrandi, Mr. Al-Khafaji initially had told him that Mr. Al-Khafaji would be exempt from surcharges because of his political connections. When Mr. Al-Khafaji discovered otherwise, Mr. Giangrandi had been forced to increase the premium to \$0.40 so that Mr. Al-Khafaji could cover the surcharge.

²³⁴ Augusto Giangrandi interviews (Apr. 25 and 27-28, 2005); Bayoil record, “CONTRACT CLAUSES TO BE INCLUDED IN F.O.B. PURCHASES OF IRAQI CRUDE OIL FROM UN APPROVED ‘OIL FOR FOOD PROGRAM’” (Mar. 1, 2001); Bayoil record, Bayoil and Italtech contract (Dec. 27, 2000) (relating to M/09/07); Bayoil record, Bayoil and Al-Hoda draft contract (May 29, 2001) (relating to M/09/15).

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According to Mr. Giangrandi, Mr. Al-Khafaji did not pay the surcharge, and the Ministry of Oil unfairly held Italtech responsible for it.²³⁵

5. Surcharge Payments through Al-Hoda

Beginning in Phase IX, Italtech and Bayoil also used Al-Hoda as a conduit for paying surcharges. According to the founder of the company, Riyadh Al-Khawam, Al-Hoda was created in May 2000 for the purpose of executing oil and humanitarian contracts under the Programme. Mr. Al-Khawam stated that his family and the Government of Iraq, through the Ministries of Finance and Oil, shared ownership of the company. During the Programme, Al-Hoda received and sold its own oil allocations, as well as traded oil allocations granted in the names of other beneficiaries.²³⁶

Beginning in Phase IX, Bayoil purchased four million barrels of oil that had been allocated to Al-Hoda. The oil was lifted, financed, and sold by Bayoil under contract M/09/15. As detailed below, Bayoil also financed other Iraqi oil contracts through Al-Hoda. Mr. Al-Khawam stated that Bayoil agreed to pay Al-Hoda a commission of \$0.05 or \$0.06 per barrel as well as additional funds to cover the surcharges owed on contracts. He admitted that Al-Hoda made the actual surcharge payments. According to Mr. Al-Khawam, he discussed payment of the surcharges with a Bayoil employee. Bank records show that, between July 2001 and February 2002, an Al-Hoda bank account received at least \$4.7 million in wire transfers from Bayoil. Within days of each payment, funds totaling \$3.4 million were transferred from the Al-Hoda account to SOMO bank accounts to pay for the surcharges owed on the oil contracts with Bayoil.²³⁷

²³⁵ Augusto Giangrandi interviews (July 24-25, 2005); Italtech record, Augusto Giangrandi letter to Amer Rashid (July 21, 2002); SOMO letter to Amer Rashid (Oct. 10, 2000) (approving contract M/08/117 for five million barrels of oil for “Mix Oil Limited (Shakir Al-Khafaji)”) (translated from Arabic); SOMO sales contracts, nos. M/08/116 (Oct. 3, 2000), M/08/120 (Oct. 30, 2000); Italtech record, Shakir Al-Khafaji handwritten note to Augusto Giangrandi (Feb. 22, 2001). Contract M/08/117 was never executed.

Committee oil company table.

²³⁶ Committee oil beneficiary table, contract nos. M/10/106, M/10/22, M/10/68, M/11/40, M/11/93; Committee oil company table, contract nos. M/09/15, M/11/20, M/12/36; Riyadh Al-Khawam interviews (Mar. 29 and May 12, 2005).

²³⁷ Committee oil financier table, contract nos. M/09/15, M/10/106, M/10/22, M/11/20, M/11/93 (combined); Al-Hoda letter to Crédit Agricole Indosuez S.A., Geneva (Jan. 21, 2002) (naming Bayoil as the backer for a letter of credit); Riyadh Al-Khawam interview (May 5, 2005); Arab Bank record, Al-Hoda account, credit advices (July 23, Aug. 16, Oct. 29, and Dec. 9, 2001, and Jan. 30 and Feb. 12, 2002); Bayoil record, Transaction detail by account (Jan. 1995 to Dec. 2003) (listing payment to Al-Hoda of \$760,801 on February 11, 2002); Jordan National Bank record, SOMO account, credit advices (July 24, Aug. 19, Sept. 5, Nov. 1 and 28, and Dec. 30, 2001, and Jan. 21, Feb. 26, and Mar. 7, 2002). Al-Hoda was also responsible for paying the commissions to the beneficiaries on allocations: \$85,000 to a Syrian government official; \$180,000 to Faras Mustapha Talas, the son of the Syrian Minister of Defense; and \$100,000 to the Society for Austro-Arab Relations. Riyadh Al-Khawam interview (May 5, 2005); Arab Bank record, Al-Hoda account, personal check (Feb. 26, 2002) and bank statement (Dec. 31, 2001)

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Table 3 – Bayoil Payments to Al-Hoda

| Contract | Date | Bayoil Payment to Al-Hoda | Date | Al-Hoda Surcharge Payment |
|-----------------------------------|---------------|--------------------------------------|---------------------------------|--------------------------------------|
| M/09/15 | July 20, 2001 | \$836,860 | July 24, 2001 | \$627,646 |
| M/09/15 | Aug. 15, 2001 | \$939,483 | Sept. 5, 2001 | \$612,706 |
| M/10/106 | Dec. 6, 2001 | \$887,233 | Nov 1, 2001, Dec. 30, 2001 | \$619,000 |
| M/10/22 and M/10/68 (combined) | Oct. 26, 2001 | \$869,727 | Nov. 28, 2001 | \$606,787 |
| M/11/40 | Jan. 28, 2002 | \$419,754 | Aug. 19, 2001, Feb. 26, 2002 | \$314,816 |
| M/11/20 and M/11/93 (combined) | Feb. 11, 2002 | \$760,801 | Jan. 21, 2002, Mar. 7, 2002 | \$570,601 |
| Totals | | \$4,713,858 | | \$3,351,556 |

The surcharge dispute on Mr. Al-Khafaji's contract between Italtech and SOMO remained unresolved. According to Mr. Giangrandi, he was asked to solve the problem after Mr. Chalmers heard that the dispute could interfere with Bayoil's contracts through Russian companies. In July 2002, in a letter to the Oil Minister, Mr. Giangrandi proposed having Italtech and Bayoil present the Government of Iraq with a bill for demurrage claims and then kick back a percentage of the settlement from the United Nations escrow account to SOMO. In this letter, Mr. Giangrandi also requested another direct oil allocation for Italtech, but the company received no further direct allocations.²³⁸

6. Bayoil and PTSC

In Phases IX and X, Bayoil financed and lifted Iraqi oil under two contracts signed by Petroleum Technical Services Co. ("PTSC"). Surcharges were levied on both of these contracts. According to Mr. Giangrandi, Mr. Chalmers asked him to forward money to the Al Wasel & Babel account in Dubai, noting that Bayoil and Italtech had used this company to pay surcharges in April 2001. Bank records show that, on August 10, 2001, Bayoil wire transferred \$812,386.20 to an Italtech account. Another transfer was made to the Italtech account from an undisclosed payor at United European Bank in the amount of \$475,385.40. Two weeks later, on August 24, 2001, Italtech

(including a handwritten annotation from an Al-Hoda employee noting the payment was for "Firas Tlas"); Arab Bank record, Al-Hoda account, personal check (Oct. 29, 2001) (in favor of Fritz Edlinger).

²³⁸ Augusto Giangrandi letter to Amer Rashid (July 21, 2002); Augusto Giangrandi interviews (July 24-25, 2005).

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wire transferred \$1,092,345 to the account of Al Wasel & Babel at the Commercial Bank. Al Wasel & Babel wrote to SOMO acknowledging receipt of the surcharge. Ministry of Oil records show that, on August 27, 2001, this exact amount was deposited into the SOMO account in two payments (\$624,906 and \$467,439).²³⁹

C. TAURUS

The Taurus Group (“Taurus”), an oil trading consortium based in Europe and the Caribbean, financed the purchase of at least 256 million barrels of oil sold under the Programme.²⁴⁰ Taurus never received a single oil allocation in its own name. Nor did Taurus enter into a single United Nations contract to purchase Iraqi oil. But like Bayoil, Taurus entities financed letters of credit and arranged for the loading and resale of oil under the contracts of other companies. Taurus purchased much of its Iraqi oil from Russian contracting companies. Taurus also used Aredio Petroleum S.A.R.L. (“Aredio”), a French-based company, to purchase oil allocated in the names of individual beneficiaries. Eventually, Taurus began using two front companies created in Liechtenstein—Fenar Petroleum Ltd. (“Fenar”) and Alcon Petroleum Ltd. (“Alcon”)—to trade Iraqi crude oil.

During the Phase IX exporting crisis, Taurus managed to purchase 14 percent of the Iraqi crude oil sold in that phase through Alcon and Fenar.²⁴¹ Taurus continued using these companies to purchase significant amounts of oil in other surcharge phases as well. Most of the surcharges assessed on the Alcon and Fenar contracts were paid by wire transfers from two bank accounts in the names of Petrocorp AVV (“Petrocorp”) and Jabal Petroleum SAL (“Jabal”). Most of the funds covering the transfers were deposited in these two bank accounts by Taurus, Alcon, and Fenar. Additionally, when surcharges were first introduced, Taurus covered surcharges imposed

²³⁹ SOMO sales contract, nos. M/09/126 (May 14, 2001), M/10/14 (July 12, 2001); Committee oil company and financier tables, contract nos. M/09/126, M/10/14; Augusto Giangrandi interviews (Apr. 25 and 27-28, 2005); Merrill Lynch (Suisse) S.A. record, Italtech account (under the name of ‘Mantova’), credit advice (Aug. 10, 2001), bank statement (Sept. 28, 2001), and debit advice (Aug. 24, 2001); Augusto Giangrandi letter to Merrill Lynch (Suisse) S.A. (Aug. 21, 2001) (requesting transfer of \$1,092,345 to Al Wasel & Babel); Abdullah Lootah letter to Augusto Giangrandi (Aug. 27, 2001) (confirming receipt of \$1,092,345); Al Wasel & Babel letter to SOMO (Aug. 27, 2001).

²⁴⁰ Committee oil financier table, contract nos. M/04/01, M/04/19, M/04/21, M/04/37, M/05/11, M/05/12, M/05/25, M/05/45, M/05/66, M/06/15, M/06/18, M/06/21, M/06/56, M/06/69, M/06/73, M/07/07, M/07/14, M/07/20, M/07/24, M/07/40, M/07/81, M/07/95, M/08/02, M/08/35, M/08/37, M/08/38, M/08/47, M/08/55, M/08/56, M/08/65, M/08/67, M/08/82, M/08/86, M/08/102, M/09/01, M/09/04, M/09/17, M/09/23, M/09/25, M/09/35, M/09/38, M/09/47, M/09/64 M/09/115, M/09/118, M/10/03, M/10/07, M/10/09, M/10/17, M/10/33, M/10/38, M/10/59, M/10/71, M/10/80, M/10/82, M/10/84, M/10/86, M/10/87, M/10/94, M/10/96, M/11/10, M/11/21, M/11/43, M/11/61, M/11/65, M/11/67, M/11/80, M/11/115, M/11/118, M/12/05, M/12/14, M/12/29, M/12/35, M/12/39, M/12/51, M/12/63, M/12/120, M/12/122, M/13/07, M/13/17, M/13/19, M/13/48, M/13/75.

²⁴¹ Committee oil financier table, contract nos. M/09/01, M/09/04, M/09/35.

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on three oil contracts held by three Russian companies, Zangas, Zarubezhneft, and Machinoimport, by directly wiring money to SOMO bank accounts.

1. Ben Pollner and Martin Schenker

During the Programme, Taurus financed oil purchases through the Swiss bank accounts of two Taurus entities: Taurus Petroleum Nassau (“Taurus Nassau”) and Taurus Petroleum Nevis (“Taurus Nevis”). Both companies were founded by Ben Pollner, a United States national and director of Taurus. At the time Taurus was participating in the Programme, Mr. Pollner was the beneficial owner of Taurus Nassau and shared ownership of Taurus Nevis with his children through a Delaware-based holding company. He held power of attorney over both companies and was one of only two signatories to company accounts in Swiss banks.²⁴² Prior to founding Taurus in 1993, Mr. Pollner worked at Bayoil where he developed a close relationship with Mr. Chalmers, which he maintained after leaving. In the early years of the Programme, Mr. Chalmers

²⁴² BNP record, Credit proposal for Taurus Petroleum (Oct. 15, 2001) (noting the ownership structure of the Taurus Group); UEB Geneva record, Taurus Nevis account, Taurus Petroleum (USA) LLC fax to UEB (Dec. 12, 2000) (noting the shareholders of Taurus Petroleum); ING Bank Geneva record, Taurus Nevis account, “Background of the Company” (June 23, 2004) (noting Ben Pollner as the “founder and the main driving force of the Taurus Group” and noting Ben Pollner’s transfer of ownership of Taurus Petroleum (USA) LLC to his children, Amy Pollner and Edward Pollner); UEB Geneva record, Taurus Nevis account, Taurus Petroleum resolutions (Dec. 16, 2002) (noting that Taurus Petroleum “owns all of the issued and outstanding stock” in Taurus Nevis); Martin Schenker letter to Switzerland Observer Mission (May 6, 1998) (noting Ben Pollner as “responsible for all commercial activities of the Taurus Group”); UEB Geneva record, Taurus Nassau account, incorporation documents (Aug. 6, 1998); Banque Bruxelles Lambert Geneva record, Taurus Nevis account, incorporation documents (June 13, 1996); UEB Geneva record, Taurus Nassau account, account documents (Oct. 1998); Banque Bruxelles Lambert Geneva record, Taurus Nassau account, account documents (June 2001); Banque Paribas (Suisse) record, Taurus Nassau account, account documents (Jan. to July, 1999); Credit Suisse Geneva record, Taurus Nassau account, account documents (Sept. to June, 2000); UEB Geneva record, Taurus Nevis account, account documents (Mar to Oct. 2001); Banque Bruxelles Lambert Geneva record, Taurus Nevis account, account documents (June 2001); Credit Suisse Geneva record, Taurus Nevis account, account documents (June to July, 2001); BNP Geneva record, Taurus Nassau account, account documents (Jan. to July 1999); Credit Suisse Geneva record, Taurus Nassau account, power of attorney (Aug. 14, 1998) (appointing Ben Pollner and Martin Schenker “to purchase, transfer, sell, lease pledge, mortgage, encumber or dispose of in any way or manner . . . the property of the company”); UEB Geneva record, Taurus Nevis account, power of attorney (June 13, 1996) (appointing Ben Pollner to “execute, sign, enter into, acknowledge, perfect and do all such deeds, agreements, instruments, acts and things as shall be requisite for or in relation to all or any of the purposes the company deems necessary or required including but not limited to open, operate, manage and close bank accounts”). In January 2003, Taurus Nevis changed domicile to Switzerland. UEB Geneva record, Taurus Nevis account, Taurus Petroleum (USA) LLC resolutions (Dec. 16, 2002) (resolving that the corporate domicile of Taurus Nevis would be transferred to Switzerland); UEB Geneva record, Taurus Nevis account, endorsement certificate (Jan. 3, 2003) (certifying that, on January 3, 2003, the domicile of Taurus Nevis was transferred to a foreign jurisdiction).

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and Mr. Pollner frequently discussed the distribution of Iraqi oil with each other and with other traders in the oil industry.²⁴³

Mr. Pollner's closest associate in Programme-related activities was Mr. Schenker, who joined the Taurus Group in 1994. Mr. Schenker has been described as the Director of Finance and Administration of Taurus and "a close personal friend" of Mr. Pollner. He was, along with Mr. Pollner, the other individual signatory to Taurus Nassau's and Taurus Nevis's accounts in Swiss banks, and he had power of attorney over Taurus Nassau.²⁴⁴ In February 1999, Mr. Schenker, along with a French national, Jean-Loup Michel, formed Aredio to acquire oil sold through the Programme.²⁴⁵

2. Taurus Surcharge Payments on Three Russian Contracts

Between Phases IV and XIII, Taurus purchased over 106 million barrels of oil under contracts with Russian companies. It financed at least 92 letters of credit for seven companies, namely Machinoimport, Neftegazexport, Rosneftegazexport, Rosnefteimpex, Sidanco, Zangas, Zarnestservice, and Zarubezhneft. When the Government of Iraq initially demanded surcharges in the autumn of 2000, Taurus was involved in oil transactions with Zangas, Zarubezhneft, and Machinoimport. In the middle of Phase VIII, surcharges were imposed on the oil lifted by Taurus under these contracts.²⁴⁶

²⁴³ Stasby/Wilson, *Petroleum Suppliers: Americas* (Apr. 1992, 28 ed.), p. B41 (noting Ben Pollner as Senior Vice-President of Bayoil (U.S.A.) Inc.); Augusto Giangrandi interviews (Apr. 25-28, 2005); Michel Tellings interview (Oct. 14, 2004); ING Bank Geneva record, Taurus Nevis account, "Background of the Company" (June 23, 2004).

²⁴⁴ Credit Suisse Geneva record, Phillippe Renevey memorandum to Bernhard Lippuner (May 5, 2004) (noting Martin Schenker as "CFO" of Taurus); Martin Schenker letter to Switzerland Observer Mission (May 6, 1998) (noting Martin Schenker as "Director of Finances and Administration, Taurus S.A."); Credit Suisse Geneva record, Taurus Nassau account, power of attorney (Aug. 14, 1998); BNP record, Aredio account, account administration documents (May 1999 to Jan. 2002). Mr. Renevey and Mr. Lippuner are both officers of Credit Suisse Geneva. Credit Suisse Geneva record, Phillippe Renevey memorandum to Bernhard Lippuner (May 5, 2004).

²⁴⁵ BNP Geneva record, Aredio account, articles of incorporation (Feb. 19, 1999) (reflecting that Mr. Michel controlled just over 50 percent of Aredio's shares, with the remainder controlled by Mr. Schenker). Opening documents for Aredio's account at BNP Geneva noted that Mr. Michel, like Mr. Schenker, was a close friend of Mr. Pollner. In a letter appended to opening documentation for Aredio's account at UEB Geneva, two bank officers noted that Mr. Schenker had, "for personal reasons," not wanted his name to appear on a form identifying the beneficial owner of Aredio. BNP Geneva record, Aredio account, account opening documents, "Annexe au formulaire 'A'" (May 7, 1999) (translated from French).

²⁴⁶ Committee oil financier table, contract nos. M/04/19, M/05/11, M/06/21, M/07/20, M/08/37, M/12/51, M/13/17, M/10/07, M/11/21, M/12/05, M/09/25, M/04/37, M/06/56, M/04/21, M/05/25, M/06/15, M/07/14, M/08/38, M/12/29, M/04/01, M/05/12, M/06/18, M/07/07, M/07/81, M/08/02, M/08/82, M/08/86, M/11/115; Committee oil company table, contract nos. M/08/37, M/12/51, M/10/07, M/11/21, M/12/05, M/08/38, M/12/29, M/08/02, M/08/86, M/11/115.

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In Phase VIII, Zangas entered into a contract to purchase six million barrels of oil. Taurus Nassau financed at least two of the five liftings of Zangas's oil contract. Ministry of Oil records show that surcharges in the amounts of \$230,220 and \$37,500 were levied on these two Taurus-financed liftings.²⁴⁷

Taurus Nassau paid the first surcharge on contract M/08/38 directly to a SOMO account. On September 18, 2000, four days after a Taurus-financed lifting occurred, Mr. Schenker sent a fax directing UEB Geneva to transfer \$230,221 from a Taurus Nassau account to a SOMO account at Fransabank. Mr. Schenker requested that UEB Geneva not mention Taurus in connection with the transfer of funds. The instructions on the fax requested to "[k]indly effect this payment without any mention to Taurus Petroleum Ltd. - and effect it by one of our customers only." Ministry of Oil and bank records reflect that the wire transfer from Taurus was used to satisfy the first surcharge obligation on the Zangas contract.²⁴⁸ The surcharge on the second lifting by Taurus was paid through Zangas.²⁴⁹

²⁴⁷ SOMO sales contract, no. M/08/38 (June 23, 2000) (contracting with Zangas); Committee oil financier table, contract no. M/08/38 (showing that Taurus financed liftings of 2,302,209 barrels and 375,000 barrels); Committee oil surcharge table, contract no. M/08/38 (showing surcharge payments of \$230,220.90 on September 2, 2000 and \$73,210 on June 14, 2001); Records of SOMO surcharge invoices (Sept. 14 and Nov. 16, 2000) (showing \$230,220 levied on 2,302,209 barrels and \$37,500 on 375,000 barrels under contract M/08/38, both rates of \$0.10 per barrel) (translated from Arabic).

²⁴⁸ SOMO bill of lading, bbl/2953 (Sept. 14, 2000) (reflecting the lifting of 2,302,209 barrels in relation to contract M/08/38); UEB Geneva record, Taurus Nassau account, payment order (Sept. 18, 2000); UEB Geneva record, Taurus Nassau account, bank statement (Sept. 30, 2000); Committee oil surcharge table, contract no. M/08/38 (noting a surcharge of \$230,221 paid into SOMO's Fransabank account from United European Bank); Records of SOMO surcharge invoices (Sept. 14, 2000) (translated from Arabic) (showing \$230,220 levied on 2,302,209 barrels under M/08/38).

²⁴⁹ SOMO record, Iraq Embassy in Moscow payment receipt, no. 14 (June 14, 2001) (translated from Arabic) (reflecting Zangas's payment of \$73,210 to the Embassy of Iraq in Moscow in connection with contract M/08/38); Committee oil surcharge table, contract no. M/08/38 (noting a surcharge of \$73,210 paid to the Embassy of Iraq in Moscow by Zangas); BNP Geneva record, Taurus Nassau account, bank statement (June 30, 2000) (reflecting a payment of \$73,519 to "JSC 'ZANGAS'"). From these records, it appears that Taurus also may have provided funds for a third surcharge payment of \$35,706 for 357,063 barrels lifted under contract M/08/38. Records of SOMO surcharge invoices (Sept. 22, 2000) (showing \$35,706 levied on 357,063 barrels under M/08/38).

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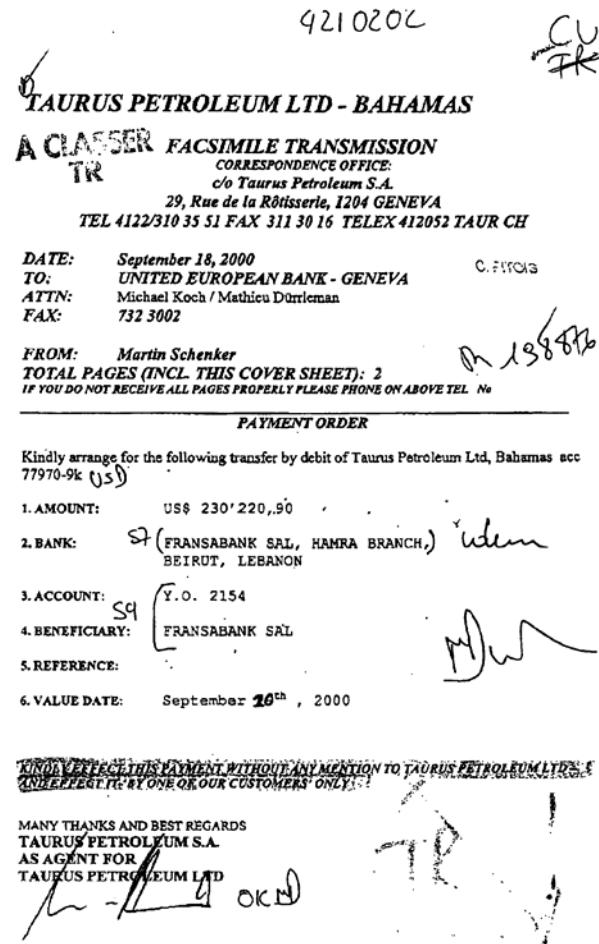


Figure: Martin Schenker letter to UEB Geneva (Sept. 18, 2000).

In Phase VIII, Zarubezhneft entered into a contract to purchase approximately 15 million barrels of oil. Taurus Nassau financed at least five of the eleven letters of credit issued in connection with this contract. Two of the five Taurus-financed lifts had surcharges imposed on them in amounts of \$96,302 and \$105,000, respectively. Again, Taurus Nassau directly paid these surcharges into an account controlled by SOMO. In late October 2000, nine days before these two Taurus-financed liftings occurred, Taurus Nassau transferred \$200,000 from its UEB Geneva bank account into a SOMO account at Fransabank. On this occasion, Taurus Nassau was identified in the wire transfer document. The wire transfer details also included information that the transfer related to "loading fees" purportedly incurred by the *New Vitality*, the vessel used for the two liftings on which total surcharges of \$201,302 had been imposed. Ministry of Oil records

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reflect that this wire transfer from Taurus was used to satisfy Zarubezhneft's surcharge obligations under contract M/08/02.²⁵⁰

Finally, in Phase VIII, Machinoimport entered into a contract to purchase approximately seven million barrels of oil. Taurus Nassau financed at least four of the six letters of credit issued in connection with this contract. Surcharges were levied on two of these four Taurus-financed liftings in amounts of \$130,000 and \$161,985, respectively. As it had with the Zangas and Zarubezhneft contracts, Taurus Nassau paid the surcharges on these liftings directly to SOMO. On October 16, 2000, one day before one of the two liftings occurred, Taurus issued a wire transfer in the amount of \$130,000 to a SOMO account at Fransabank. Ministry of Oil records show that the wire transfer was applied as a surcharge payment on contract M/08/37. On October 25, 2000, Taurus transferred \$160,000 to a SOMO account to cover the surcharge imposed on the second lifting. As with the Zangas surcharge payment, the wire transfers to the SOMO account did not identify Taurus's name and included information that the transfers were for "loading fees."²⁵¹

3. Taurus and the Creation of Alcon and Fenar

In 1999 and again in 2000, Mr. Schenker hired ReviTrust, a Liechtenstein financial services firm, to form two companies: Fenar and Alcon. Fenar was incorporated on June 15, 1999. Mr. Schenker directed ReviTrust to name Musbah Ladki as the beneficial owner of Fenar.²⁵² The

²⁵⁰ SOMO sales contract, no. M/08/02 (June 21, 2000) (contracting with Zarubezhneft); Committee oil surcharge table, contract no. M/08/02 (noting surcharges of \$200,000 paid to Fransabank by "Taurus Petroleum"); Records of SOMO surcharge invoices (Nov. 4 and 16, 2000) (translated from Arabic) (showing \$96,302 levied on 963,022 barrels and \$105,000 levied on 1,050,000 barrels under M/08/02); Committee oil financier table, contract no. M/08/02 (showing Taurus financing liftings of 963,022 barrels and 1,050,000 barrels); UEB Geneva record, Taurus Nassau account, bank statement (Oct. 31, 2000) (reflecting a debit of \$200,019); Fransabank record, SOMO account, SWIFT message (Oct. 26, 2000) (reflecting a payment of \$200,000); SOMO bills of lading, ck/4919 (Part 1) and ck/4919 (Part 2) (Nov. 4, 2000) (identifying the *New Vitality* as having lifted 1,050,000 and 963,022 barrels).

²⁵¹ SOMO sales contract, no. M/08/37 (June 23, 2000) (contracting with Machinoimport); Committee oil financier table, contract no. M/08/37 (showing that Taurus financed liftings of 900,000 barrels, 1,092,607 barrels, 1,619,856 barrels and 1,300,000 barrels); Records of SOMO surcharge invoices (Sept. 4 and Oct. 17, 2000) (showing \$161,985 levied on 1,619,856 barrels and \$130,000 levied on 1,300,000 barrels under M/08/37); UEB Geneva record, Taurus Nassau account, bank statement (Oct. 31, 2000) (reflecting debits of \$130,019 and \$160,024.76); Fransabank record, SOMO account, SWIFT message (Oct. 16, 2000) (reflecting a payment of \$130,000); Fransabank record, SOMO account, SWIFT message (Oct. 25, 2000) (reflecting a payment of \$160,000); SOMO bills of lading, bbl/2943 (Sept. 4, 2000) (identifying the *Violet* as having lifted 1,619,856 barrels), bbl/2982 (Oct. 17, 2000) (identifying the *Berge Ingerid* as having lifted 1,300,000 barrels); Committee oil surcharge table, contract no. M/08/37 (noting surcharges of \$160,000 and \$130,000 paid to Fransabank by United European Bank).

²⁵² Patrick Hilty interview (Apr. 13, 2005); BNP Geneva record, Fenar Petroleum account, articles of incorporation (June 15, 1999). Mr. Hilty is President of ReviTrust and personally oversaw the creation of both Fenar and Alcon. In the course of his interview, Mr. Hilty described the actions of the beneficial owners of Fenar and Alcon, but did not provide the identities of these persons. Patrick Hilty interview

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following year, Niels Troost, a senior employee of Taurus Petroleum Services Limited (“Taurus London”) had power of attorney and signed SOMO contracts on behalf of Fenar for a six-month period.²⁵³ Mr. Schenker then requested that ReviTrust create another company. Alcon was incorporated on November 9, 2000. Mr. Schenker instructed ReviTrust to name Amr Abdul Sattar Bibi as Alcon’s director and beneficial owner. Prior to his involvement with Alcon, Mr. Bibi had been a trader with Taurus. In connection with both incorporations, Mr. Schenker introduced Mr. Ladki and Mr. Bibi to the president of ReviTrust as “business partners” of Taurus who were able to obtain Iraqi crude oil but needed financing for the transactions.²⁵⁴

After being installed as the legal owner of Alcon, Mr. Bibi traveled on numerous occasions to Baghdad to negotiate oil contracts with SOMO on behalf of the company. Iraq officials involved in the oil contracts stated that they understood Taurus was using Fenar and Alcon as front companies to purchase Iraqi crude oil. According to Iraqi officials, on several occasions, Mr. Pollner, as well as Andrew Walker, Taurus’s General Manager of crude and products trade, accompanied Mr. Bibi to SOMO to discuss allocations and the payment of surcharges.²⁵⁵

(Apr. 13, 2005). The Committee was able to identify independently the beneficial owners of the two companies through official correspondence from the government of Liechtenstein and through documentation contained in bank records. Liechtenstein Financial Intelligence Unit letter to the Committee (Dec. 2, 2004); BNP Geneva record, Fenar account, account administration documents (July 2001); BNP Geneva record, Alcon account, account administration documents (July 2001).

²⁵³ Martin Schenker letter to Switzerland Observer Mission (May 6, 1998) (noting Niels Troost as “active in the international crude trade as well as managing [Taurus’s] internal Russian business”); Banque Bruxelles Lambert Geneva record, Taurus Nevis account, power of attorney (Aug. 14, 2000) (empowering Mr. Troost to “sign and conclude contracts on behalf of the company [Fenar], especially to sign and to conclude contracts for Iraqi crude”). Two days after this power of attorney was authorized by Mr. Hilty, Mr. Troost signed Fenar’s first contract. SOMO sales contract, no. M/08/67 (Aug. 16, 2000) (contracting with Fenar). On December 12, 2002, Mr. Troost received \$100,025 out of Taurus Nevis’s Banque Bruxelles Lambert account. Banque Bruxelles Lambert Geneva record, Taurus Nevis account, bank statement (Dec. 31, 2002).

²⁵⁴ Patrick Hilty interview (Apr. 13, 2005); BNP Geneva record, Alcon account, articles of incorporation (July 2, 2001); BNP Geneva record, Alcon account, account opening documents (July 2001) (reflecting Mr. Bibi’s prior association with Taurus). In November 2001, Mr. Bibi left Alcon in order to assume responsibilities as a full-time employee of Western Petroleum. In January 2002, he was succeeded as beneficial owner by Ali Ozer Balicki, a Turkish national who lived in Iraq for 18 years and had received a diploma from the University of Baghdad. Opening documentation for Alcon’s BNP Geneva account also noted Mr. Balicki as having been introduced to the bank by Martin Schenker. Patrick Hilty interview (Apr. 13, 2005); BNP Geneva record, Alcon account, account opening documents (Jan. 25, 2002) (supplemental form) (reflecting that Mr. Balicki assumed beneficial ownership of Fenar on January 25, 2002). Mr. Bibi was also affiliated with the Turkish firm Delta Petroleum Products Trading Company (“Delta”), and signed for Delta on the company’s contracts with SOMO. SOMO sales contracts, nos. M/01/29 (Feb. 17, 1997), M/02/07 (Aug. 9, 1997), M/03/24 (Jan. 12, 1998), M/07/38 (Dec. 14, 1999), M/08/47 (June 25, 2000) (all contracting with Delta Petroleum).

²⁵⁵ Iraq officials interviews; Martin Schenker fax to Switzerland Observer Mission (May 6, 1998) (noting Mr. Walker as the General Manager of Taurus’s crude and products trade).

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Beginning in Phase VIII, Fenar began receiving oil allocations in its own name and Alcon received allocations in the name of Amr Bibi. Alcon and Fenar also contracted to purchase oil allocated in the names of various individuals based in Europe and the Middle East, as well as from an Indian company, Reliance Petroleum.²⁵⁶

During this initial period, the front companies did not have their own bank accounts. As will be discussed below, Taurus not only financed letters of credit for the oil contracts, but also funded the payment of surcharges through its own corporate bank accounts. In July 2001, after both companies had been formed and surcharges had been imposed by the Government of Iraq, Mr. Schenker directed ReviTrust to open bank accounts for Alcon and Fenar at BNP Geneva.²⁵⁷ In the opening account records, BNP documented the relationship between Taurus and Fenar as it had been explained to the bank:

This spring our client Taurus Petroleum Ltd introduced us to Mr. Ladki, with whom [Taurus] has entered into business relations under the Oil for Food Programme in Iraq. Taurus Petroleum ceded the company Fenar Petroleum to Mr. Ladki.²⁵⁸

The opening records also showed that according to Taurus, although it claimed to have “ceded” its ownership of Fenar to Mr. Ladki, it had retained Fenar’s rights to oil contracts under the Programme:

Mr. Ladki was introduced to us by our client Taurus Petroleum Ltd. Indeed, since the month of March, Fenar Petroleum has ceded to Taurus its contracts for the sale of Iraqi crude.²⁵⁹

Other connections also linked Alcon and Fenar with Taurus. One of the United Nations contracts with Fenar noted a “corresponding address” for the company at 5 Prince’s Gate in London—the same address used by the offices of Taurus London, another Taurus entity of which Mr. Pollner

²⁵⁶ Committee oil company table, contact nos. M/08/67, M/09/01, M/09/04, M/09/35), M/10/03, M/10/09, M/10/17, M/10/59, M/10/96, M/11/25, M/11/43, M/11/65, M/11/67, M/12/35, M/12/39, M/13/07, M/13/19.

²⁵⁷ Patrick Hilty interview (Apr. 13, 2005); BNP Geneva record, Fenar account, account opening documents (July 2, 2001); BNP Geneva record, Alcon account, account opening documents (July 2, 2001) (indicating that Mr. Bibi was introduced to the bank by Martin Schenker).

²⁵⁸ BNP Geneva record, Fenar account, account opening documents (July 2, 2001) (translated from French).

²⁵⁹ Ibid.

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was the director.²⁶⁰ In addition, in December 2001, websites were created for both Fenar and Alcon. These websites were both registered under the name of a Pollner family member.²⁶¹

4. Taurus Financed Oil Contracts Involving Alcon and Fenar

Between Phases VIII and XIII, Fenar entered into contracts directly with SOMO to purchase approximately 54 million barrels of oil. During the same period, Alcon purchased about 64 million barrels of oil. Taurus Nassau and Taurus Nevis collectively financed at least 73 of the 94 liftings made in connection with all of the Alcon and Fenar contracts. The Committee has not found any records indicating that either Alcon or Fenar financed any of their own letters of credit for oil liftings. Nor do Alcon and Fenar appear to have any financial resources independent of Taurus that would have made them eligible for bank financing on the oil contracts.²⁶²

As a general practice, Taurus Nassau and Taurus Nevis drew upon their accounts at various Swiss banks, including Credit Suisse, Banque Bruxelles Lambert SA, and BNP/UEB, to finance the oil contracts. For each letter of credit, the banks obtained a power of attorney authorizing Taurus Nassau or Taurus Nevis to act on behalf of Alcon or Fenar with regard to that particular transaction. The banks were instructed by Taurus employees to open letters of credit.²⁶³

²⁶⁰ SOMO sales contract, no. M/08/67 (Aug. 16, 2000) (contracting with Fenar); United Kingdom Mission letter to 661 Committee Chairman (May 12, 1995) (noting 5 Prince's Gate, London, as the address of Taurus London); United Kingdom Companies House record, Taurus London annual return (Sept. 29, 2003) (noting Mr. Pollner as Director of Taurus London).

²⁶¹ Register.com, “WHOIS lookup,” http://premiere.register.com/whois_lookup.cgi (showing registration information on <http://www.fenarpetroleum.com> and <http://www.alconpetroleum.com>).

²⁶² Committee oil company and financier tables, contract nos. M/08/67, M/09/04, M/10/09, M/10/96, M/11/65, M/11/67, M/12/39, M/13/07, M/09/01, M/09/35, M/10/03, M/10/17, M/10/59, M/11/25, M/11/43, M/12/35, M/13/19; BNP Geneva record, Fenar account, bank statements (July 12, 2001 to May 31, 2004) and credit advices (Sept. 17, 2001 to Oct. 27, 2003) (reflecting that all funds received into Fenar’s account were from Taurus Nevis); BNP Geneva, Alcon account, bank statements (July 14, 2001 to Dec. 31, 2003) and credit advices (Aug. 28, 2001 to Oct. 27, 2003) (reflecting that all but \$644,769 of the funds received into Alcon’s account were from Taurus Nevis).

²⁶³ Patrick Hilty interview (Apr. 13, 2005) (stating that Taurus provided financing for all of Fenar’s and Alcon’s letters of credit and that letters conferring power of attorney on a Taurus entity were sent to BNP Geneva in connection with each letter of credit issued in the name of Alcon and Fenar); BNP Geneva record, Alcon account, bank statements (Aug. 2001 to Dec. 31, 2003) (reflecting that Alcon did not finance any letters of credit); BNP Geneva record, Fenar account, bank statements (Sept. 2001 to May 2004) (reflecting that Fenar did not finance any letters of credit); Committee oil financier table; Banque Bruxelles Lambert Geneva record, Niels Troost letter to Banque Bruxelles Lambert Geneva (Nov. 14, 2000) (referring to Mr. Troost as an office of Fenar and authorizing Banque Bruxelles to issue a letter of credit “us[ing] our [Fenar’s] name in the issuance of this documentary credit as instructed by and under the full responsibility of Taurus Petroleum Ltd.”).

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5. The Surcharge Phases

When the Iraqi Ministry of Oil was in need of oil purchasers in the face of mandatory surcharges imposed in the end of 2000, Taurus used Alcon and Fenar to purchase over 47 million barrels of oil in Phase IX. Consequently, Liechtenstein companies—which had not participated in the Programme prior to Fenar’s first contract—became the largest purchasers of Iraqi oil during Phase IX, exceeding even Russian and French firms. In the subsequent surcharge phases, Alcon and Fenar purchased an additional 55.1 million barrels of oil. Ministry of Oil and bank records show that the surcharges assessed and paid on the Alcon and Fenar contracts totaled over \$26 million.²⁶⁴

6. Taurus Funded the Surcharges on the Alcon and Fenar Contracts

Most of the surcharges imposed on Alcon and Fenar contracts were paid through wire transfers from two accounts in the names of Petrocorp and Jabal at First National Bank in Lebanon (“First National Bank”). On opening bank records, Mr. Ladki, the same individual named by Taurus as the beneficial owner of Fenar, was named as the founder and owner of Petrocorp and Jabal and the sole signatory to both companies’ bank accounts. The Petrocorp bank account was opened in August 2000, and the Jabal bank account in March 2001. From the time that the accounts were opened until they became inactive in December 2002, they were funded primarily by Taurus or entities controlled by Taurus. Taurus Nassau, Fenar, and Alcon transferred at least \$27.6 million of the total of about \$32.6 million deposited in the Jabal and Petrocorp bank accounts.²⁶⁵

As described below, the Alcon and Fenar surcharges were generally paid in three different ways: (1) out of the Jabal and Petrocorp accounts with funding from Taurus Nassau; (2) out of the Jabal and Petrocorp accounts with funding from Alcon and Fenar; and (3) out of a personal account belonging to Mr. Ladki, with funding from Jabal and Petrocorp.

Prior to the opening of the Alcon and Fenar accounts, Taurus entities transferred money directly to the Petrocorp and Jabal accounts for subsequent transfers to a SOMO account. Between January and July 2001, Taurus Nassau directly transferred over \$9.2 million to Petrocorp’s

²⁶⁴ “Programme Management Report,” vol. II, p. 32; Committee oil company, financier, and surcharge tables, contract nos. M/08/67, M/09/04, M/10/09, M/10/96, M/11/65, M/11/67, M/12/39, M/13/07; M/09/01, M/09/35, M/10/03, M/10/17, M/10/59, M/11/25, M/11/43, M/12/35, M/13/19.

²⁶⁵ First National Bank record, Jabal account, account opening documents (Mar. 30, 2001); First National Bank record, Petrocorp account, account opening documents (Aug. 10, 2000); Banque Bruxelles Lambert Geneva record, Taurus Nassau account, debit advices (Feb. 7 to June 28, 2001); Credit Suisse record, Taurus Nassau account, debit advices (Jan. 23 to July 2, 2001); UEB Geneva record, Taurus Nassau account, bank statements (Jan. 31, Apr. 30, May 31, and June 30, 2001); BNP Geneva record, Fenar account, debit advices (Sept. 25, 2001 to Nov. 29, 2002); BNP Geneva record, Alcon account, debit advices (Aug. 31, 2001 to Nov. 16, 2002); Lebanon Financial Intelligence Unit record, Lebanon Department of Examiners and Investigators report (June 28, 2005) (translated from Arabic) (reflecting the total funds received by the Jabal and Petrocorp accounts).

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account and over \$4 million to Jabal's account through a series of wire transfers. Taurus Nassau was identified on the debit advices showing the withdrawals from its account, but it was not identified as the source of the funds on most of the actual wire transfer documents showing the money being deposited in the Jabal and Petrocorp accounts.²⁶⁶ Each wire transfer included a reference to a vessel chartered for the loading and transit of oil purchased under the Programme. Most of the vessels referenced in the wire transfers had shipped oil nominally purchased by either Alcon or Fenar, and the other vessels had shipped oil under contracts with Aredio, Zangas, and Zerich GmbH, a Swiss company that had oil contracts financed by Taurus Nassau. Most of the wire transfer payments equaled an amount of \$0.25—a SOMO surcharge rate—per barrel lifted by the vessels.²⁶⁷

²⁶⁶ Banque Bruxelles Lambert Geneva record, Taurus Nassau account, debit advices (Feb. 7 to June 28, 2001); Credit Suisse record, Taurus Nassau account, debit advices (Jan. 23 to July 2, 2001); UEB Geneva record, Taurus Nassau account, bank statements (Jan. 31, Apr. 30, May 31, and June 30, 2001); First National Bank record, Petrocorp account, credit advices (Jan. 24, 2001 to June 30, 2001); First National Bank record, Jabal account, credit advices (Apr. 21 to July 4, 2001).

²⁶⁷ Banque Bruxelles Lambert Geneva record, Taurus Nassau account, debit advices (Feb. 7 to June 28, 2001) (referencing the *Berge Odel*, *New Vitality*, *Nord Millenium*, *Berge Tokyo*, *Berge Ingerid*, *Crude Med*, *Dorset*, *Murex*, *Crude Sky*, *Front Commander*, and *Opalia*); Credit Suisse record, Taurus Nassau account, debit advices (Jan. 23, 2001 to July 2, 2001) (referencing the *Diamond Iris*, *Eliki*, *Eaton*, *Berge Tokyo*, *Berge Phoenix*, *Crude Sky*, *Berge Helene*, *Jin Hua*, *Front Archer*, *Minerva Nounou*, and *Oriental Ruby*); UEB Geneva record, Taurus Nassau account, bank statements (Jan. 31, Apr. 30, May 31, and June 30, 2001); First National Bank record, Petrocorp account, credit advices (Jan. 24 to June 1, 2001) (referencing the *Crude Traveller*, *Panormos*, *Neon*, *Equatorial Lion*, *Crude Ena*, *Stena Companion*, *Nord Bay*, *Sailor*, *Crude Star*, and *Nord Millenium*); First National Bank record, Jabal account, credit advices (May 11 and June 25, 2001) (referencing the *Soro*, *Swan Sea*, *Nissos Christiana*, *Olympic Loyalty*, and *Rome*); SOMO commercial invoices, b/35/2001 (Mar. 9, 2001), b/34/2001 (Mar. 8, 2001), c/20/2001 (Mar. 12, 2001), c/10/2001 (Feb. 15, 2001), b/10/2001 (Jan. 26, 2001), b/3/2001 (Jan. 13, 2001), b/98/2001 (May 29, 2001), b/101/2001 (June 1, 2001), b/72/2001 (May 23, 2001), b/72/2001 (Apr. 23, 2001) c/52/2001 (Apr. 24, 2001), b/70/2001 (Apr. 21, 2001), b/55/2001 (Apr. 5, 2001), c/45/2001 (Apr. 9, 2001), c/40/2001 (Apr. 4, 2001), c/36/2001 (Mar. 30, 2001), b/97/2001 (May 25, 2001), b/87/2001 (May 13, 2001), c/62/2001 May 6, 2001), c/66/2001 (May 11, 2001), c/67/2001 (May 12, 2001), b/49/2001 (Mar. 29, 2001), b/51/2001 (Mar. 31, 2001), c/41/2001 (Apr. 4, 2001), c/32/2001 (Mar. 26, 2001), c/13/2001 (Feb. 23, 2001), c/9/2001 (Feb. 15, 2001), b/18/2001 (Feb. 3, 2001), b/94/2001 (May 24, 2001), b/58/2001 (Apr. 9, 2001), b/54/2001 (Apr. 4, 2001), b/31/2001 Mar. 5, 2001), b/19/2001 (Feb. 12, 2001), b/305/2000 (Oct. 8, 2000), b/282/2000 (Sept. 22, 2000), b/373/2000 (Dec. 16, 2000), b/372/2000 (Dec. 15, 2000), b/78/2001 (Apr. 30, 2001) (reflecting that the vessels *Berge Odel*, *New Vitality*, *Nord Millenium*, *Berge Tokyo*, *Berge Ingerid*, *Crude Med*, *Dorset*, *Murex*, *Crude Sky*, *Front Commander*, *Opalia*, *Diamond Iris*, *Eliki*, *Eaton*, *Berge Phoenix*, *Berge Helene*, *Jin Hua*, *Front Archer*, *Minerva Nounou*, *Oriental Ruby*, *Crude Traveller*, *Panormos*, *Neon*, *Equatorial Lion*, *Crude Ena*, *Stena Companion*, *Nord Bay*, *Sailor*, *Crude Star*, *Soro*, *Swan Sea*, *Nissos Christiana*, *Olympic Loyalty*, and *Rome* were used to lift oil purchased under SOMO sales contracts M/08/35 (contracting with Aredio) (July 10, 2000), M/08/38 (June 23, 2000) (contracting with Zangas); M/08/102 (July 23, 2000) (contracting with Zerich GmbH); M/09/01 (Dec. 14, 2000), M/09/35 (Jan. 29, 2001) (contracting with Alcon); M/09/04 (Dec. 21, 2000) (contracting with Fenar)); Committee oil financier table, contract nos. M/08/35, M/08/38, M/08/102, M/09/01, M/09/04, M/09/35.

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During that same period of time, a company named Alliance Petroleum sent six wire transfers totaling \$2.6 million from its Standard Chartered Bank (Hong Kong) account into the bank accounts of Petrocorp and Jabal. Two of the wire transfers contained payment details with the notation “c/o Taurus Petroleum.”²⁶⁸ The deposits from Alliance and Taurus, discussed above, constituted most of the money deposited in the Jabal and Petrocorp accounts through July 2001, at which time Alcon and Fenar began transferring funds into the accounts. Among the bank records reviewed, the Committee found one invoice describing the purported nature of the payments to Petrocorp. The invoice, which was addressed to Mr. Schenker, requested that Taurus Nassau remunerate Petrocorp for “loading fees” on the *Front Commander*, a vessel used to load oil under Fenar contract M/09/04. The invoice specified that Taurus should pay Petrocorp via its First National Bank account.²⁶⁹

The funds, however, were used for a different purpose. Most of the money deposited in the Jabal and Petrocorp bank accounts by Taurus Nassau and Alliance was used to pay surcharges imposed on contracts of Alcon and Fenar. Between January 1 and July 31, 2001, a total of at least \$7 million and €38,000 was transferred from the Petrocorp and Jabal accounts to a SOMO account at Jordan National Bank in Amman. The requests for each of these wire transfers directed First National Bank to replace Petrocorp’s and Jabal’s names on the transfers with names of various individuals, including “Amr Bibi,” “Salim Ahmad,” “Souhail Ousta,” “Murice Rizli,” “Elias Rizly,” and “Mohammed Ali.” Furthermore, as described below, funds from the Petrocorp and Jabal accounts were transferred to SOMO also through a personal account belonging to Mr. Ladki.²⁷⁰

²⁶⁸ First National Bank record, Petrocorp account, credit advice (Dec. 19, 2001); First National Bank record, Jabal account, credit advices (July 31 2001 to Feb. 11 2002) and statements (Jan. 1 to Dec. 31, 2001). The Committee was unable to obtain additional information regarding Alliance.

²⁶⁹ First National Bank record, Petrocorp account, invoice (June 10, 2001) (issued to Martin Schenker); Lebanon Financial Intelligence Unit record, Lebanon Department of Examiners and Investigators report (June 28, 2005) (translated from Arabic).

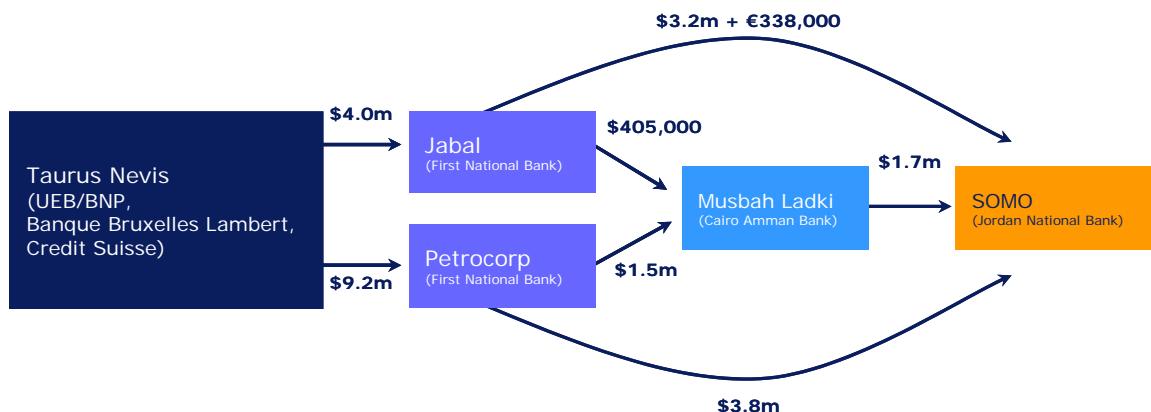
²⁷⁰ First National Bank record, Petrocorp account, debit advices and wire requests (Feb. 7 to July 16, 2001); First National Bank record, Jabal account, debit advices and wire requests (Apr. 24 to July 23, 2001); First National Bank record, Petrocorp account, wire request (Feb. 7, 2001) (requesting the use of the name “Souhail Ousta” on the wire transfer); First National Bank record, Jabal account, wire request (May 22, 2001) (requesting the use of the name “Salim Ahmad” on the wire transfer); First National Bank record, Petrocorp account, debit advices (Feb. 23 to June 26, 2001) and statements (Jan. 1 to Dec. 31, 2001); First National Bank record, Jabal account, debit advices (May 16 and 23, 2001); Cairo Amman Bank Beirut record, Musbah Ladki account, bank statements (Feb. 24, 2001 to Nov. 29, 2002); Jordan National Bank record, SOMO account, bank statements (Mar. 31 to June 30, 2001) (reflecting the receipt of funds in amounts and on dates consistent with the transfers out of Mr. Ladki’s account).

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Chart E – Flow of Funds from Taurus to SOMO (January 1 to July 31, 2001)



After Mr. Schenker had directed opening of bank accounts for Alcon and Fenar, Taurus Nassau stopped transferring money directly to the Petrocorp and Jabal banks accounts in July 2001.²⁷¹

Instead, Taurus Nevis began regularly transferring funds to the Fenar and Alcon bank accounts. In turn, Fenar began regularly transferring funds to Petrocorp's bank account, and Alcon transferred funds to Jabal's account. During the entire existence of their bank accounts at BNP, neither Fenar nor Alcon received any funds from any party other than Taurus Nevis—with the exception of one payment of \$664,769 to Alcon from a company with the same address as Taurus London.²⁷²

The money transferred from Taurus Nevis to Petrocorp and Jabal through the Alcon and Fenar bank accounts funded the payment of surcharges on oil contracts between Phases X and XII. Bank records show that, between August 2001 and December 2002, Taurus Nevis transferred \$6.3 million to Fenar's bank account, and Fenar transferred a total of \$6 million in funds to Petrocorp's account. Bank records also reflect that during the same period of time, Taurus Nevis similarly transferred a total of \$8 million to Alcon, and Alcon transferred a total of \$8.5 million in funds to Jabal's account. Unlike Taurus Nassau, Alcon and Fenar did not conceal their identities

²⁷¹ Lebanon Financial Intelligence Unit record, Lebanon Department of Examiners and Investigators report (June 28, 2005) (translated from Arabic) (noting an absence of any payments from Taurus Nassau or anonymous sources after July 2001).

²⁷² ReviTrust record, Fenar internal accounting spreadsheet (undated); ReviTrust record, Alcon internal accounting spreadsheet (undated); Patrick Hilty interview (Apr. 13, 2005); BNP Geneva record, Fenar account, credit advices (Sept. 17, 2001 to Nov. 25, 2002); BNP Geneva record, Alcon account, credit advices (Aug. 28, 2001 to Nov. 25, 2002); BNP Geneva record, Fenar account, debit advices (Sept. 25, 2001 to Nov. 29, 2002); BNP Geneva record, Alcon account, debit advices (Aug. 31, 2001 to Nov. 16, 2002). The one transfer from Sonatrach Petroleum to Alcon was noted as being care of “5 Princes Gate, London,” the same address as Taurus London. BNP Geneva record, Alcon account, credit advice (Dec. 24, 2001).

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when transferring funds to Jabal and Petrocorp. Meanwhile, between August 2001 and December 2002, Petrocorp and Jabal transferred at least \$4.2 million and €5.2 million to SOMO, again under names such as “Salim Ahmad” and “Murice Rizli.”²⁷³

All of the wire transfers from Taurus Nevis to the Alcon and Fenar accounts, and from Alcon and Fenar to the Jabal and Petrocorp accounts, contained references to ships used to lift oil purchased under SOMO contracts and to payments for “loading fees.” Mr. Schenker directed ReviTrust to transfer funds from the Alcon and Fenar bank accounts to pay for invoices that were forwarded to ReviTrust from Taurus. According to one ReviTrust official, an account officer at BNP Geneva requested a copy of these invoices. One of the initial invoices sent included a reference to “commissions,” which elicited a request by a BNP officer that the word “commission” be changed to “loading fees” in future invoices.²⁷⁴

²⁷³ ReviTrust record, Fenar internal accounting spreadsheet (undated); ReviTrust record, Alcon internal accounting spreadsheet (undated); Patrick Hilty interview (Apr. 13, 2005); BNP Geneva record, Fenar account, credit advices (Sept. 17, 2001 to Nov. 25, 2002); BNP Geneva record, Alcon account, credit advices (Aug. 28, 2001 to Nov. 25, 2002); BNP Geneva record, Fenar account, debit advices (Sept. 25, 2001 to Nov. 29, 2002); BNP Geneva record, Alcon account, debit advices (Aug. 31, 2001 to Nov. 16, 2002); First National Bank record, Petrocorp account, debit advices (Oct. 10, 2001 to Dec. 9, 2002) (reflecting the transfer of €1.5 million and \$2 million to SOMO); First National Bank record, Jabal account, debit advices (Aug. 11, 2001 to Nov. 2, 2002) (reflecting the transfer of €3.7 million and \$2.2 million to SOMO).

²⁷⁴ BNP Geneva record, Fenar account, credit advices (Sept. 17, 2001 to Nov. 25, 2002) (referencing the *Crude Tria, Kraka, Bosco Tapias, Crude Horn, Napa, Berge Phoenix, Olympia Spirit, Iria Tapias, Atalandi, Olympic Breeze, Crude Star, Gelibolu, Kristhild, Stena Concept, Nuria Tapias, Crude Med, Stena Constellation, and Ness*); BNP Geneva record, Fenar account, debit advices (Sept. 25, 2001 to Nov. 29, 2002) (referencing the same vessels); ReviTrust record, Fenar invoices to Taurus Nevis (Sept. 11, 2001 to Nov. 18, 2002) (referencing the same vessels); ReviTrust record, Petrocorp invoices to Fenar (Aug. 30, 2001 to Oct. 12, 2002) (referencing the same vessels); BNP Geneva record, Alcon account, credit advices (Aug. 28, 2001 to Nov. 25, 2002) (referencing the *Sharvan, Dorset, Front Champion, Crude Horn, Napa, Crude Star, Crude Med, Venetia, Eaton, Berge, Ingerid, Pride Independence, Ancona, Orient Tiger, Karvounis, Unicorn, Seasong, Tamara, Berge Boss and Stena Constellation*); BNP Geneva record, Alcon account, debit advices (Aug. 31, 2001 to Nov. 16, 2002); ReviTrust record (Alcon invoices to Taurus Nevis) (Aug. 17, 2001 to Nov. 18, 2002); Jabal invoices to Alcon (Aug. 16, 2001 to Oct. 15, 2002); Patrick Hilty interview (Apr. 13, 2005); SOMO commercial invoices, b/112/2001 (July 20, 2001), b/154/2001 (Sept. 13, 2001), c/123/2001 (Sept. 7, 2001), b/128/2001 (Aug. 8, 2001), b/111/2001 (July 19, 2001) b/216/2001 (Nov. 25, 2001), b/225/2001 (Dec. 12, 2001), b/194/2001 (Oct. 28, 2001), b/196/2001 (Oct. 30, 2001), b/159/2001 (Oct. 26, 2001), c/136/2001 (Sept. 24, 2001), b/92/2002 (May 22, 2002), b/19/2002 (Jan. 28, 2002), b/240/2001 (Dec. 31, 2001), c/6/2002 (Jan. 12, 2002), b/8/2002 (Jan. 16, 2002), b/7/2002 (Jan. 15, 2002), b/140/2002 (Aug. 12, 2002), b/129/2002 (Sept. 30, 2002), b/123/2002 (Sept. 24, 2002), b/114/2002 (Sept. 3, 2002), b/154/2002 (Sept. 24, 2002), b/162/2001 (Sept. 25, 2001), b/153/2001 (Sept. 13, 2001), c/114/2001 (Aug. 22, 2001), c/115/2001 (Aug. 23, 2001), c/91/2001 (July 18, 2001), b/132/2001 (Aug. 14, 2001), c/187/2001 (Dec. 13, 2001), c/51/2002 (June 1, 2002), c/48/2002 (May 30, 2002), b/75/2002 (Mar. 27, 2002), c/33/2002 (Mar. 8, 2002), b/20/2002 (Jan. 29, 2002), c/25/2002 (Feb. 27, 2002), b/155/2002 (Sept. 24, 2002), b/153/2002 (Sept. 22, 2002), b/136/2002 (Aug. 9, 2002), c/78/2002 (Aug. 1, 2002), c/72/2002 (July 21, 2002), b/116/2002 (July 13, 2002), c/69/2002 (July 12, 2002) (reflecting that the

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The invoices reviewed by the Committee reflect this use of the term “loading fees.” For example, on April 17, 2002, a Fenar invoice requested that Taurus Nevis pay the equivalent of \$0.39 per barrel of the total crude loaded on a vessel under contract M/11/65. One month later, Petrocorp submitted an invoice to Fenar for the equivalent of \$0.37 per barrel on the oil lifted by the same vessel. SOMO records reflect that the surcharge imposed on contract M/11/65, accounting for different destination rates, equated to an average surcharge of \$0.26 per barrel.²⁷⁵

vessels *Crude Tria*, *Kraka*, *Bosco Tapias*, *Crude Horn*, *Napa*, *Berge Phoenix*, *Olympia Spirit*, *Iria Tapias*, *Atalandi*, *Olympic Breeze*, *Crude Star*, *Gelibolu*, *Kristhild*, *Stena Concept*, *Nuria Tapias*, *Crude Med*, *Stena Constellation*, *Ness*, *Sharvan*, *Dorset*, *Front Champion*, *Venetia*, *Eaton*, *Berge Ingerid*, *Pride Independence*, *Ancona*, *Orient Tiger*, *Karyounis*, *Unicorn*, *Seasong*, *Tamara*, *Berge Boss*, and *Dundee* transported oil purchased under SOMO sales contracts, nos. M/10/03 (undated), M/10/17 (July 12, 2001), M/10/59 (Aug. 21, 2001), M/11/25 (Dec. 19, 2001), M/11/43 (Dec. 23, 2001) M/12/35 (June 13, 2002), (contracting with Alcon); M/10/09 (July 10, 2001), M/10/96 (Oct. 6, 2001), M/11/65 (Jan. 8, 2002), M/11/67 (Jan. 8, 2002), M/12/39 (June 13, 2002) (contracting with Fenar)). Fees for the *Dundee* were included in the wire transfer from Sonatrach Petroleum Limited to Alcon. BNP Geneva record, Alcon account, credit advice (Dec. 24, 2001).

²⁷⁵ ReviTrust record, Fenar invoice to Taurus Nevis (Apr. 17, 2002), Petrocorp invoice to Fenar (May 25, 2002); SOMO sales contract, no. M/11/65 (Jan. 8, 2002) (contracting with Fenar) (recording that the *Olympic Breeze* transported oil purchased by Fenar).

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| | |
|--|--------------------------------------|
| <p>FENAR PETROLEUM LIMITED Sitz: Schaan / HR Vaduz - H. 1040/72</p> <hr/> <p>Postfach 663 FL-9494 Schaan Telefon 00423 / 237 42 54 Telefax 00423 / 237 42 93</p> | <p>05-JUN-02 12:32 RN 00000 P. 0</p> |
| <p>PETROCOP A.V.V.</p> | |
| <p>Taurus Petroleum Limited P.O. Box 556 Main street Charlestown Nevis</p> | |
| <p>L.G. SMITH BLVD. 48 ORANJESTAD, ARUBA S.V. 24127</p> | |
| <p>25/5/2002 Ref. 43-06 To: FENAR Petroleum - Schaan Attn: Mr. Patrick Hiltz Fax: 433 237 4252</p> | |
| <p>Invoice No. 05/02</p> | |
| <p>Date : April 17th 2002 Vessel : m/v "Olympic Breeze" B/L Date : March 27th, 2002 Quantity : 1'894'229 Net US. Barrels Product : Basrah Load Port : Mina-al-Bakr</p> | |
| <p>Sale Price : OSP (U.S. DESTINATION) +\$0.39 per Net U.S. Barrel 1'894'229 bbls x \$0.39 US\$ \$738'749.31</p> | |
| <p>For remittance : US\$ \$738'749.31</p> | |
| <p>Payment 30 days from bill of lading date</p> | |
| <p>Bank : BNP Paribas (Suisse) S.A., Geneva Account No. : 81274-9/1Z (USD) Beneficiary : Fenar Petroleum Limited</p> | |
| <p>BEZAHLT 01.05.2002 <i>Fenar Petroleum Limited</i></p> | |
| <p>A/C No. 0001-106536-002 Bank/Name: FIRST NATIONAL BANK MAIN BRANCH Hamra Beirut - Lebanon Swift: FINKLBEB</p> | |
| <p>Best Regards, <i>[Signature]</i></p> | |
| <p>P/S pay 501. = \$ 350 412 T-126/WI 7.6.02</p> | |
| <p>BEZAHLT 01.05.2002</p> | |

Figure: Fenar invoice to Taurus (Apr. 17, 2002); Petrocorp invoice to Fenar (May 25, 2002).

Finally, during 2001 and 2002, \$8.8 million was transferred from the Petrocorp and Jabal accounts to Mr. Ladki's personal account at the Cairo Amman Bank in Beirut. From his personal account, Mr. Ladki transferred at least \$6.6 million to a SOMO account. As was the case with the Petrocorp and Jabal accounts, the transfers to SOMO out of Mr. Ladki's account were made under the names of various individuals such as "Mohammad Jamal," "Murice Rizli" and "Elias Ferzli." SOMO records reflect that over \$25 million was received from Mr. Ladki's various accounts to satisfy surcharges on Fenar, Alcon, and Areedio contracts.²⁷⁶

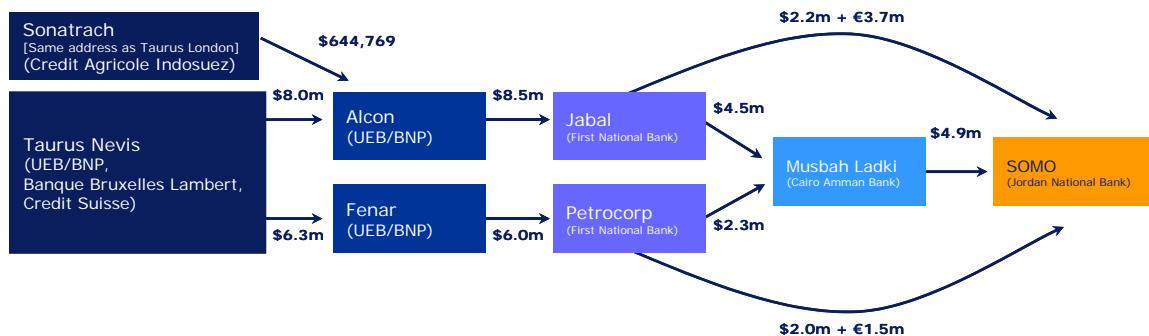
²⁷⁶ First National Bank record, Petrocorp account, debit advices (Feb. 23, 2001 to Mar. 18, 2002) and statement (Jan. 1 to Dec. 31, 2001); First National Bank record, Jabal account, debit advices (May 16, 2001 to Mar. 5, 2002); Cairo Amman Bank Beirut record, Musbah Ladki account, bank statements (Feb. 28, 2001 to Nov. 29, 2002); Jordan National Bank record, SOMO account, bank statements (Mar. 31, 2001 to Mar. 31, 2002) (reflecting the receipt of funds under the names "Mohammad Jamal," "Elias Ferzli," and "Murice Rizli," in amounts and on dates consistent with the transfers out of Mr. Ladki's account); Committee oil surcharge table, contract nos. M/08/67, M/09/04, M/10/09, M/10/96, M/11/65, M/11/67, M/12/39, M/09/01, M/09/35, M/10/03, M/10/17, M/10/59, M/11/25, M/11/43, M/12/35, M/09/23, M/10/71, M/10/82, M/10/84, M/10/86, M/11/64, M/11/66, M/11/80, M/11/82.

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Chart F – Flow of Funds from Taurus to SOMO (August 1, 2001 to December 31, 2002)



When the Government of Iraq stopped imposing surcharges in Phase XII, Taurus Nevis continued to finance and purchase oil contracts executed by Alcon and Fenar. However, Alcon and Fenar stopped receiving invoices from Taurus to transfer money to Jabal and Petrocorp, and they actually stopped transferring money to the accounts. In addition, Taurus Nevis's payments to Alcon and Fenar for oil purchased during Phase XIII decreased to as little as \$0.03 per barrel. None of these funds were transferred to the bank accounts for Jabal, Petrocorp, or Mr. Ladki.²⁷⁷

7. Aredio and the Payment of Surcharges

During Phases V through XIII, Taurus also used Aredio as a front company to purchase Iraqi crude oil that had been allocated primarily in the names of political beneficiaries. For example, Taurus financed Aredio contracts for oil allocated in the names of Mr. Galloway and Mr. Zureikat, discussed above in Section V.A. In connection with Aredio contract M/08/35, Taurus funded ASI Middle East's payment of an outstanding surcharge. On December 17, 2001, Taurus issued a \$264,505 payment to Mr. Zureikat and ASI Middle East. According to Ministry of Oil records, two weeks later, ASI Middle East deposited \$264,000 into a SOMO account that was

²⁷⁷ Committee oil financier table, contract nos. M/13/07, M/13/19; BNP Geneva record, Fenar account, bank statements (Nov. 30, 2002 to May 31, 2004) (recording the last transfer to Petrocorp as occurring on November 29, 2002); BNP Geneva record, Alcon account, bank statements (Nov. 30, 2002 to Dec. 31, 2003) (recording the last transfer to Jabal as occurring on November 26, 2002); ReviTrust record, Taurus Services SA letter to Alcon (Feb. 28, 2003) (indicating that Taurus would pay \$0.03 per barrel of oil to Alcon in connection with SOMO sales contract M/13/10); BNP Geneva record, Alcon account, credit advice (Oct. 27, 2003) (reflecting that Taurus Nevis paid Alcon between \$0.03 and \$0.04 per barrel in connection with contracts M/13/10 and M/13/19); ReviTrust record, Taurus Services SA letter to Fenar (Jan. 22, 2003) (indicating that Taurus would pay \$0.03 per barrel to Fenar in connection with SOMO sales contract M/13/07); BNP Geneva record, Fenar account, credit advice (Oct. 27, 2003) (reflecting that Taurus Nevis paid Fenar between \$0.01 and \$0.03 per barrel in connection with contract M/12/39 and M/13/17); BNP Geneva record, Alcon account, debit advice (Dec. 16, 2003); BNP Geneva record, Fenar account, debit advice (May 4, 2004).

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used to satisfy the surcharges on Aredio contract M/08/35.²⁷⁸ Taurus also covered the funds for the payment of surcharges on Aredio contract M/09/23, which was allocated to Mr. Zureikat. Funds from the Petrocorp bank account were used to make two deposits of \$149,860 and \$154,460 in a SOMO account, and these payments satisfied surcharge obligations on Aredio contract M/09/23.²⁷⁹

In the case of Mr. Munier, discussed in Section IV.F of this Chapter, Taurus financed a series of oil contracts through Aredio beginning in Phase V. When interviewed, Mr. Munier stated that he had agreed with Mr. Michel, President of Aredio, to assist in presenting the company to Iraqi officials in connection with the Programme in exchange for financial support of the *Amitiés Franco-Irakiennes* (the French-Iraqi Friendship Association). Bank records show that Mr. Munier was described to BNP as receiving “adviser’s fees” of \$0.07 per barrel. Through this relationship, Aredio entered into contracts to purchase almost 12 million barrels of oil allocated to Mr. Munier. Surcharges were paid on two of those contracts, namely M/10/86, in the amount of \$604,306, and M/11/80, in the amount of \$43,313. Mr. Munier stated that he was not involved in the payment of surcharges. When told that Aredio paid surcharges, Mr. Munier stated, “that’s possible.” Ministry of Oil and bank records show that the surcharges imposed on M/11/80 were paid out of Petrocorp’s First National Bank account under the name “Petro Ahmad Salim.” These records additionally show that at least \$388,860 of the surcharges levied on contract M/10/86 were paid out of Mr. Ladki’s account at Cairo Amman Bank under the name “Murice Rizli.” The remaining surcharges levied on contract M/10/86 were paid under the names “Muris Rizly” and “Mohammad Jamal.”²⁸⁰

²⁷⁸ Committee oil financier table, M/05/66, M/06/69, M/07/40, M/08/35, M/08/56, M/08/65, M/09/23, M/10/71, M/10/82, M/10/84, M/10/86, M/11/64, M/1166, M/11/80, M/11/82, M/12/120, M12/122, M13/75; Committee oil surcharge, company, and beneficiary tables, contract no. M/08/35; Confidential document.

²⁷⁹ SOMO letter to Amer Rashid (Jan. 14, 2001) (approving contract no. M/09/23 for three million barrels of oil for Aredio Petroleum); Committee oil beneficiary, company, and surcharge tables, contract no. M/09/23; First National Bank, Petrocorp account, bank statement (Jan 1. 2001 to Dec. 31, 2001) (reflecting outgoing payments to Jordan National Bank on March 13 and 14, 2001); Committee oil surcharge table, contract nos. M/09/04, M/10/09, M/10/96, M/11/65, M/11/67, M/12/39, M/09/01, M/09/35, M/10/03, M/10/17, M/10/59, M/11/25, M/11/43, M/12/35.

²⁸⁰ Confidential document; Gilles Munier interview (Sept. 23, 2005); Committee oil surcharge table, contract nos. M/10/86, M/11/80; Jordan National Bank record, SOMO account, credit advice (Dec. 12, 2002) (translated from Arabic) (reflecting a payment of \$200,995 from “Petro Ahmad Salim,” of which \$43,313.10 corresponded to contract M/11/80 for Aredio); First National Bank record, Petrocorp account, debit advice and wire request (Dec. 9, 2002) (reflecting a payment of \$201,000 to SOMO under the name “Petro Ahmad Salim” with a handwritten notation indicating that \$43,313.10 corresponds to Aredio contract M/11/80); Records of SOMO surcharge invoices (July 30, 2002) (showing \$43,313 levied on 288,754 barrels under contract M/11/80); Jordan National Bank record, SOMO account, credit advice (Feb. 20, 2002) (translated from Arabic) (including payments by “Murice Rizly” of \$183,930 and \$204,930 for contract M/10/86); Cairo Amman Bank (Beirut) records, Musbah Ladki account, debit advices and wire requests (Feb. 14 and 15, 2002) (reflecting the transfer of \$205,000 and \$184,000 to a SOMO account under the name of “Murice Rizly”).

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Taurus denied paying and financing surcharges and declined requests to cooperate with the Committee's investigation. Mr. Pollner, Mr. Schenker, Mr. Troost, and Mr. Bibi all have refused requests for meetings with the Committee. Mr. Ladki could not be reached for comment.²⁸¹

Alcon and Fenar each acknowledged that they had transferred significant sums to Jabal and Petrocorp, respectively, in connection with oil deals. However, both companies deny any knowledge or involvement in the payment of surcharges in connection with the oil they purchased under the Programme. Alcon and Fenar further state that if any illegal payments were made by Jabal and Petrocorp then "this is their fault" and each of those companies "has to be blamed for that."²⁸²

D. GLENCORE

Glencore and its subsidiaries ("Glencore"), a privately-held commodity-trading company based in Switzerland, was another major participant in the Programme that did not normally appear on contracts to purchase oil from Iraq under the Programme. Glencore was known as Marc Rich and Co. AG until 1994, when the company changed its name after Marc Rich divested his interests in the company.²⁸³ From the Programme's onset, Glencore mostly financed transactions and lifted Iraqi oil under SOMO contracts signed by other companies. In Phase IV, Glencore managed to obtain an oil contract directly from SOMO by using a subsidiary, Glencore France S.A.

²⁸¹ Committee letter to Taurus (Sept. 25, 2005); Taurus letters to the Committee (Aug. 2 and Sept. 30, 2005); Amr Bibi e-mail to the Committee (Apr. 6, 2005); Committee letter to Musbah Ladki (Oct. 15, 2005) (c/o Fenar).

²⁸² Alcon and Fenar submitted separate letters to the Committee by the same legal representative. Alcon letter to the Committee (Oct. 18, 2005); Fenar letter to the Committee (Oct. 18, 2005); Committee letter to Taurus (Sept. 25, 2005); Taurus letters to the Committee (Aug. 2 and Sept. 30, 2005); Amr Bibi e-mail to the Committee (Apr. 6, 2005).

²⁸³ Glencore is a privately-held company wholly owned by its management and employees. Glencore International AG, "Company Overview," http://www.glencore.com/pages/company_overview.htm; Registry of Commerce of the Canton of Zug record, Confirmation of Glencore International AG (Mar. 3, 1995); Registry of Commerce of the Canton of Zug record, Confirmation of Marc Rich + Co. AG (July 7, 1987). Glencore indicates that Marc Rich has retained no connection to the company. Banque Cantonale Vaudoise record, Identification sheet for Marc Rich + Co Investment AG (indicating that Marc Rich fully divested his interests in Glencore and began relying on another company, Marc Rich Investment AG, to trade in physical commodities); Peter Koenig, "Secretive Swiss trader links City to Iraq oil scam: Special Report," *The Sunday Times*, Sept. 25, 2005, p. 1; Marcia Vickers, "The Rich Boys; An ultra-secretive network rules independent oil trading. Its mentor: Marc Rich," *Business Week*, July 18, 2005, p. 70; Peter Klinger, "Former link with notorious oil trader still casts its shadow," *The Times*, Sept. 24, 2005, p. 66; Deborah Orr, "Twenty-five of the largest private companies headquartered outside the U.S.," *Forbes*, Nov. 29, 2004, p. 230. Glencore has made certain records available for review (but not copying) by the Committee. For citation purposes, notes taken during the review of Glencore records will be referenced in this Section as "Committee note-to-file (Aug. 30-31, 2005)."

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Otherwise, like Bayoil and Taurus, Glencore's opportunity to purchase Iraqi oil directly occurred during the Iraqi oil exporting crisis in Phase IX.²⁸⁴

During Phase IX, Glencore purchased a total of approximately 40 million barrels which amounted to over 11.5 percent of the Iraqi oil assigned to Phase IX contracts. For the first and only time during the Programme, Glencore also succeeded in obtaining a SOMO contract under its own name to purchase some of the oil that it lifted in that phase. The oil had been allocated in the name of Talal Hussein Abu-Reyaleh, a Jordanian businessman who was a Glencore agent. In subsequent surcharge phases, Glencore purchased another 82 million barrels of Iraqi oil assigned to contracts during those phases.²⁸⁵ Millions of dollars in surcharges were assessed on the oil lifted by Glencore during the surcharge phases. Glencore's agents, Mr. Abu-Reyaleh and Murtaza Lakhani, paid many of the surcharges assessed on oil financed and lifted by Glencore. Mr. Lakhani disclosed that he paid surcharges on behalf of Glencore. Mr. Abu-Reyaleh has refused to address the issue of surcharges with the Committee.²⁸⁶

Glencore has denied any knowledge or involvement in the payment of surcharges to the Government of Iraq and it has stated that it acted in full compliance with United Nations regulations.²⁸⁷

²⁸⁴ Luis Alvarez interview (Sept. 13, 2005) (indicating that Glencore purchased Iraqi oil from other companies that received oil allocations); Committee oil financier table; SOMO sales contracts, nos. M/04/43 (July 1, 1998), M/09/44 (Feb. 1, 2001).

²⁸⁵ Committee oil financier table, contract nos. M/09/02, M/09/06, M/09/29, M/09/34, M/09/37, M/09/44, M/09/60, M/09/76, M/09/77, M/09/91, M/09/100, M/09/105, M/09/122; SOMO sales contract, no. M/09/44 (Feb. 1, 2001) (contracting with Glencore International AG); Committee oil company table, contract no. M/09/44; SOMO letter to Amer Rashid (Feb. 27, 2001) (translated from Arabic) (identifying "Talal Abu-Reyaleh" as the individual associated with contract M/09/44); Saddam Z. Hassan fax to oil overseers (Mar. 9, 2001) (increasing oil allocated under contract M/09/44 to 12.6 million barrels); Committee oil financier table (showing that Glencore financed and lifted 32 million barrels in Phase X, 31 million barrels in Phase XI, and 18 million barrels in Phase XII from other companies).

²⁸⁶ Committee oil company and financier tables, contract nos. M/08/91, M/09/44, M/09/60, M/10/26, M/11/22, M/11/81, M/11/112 (showing that surcharges were levied on contracts financed by Glencore); Luis Alvarez interview (Sept. 13, 2005) (indicating that Mr. Lakhani and Mr. Abu-Reyaleh were agents of Glencore); Committee note-to-file (Aug. 30-31, 2005) (detailing the review of Glencore International AG and Murtaza Lakhani agency agreement (Jan. 23, 2001)); Committee note-to-file (Aug. 30-31, 2005) (detailing the review of Glencore International AG and Al-Khaled Engineering agreement (Dec. 7, 1999)); Murtaza Lakhani interviews (Oct. 18, 22, and 29, 2004); Talal Hussein Abu-Reyaleh interview (May 9, 2005). Mr. Abu-Reyaleh paid approximately \$7,335,868 in surcharges for oil financed and lifted by Glencore. Committee oil surcharge and financier tables, contract nos. M/08/91, M/09/44, M/09/60, M/10/26. Mr. Lakhani paid approximately \$1,048,830 in surcharges for oil financed and lifted by Glencore. Committee oil surcharge and financier tables, contract nos. M/09/37, M/11/22, M/11/81, M/11/112.

²⁸⁷ Glencore counsel letter to the Committee (Oct. 21, 2005).

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1. Before the Surcharge Phases

In the earlier phases, Glencore solicited Iraqi crude oil from companies holding SOMO contracts. Luis Alvarez, the main Glencore trader for Iraqi crude oil, stated that, early in the Programme, Glencore purchased between four and six million barrels of oil per phase. One company from which Glencore purchased oil during these early phases was Delta Petroleum Products Trading Company (“Delta Petroleum”). Mr. Bibi, discussed in Section VI.C above in connection with Taurus, was the Delta Petroleum representative who dealt with Glencore. According to Mr. Alvarez, Mr. Bibi mentioned to Glencore that French companies were highly regarded by the Government of Iraq in awarding oil contracts. Mr. Bibi offered to have Delta Petroleum help a French subsidiary of Glencore obtain a contract. Pursuant to an agency agreement, Delta Petroleum procured a SOMO contract for Glencore France S.A. (“Glencore France”) in Phase IV. Glencore paid Delta Petroleum a premium of \$0.09 per barrel for its assistance. According to Mr. Alvarez, the Iraqis soon realized that Glencore was not a French company and declined to enter into subsequent contracts.²⁸⁸

In 1999, Glencore developed a business relationship with Mr. Abu-Reyaleh to purchase Iraqi crude oil. According to Mr. Alvarez, Mr. Abu-Reyaleh approached Glencore to see if the company was interested in purchasing Iraqi crude oil. According to Ministry of Oil records, the oil offered to Glencore, and later purchased, had been allocated in the name of Leith Shbeilat, the leader of a Jordanian Islamic group who was connected to Mr. Abu-Reyaleh. Under an agreement with Glencore, Al-Khaled Engineering Est., a Jordanian company represented by Mr. Abu-Reyaleh, would act as an advisor to Glencore for the purpose of obtaining oil contracts to be signed by either Petrogaz Distribution S.A. (“Petrogaz”) or Glencore France. A related agreement provided that Petrogaz would act as an agent for Glencore on the contracts for a \$0.02 per barrel commission.²⁸⁹ Under this arrangement, Petrogaz signed contracts for approximately ten million barrels of oil that were financed and lifted by Glencore in Phases VI through VIII.²⁹⁰

²⁸⁸ Luis Alvarez interview (Sept. 13, 2005); SOMO sales contracts, nos. M/01/29 (Feb. 17, 1997) (contracting with Delta Petroleum), M/04/43 (July 1, 1998) (contracting with Glencore France for two million barrels of crude oil); SOMO oil allocation table for Phase V (Nov. 28, 1998) (noting that “Glencore (a French entity)” had been allocated two million barrels in Phase IV but no barrels in Phase V).

²⁸⁹ Luis Alvarez interview (Sept. 13, 2005); SOMO oil allocation table for Phase VI (May 27, 1999) (indicating an allocation of three million barrels of oil for Mr. Shbeilat, instead of Mr. Abu-Reyaleh); SOMO letters to Amer Rashid (June 12, 1999) (approving contract M/06/62 and referring to “Mr. Leith Shbeilat” as the allocation holder), (Dec. 29, 1999) (approving contract M/07/69 with Petrogaz and referring to “Mr. Leith Shbeilat” as the allocation holder), (July 8, 2000) (approving contract M/08/91 with Petrogaz and referring to “Mr. Leith Shbeilat” as the allocation holder) (each translated from Arabic); Iraq official interview (stating that Mr. Abu-Reyaleh was connected to Mr. Shbeilat); Committee note-to-file (Aug. 30-31, 2005) (detailing the review of Glencore International AG and Al-Khaled Engineering agreement (Dec. 7, 1999), which stipulated that the premium paid to Al-Khaled Engineering would be \$0.20 per barrel of oil lifted if the contract was signed with Petrogaz and \$0.22 per barrel of oil lifted if the contract was signed with Glencore France); Petrogaz record, Glencore International AG and Petrogaz agreement (July 16, 1999); “Aziz meets Main Jordanian Opposition Figure,” *Agence France Presse*, Jan. 5,

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2. Glencore's Contract with SOMO in Phase IX

Like Bayoil and Taurus, Glencore benefited from the scarcity of willing buyers for Iraqi crude oil in Phase IX after surcharges had been imposed by the Government of Iraq. In total, Glencore purchased over 40 million barrels during Phase IX. Half of the oil purchased by Glencore had been allocated in the name of its agent, Mr. Abu-Reyaleh. Glencore succeeded in obtaining a SOMO contract under its own name to purchase approximately 12 million barrels of the oil allocated to its agent. It purchased approximately another 8.6 million barrels allocated to Mr. Abu-Reyaleh under contracts signed by Petrogaz.²⁹¹

The main Glencore trader of Iraqi oil, Mr. Alvarez, acknowledged that he was notified of the possibility of surcharges in December 2000, immediately before Phase IX began. According to Mr. Alvarez, Ali Hassan Rajab, a senior SOMO official, advised him in a telephone conversation that Iraq was “considering” a request for additional payments to be made to SOMO’s own bank accounts. Mr. Alvarez stated that he made it very clear to SOMO that Glencore would not make any such payments. But a month after this conversation, Glencore entered into a SOMO contract

1999 (mentioning that Mr. Shbeilat was a former president of Jordan’s engineers union and a pro-Iraqi Islamist leader); Khaled Dawoud, “A choice and a prayer,” *Al-Ahram Weekly*, Feb. 25 to Mar. 3, 1999; Murtaza Lakhani interviews (Oct. 18, 22, and 29, and Dec. 6-13, 2004) (discussing the relationship between Mr. Abu-Reyaleh and Mr. Shbeilat and indicating that Mr. Shbeilat’s favorable speeches regarding Saddam Hussein were the main reason for his receipt of oil allocations).

²⁹⁰ SOMO sales contracts, nos. M/06/62 (June 8, 1999) (contracting with Petrogaz for three million barrels), M/07/69 (Dec. 21, 1999) (contracting with Petrogaz for two million barrels), M/08/91 (July 6, 2000) (contracting with Petrogaz for three million barrels); SOMO letter to Amer Rashid (Dec. 20, 2000) (translated from Arabic) (increasing the quantity of oil sold to Petrogaz under contract M/08/91 by an additional two million barrels); Petrogaz record, Glencore International AG and Petrogaz agreement (July 16, 1999) (regarding Petrogaz acting as agent for Glencore on contract M/06/62); Petrogaz record, Glencore International AG and Petrogaz agreement, addendum no. 1 (July 7, 2000) (extending Glencore’s agreement regarding Petrogaz acting as agent for Glencore on contract M/08/91); Luis Alvarez interview (Sept. 13, 2005).

²⁹¹ Committee oil financier table, contract nos. M/09/02, M/09/06, M/09/29, M/09/34, M/09/37, M/09/44, M/09/60, M/09/76, M/09/77, M/09/91, M/09/100, M/09/105, M/09/122; SOMO sales contract, no. M/09/44 (Feb. 1, 2001) (contracting with Glencore International AG); Committee oil company table, contract no. M/09/44; SOMO letter to Amer Rashid (Feb. 27, 2001) (translated from Arabic) (identifying “Talal Abu-Reyaleh” as the individual associated with contract M/09/44); Saddam Z. Hassan fax to oil overseers (Mar. 9, 2001) (increasing oil allocated under contract M/09/44 to 12.6 million barrels); Committee oil financier and company table, contract no. M/09/60; SOMO letters to Amer Rashid (Feb. 21, 2001) (approving contract M/09/60 for two million barrels of oil for “Petrogaz Geneva (Talal Abu-Reyaleh)”), (May 13, 2001) (indicating that the contract with Petrogaz (Talal Abu-Reyaleh) was increased to nine million barrels) (each translated from Arabic); Petrogaz record, Glencore International AG and Petrogaz agreement (July 16, 1999); Petrogaz record, Glencore International AG and Petrogaz agreement, addendum (Feb. 19, 2001) (extending Petrogaz’s agency agreement with Glencore to cover contract M/09/60).

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for the purchase of a significant amount of oil. Two weeks later, Petrogaz, acting as an agent for Glencore, also signed a SOMO contract. Surcharges were levied on both contracts.²⁹²

3. Glencore and Surcharge Payments in Phase IX

Mr. Abu-Reyaleh paid the surcharges levied on the Glencore and Petrogaz contracts in Phase IX, as well as outstanding surcharges on an earlier contract financed by Glencore in Phase VIII. Ministry of Oil records show that a total of approximately \$6.6 million was levied and paid on all three contracts.²⁹³ As detailed below, Mr. Abu-Reyaleh received sufficient funds from Glencore to cover the surcharge payments.

Glencore made its records relating to the three contracts, among others, available for review (but not copying) by the Committee. The Glencore records showed that the company kept track of payments made to Mr. Abu-Reyaleh in connection with contracts M/08/91, M/09/44, and M/09/60. The Committee also obtained some of the bank records used to transfer funds, which confirm many of Glencore's payments to Mr. Abu-Reyaleh. These records show that between August 2000 and September 2001, approximately \$9.1 million was wire transferred from Glencore's account at Credit Suisse (Geneva) and UBS (Zurich) to Mr. Abu-Reyaleh at four accounts at the Arab Bank Geneva, Arab Bank Dubai, Deutsche Bank A.G. (Munich), and Commercial Bank International (Dubai) ("Commercial Bank"). These funds were sufficient to cover the approximately \$6.6 million owed on surcharges.²⁹⁴

The records for two of Mr. Abu-Reyaleh's accounts show that during the same time period that Glencore transferred money to his accounts, he in turn transferred money to SOMO accounts for

²⁹² Luis Alvarez interview (Sept. 13, 2005); SOMO sales contract, no. M/09/44 (Feb. 1, 2001); Saddam Z. Hassan fax to oil overseers (Mar. 9, 2001) (amending contract M/09/44 by increasing amount of oil under contract to 12.6 million barrels); Petrogaz record, Glencore International AG and Petrogaz agreement, addendum (Feb. 19, 2001) (extending Petrogaz's agency agreement with Glencore to cover SOMO sales contract M/09/60); SOMO sales contract, no. M/09/60 (Feb. 17, 2001) (contracting with Petrogaz for two million barrels of oil); oil overseers fax to Petrogaz (May 14, 2001) (approving increase in oil contracted under M/09/60 to nine million barrels of oil); Committee oil company table, contract nos. M/09/44, M/09/60. An Iraqi official has shown Committee investigators a document showing that Glencore was originally placed on a list of companies "considering" paying the surcharges and later moved to the list of companies that "agreed" to pay the surcharge. Iraq official interview.

²⁹³ Committee oil company table, contract nos. M/08/91 (showing \$853,474 in surcharges assessed and \$286,573 paid), M/09/44 (showing \$3,222,781 in surcharges assessed and \$3,222,781 paid), M/09/60 (showing \$2,549,154 in surcharges assessed and \$3,115,692 paid).

²⁹⁴ Committee note-to-file (Aug. 30-31, 2005). Glencore records reflect that Glencore transferred \$5,099,885 to Mr. Abu-Reyaleh's account at Arab Bank Geneva, \$881,634 to Mr. Abu-Reyaleh's account at Deutsche Bank Munich, \$770,553 to Mr. Abu-Reyaleh's account at Arab Bank Dubai, and \$2,148,913 to Mr. Abu-Reyaleh's account at Commercial Bank International Dubai. The recipient account for a Glencore transfer to Mr. Abu-Reyaleh in the amount of \$200,000 was not identified. Committee note-to-file (Aug. 30-31, 2005).

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the surcharge payments on the three Glencore and Petrogaz contracts. For example, between January and April 2001, Glencore transferred a total of approximately \$4.8 million to Mr. Abu-Reyaleh's account at the Arab Bank Geneva. During that time period, approximately \$4.0 million was then wire transferred from Mr. Abu-Reyaleh's account to SOMO accounts.²⁹⁵

Between May and September 2001, Glencore transferred a total of approximately \$2.1 million to Mr. Abu-Reyaleh's account at the Commercial Bank. During that time period, approximately \$1.9 million was then transferred from Mr. Abu-Reyaleh's account at Commercial Bank to a SOMO bank account for the payment of surcharges on the contracts.²⁹⁶

With respect to these three contracts, Glencore's payments to Mr. Abu-Reyaleh do not appear to correspond with the agreed-upon commission of \$0.20 to \$0.22. The agreement provided that Mr. Abu-Reyaleh's company, Al-Khaled Engineering, would receive \$0.20 per barrel of oil lifted under Petrogaz contracts and \$0.22 per barrel under Glencore France contracts. An analysis of the Glencore records show that the \$0.22 per barrel commission was paid only on the initial lifts in the Phase IX contracts. During this time, Mr. Abu-Reyaleh made periodic surcharge payments

²⁹⁵ Credit Suisse record, Glencore International AG and M&M Finance Company Ltd. account, debit advices (Jan. 3, 2001) (transferring \$200,000 to Mr. Abu-Reyaleh's account at Arab Bank Geneva), (Jan. 29, 2001) (transferring \$385,302.60 to Mr. Abu-Reyaleh's account at Arab Bank Geneva), (Feb. 5, 2001) (transferring \$386,383.40 to Mr. Abu-Reyaleh's account at Arab Bank Geneva), (Mar. 29, 2001) (transferring \$600,534 to Mr. Abu-Reyaleh's account at Arab Bank Geneva), (Mar. 29, 2001) (transferring \$2,088,396.20 to Mr. Abu-Reyaleh's account at Arab Bank Geneva), (Apr. 6, 2001) (transferring \$1,023,000 to Mr. Abu-Reyaleh's account at Arab Bank Geneva), (Apr. 12, 2001) (transferring \$100,000 to Mr. Abu-Reyaleh's account at Arab Bank Geneva); Arab Bank Geneva record, Talal Hussein Abu-Reyaleh account, debit advices (Feb. 7, 2001) (transferring \$566,704 to SOMO account at Fransabank), (Mar. 30, 2001) (transferring \$1,746,322 to SOMO account at Fransabank), (Apr. 10, 2001) (transferring \$474,870 to SOMO account at Fransabank), (Apr. 10, 2001) (transferring \$785,076 to SOMO account at Fransabank), (Apr. 19, 2001) (transferring \$399,353 to SOMO account at Fransabank) (hereinafter "Abu-Reyaleh surcharge payments from Arab Bank"); Committee oil surcharge table, contract nos. M/08/91, M/09/44, M/09/60 (tying the payments made by Mr. Abu-Reyaleh to surcharge payments on specific contracts).

²⁹⁶ Committee note-to-file (Aug. 30-31, 2005) (detailing the review of Glencore records that reflect the following transfers from Glencore's account at UBS Bank Zurich to Mr. Abu-Reyaleh's account at Commercial Bank Dubai: (May 18, 2001) (reflecting transfer of \$486,532 and referencing "Spezial"), (May 23, 2001) (reflecting transfer of \$242,915 and referencing "Spezial"), (June 27, 2001) (reflecting transfer of \$348,079.36 and referencing "Spezial"), (June 27, 2001) (reflecting transfer of \$356,079.64 and referencing "Spezial"), (Aug. 13, 2001) (reflecting transfer of \$213,481.00 and referencing "Spezial"), (Aug. 27, 2001) (reflecting transfer of \$118,496.00 and referencing "Spezial"), (Aug. 29, 2001) (reflecting transfer of \$232,856.00 and referencing "Spezial"), (Sept. 4, 2001) (reflecting transfer of \$225,678.00 and referencing "Spezial"), (Sept. 13, 2001) (reflecting transfer of \$150,474.00 and referencing "Spezial"); SOMO account, credit advices (May 30, 2001) (reflecting a credit of \$158,865 from Mr. Abu-Reyaleh's account at Commercial Bank), (July 10, 2001) (reflecting a credit of \$608,746 from Mr. Abu-Reyaleh's account at Commercial Bank), (July 27, 2001) (reflecting a credit of \$593,406 from Mr. Abu-Reyaleh's account at Commercial Bank), (Sept. 25, 2001) (reflecting a credit of \$561,834 from Mr. Abu-Reyaleh's account at Commercial Bank) (hereinafter "Abu-Reyaleh surcharge payments from Commercial Bank").)

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on Phase IX contracts, even though the surcharge rate exceeded his commission rate from Glencore.²⁹⁷

By April 2001, the surcharges assessed on liftings under all three contracts were either overdue or coming due. Glencore records show that, on April 6, 2001, the company paid approximately \$1 million to Mr. Abu-Reyaleh as a commission in “advance” of lifting the oil. The money was applied on April 13, 2001 to pay outstanding surcharges on all three contracts. After April 2001, Glencore paid Mr. Abu-Reyaleh amounts that generally did not correspond to the agreed upon commission or were often labeled “Spezial.”²⁹⁸

Mr. Abu-Reyaleh has refused to answer the Committee’s questions regarding the surcharge payments. Glencore and Mr. Alvarez denied that Glencore was involved in the payment of surcharges or that Glencore “knowingly funded payments of surcharges to the Government of Iraq.” Mr. Alvarez stated that he specifically told Mr. Abu-Reyaleh not to pay surcharges. In a letter to the Committee, Glencore’s counsel emphasized that Glencore consistently made it clear to “all concerned - employees, agents, counter parties - that it expected full compliance with UN regulations.”²⁹⁹

When asked about the increased commissions paid to Mr. Abu-Reyaleh, Mr. Alvarez stated that Glencore had agreed in May 2001 to increase Mr. Abu-Reyaleh’s commission to between \$0.32 and \$0.34 per barrel. Mr. Alvarez stated that Mr. Abu-Reyaleh had insisted that market premiums to intermediaries had increased and should be matched by Glencore. Glencore did not

²⁹⁷ Committee note-to-file (Aug. 30-31, 2005) (detailing the review of Glencore International AG and Al-Khaled Engineering agreement (Dec. 7, 1999), which stipulated that the premium paid to Al-Khaled Engineering would be \$0.20 per barrel of oil lifted if the contract was signed with Petrogaz and \$0.22 per barrel of oil lifted if the contract was signed with Glencore France); Committee note-to-file (Aug. 30-31, 2005) (detailing the review of summary of payments related to contracts M/09/44 and M/09/60, which showed that payments made by Glencore to Mr. Abu-Reyaleh on March 29, 2001 amounted to \$0.22 per barrel); Committee surcharge table, contract nos. M/08/91, M/09/44, M/09/60.

²⁹⁸ Committee note-to-file (Aug. 30-31, 2005) (detailing the summary of terms for contract no. M/09/44, which evidenced an advance payment of \$1,023,000 to Mr. Abu-Reyaleh’s account at Arab Bank Geneva, on April 6, 2001, calculated on the basis of \$0.22 per barrel for 4.65 million barrels of oil to be lifted in April 2001 (projected to be lifted in two lifts of two million barrels and one lift of 0.65 million barrels)); Credit Suisse record, Glencore International AG and M&M Finance Company Ltd. account, debit advice (Apr. 6, 2001) (transferring \$1,023,000 to Mr. Abu-Reyaleh’s account at Arab Bank Geneva); Arab Bank Geneva record, Talal Hussein Abu-Reyaleh account, debit advices (Apr. 10, 2001) (transferring \$474,870 to SOMO account at Fransabank), (Apr. 10, 2001) (transferring \$785,076 to SOMO account at Fransabank); see also Luis Alvarez interview (Sept. 13, 2005) (indicating that payment of premiums generally occurred after the issuance of the bill of lading but that there may be special occasions in which a contracting party would ask to be paid the premium earlier than that).

²⁹⁹ Talal Hussein Abu-Reyaleh interview (May 9, 2005); Committee e-mail to Talal Abu-Reyaleh (June 18, 2005) (sending a list of questions to Mr. Abu-Reyaleh), Committee e-mail to Talal Abu-Reyaleh (July 8, 2005) (following up on the request sent in the e-mail dated June 18, 2005); Luis Alvarez interview (Sept. 13, 2005); Glencore counsel letter to the Committee (Oct. 21, 2005).

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produce any written document memorializing the increase in the premium. None of the Glencore records on payments to Mr. Abu-Reyaleh show that this increased commission rate was being used to calculate the disbursements to Mr. Abu-Reyaleh. Additionally, an analysis of the payments shows that Glencore would have had to apply the increase in commission retroactively for Mr. Abu-Reyaleh ultimately to have received amounts that translate to approximately \$0.31 per barrel on contract M/08/91, \$0.34 per barrel on contract M/09/60, and \$0.39 per barrel on contract M/09/44.³⁰⁰

4. Glencore and Split Premium Payments

In Phase IX, Glencore also purchased oil through other companies, including Zangas Petroleum (“Zangas”), a Russian-based company, and Marbel Resources Limited (“Marbel Resources”), a United Kingdom company. With these two companies, Glencore split the premium, paying the sales commission to the contracting company separately from the surcharge payment.

Glencore financed and lifted approximately 3.9 million barrels of oil under a contract signed by Zangas. The surcharges levied on the contract amounted to \$1,166,654, which corresponds to a \$0.30 per barrel surcharge. Glencore made two sets of split premium payments on the Zangas contract. Glencore records show that it wire transferred two payments to Zangas’s bank account in amounts that corresponded to \$0.07 per barrel on the liftings financed by Glencore. Shortly after each payment to Zangas, Glencore wire transferred a payment to a Swiss bank account of an entity named Verplank Holding Ltd. in an amount that corresponds to \$0.30 per barrel.³⁰¹

³⁰⁰ Luis Alvarez interview (Sept. 13, 2005). A review of Glencore documents has not revealed any subsequent agreement or amendment to the original agreement between Glencore and Al-Khaled Engineering. In addition, when asked whether there was any agreement to document the increased premium, Mr. Alvarez recalled that Al-Khaled Engineering may not have signed an agreement. Luis Alvarez interview (Sept. 13, 2005). Glencore records show that \$1,487,954.80 was paid to Mr. Abu-Reyaleh under contract M/08/91 and that 4,756,718 barrels were lifted under the contract. This payment amounts to \$0.31 per barrel. Committee note-to-file (Aug. 30-31, 2005) (detailing the review of terms for contract no. M/08/91); Committee oil company table, contract no. M/08/91. Glencore records show that \$4,711,396.20 was paid to Mr. Abu-Reyaleh under contract M/09/44 and that 12,106,613 barrels were lifted under the contract. This amounts to payment of \$0.39 per barrel. Committee note-to-file (Aug. 30-31, 2005) (detailing the review of terms for contract no. M/09/44); Committee oil company table, contract no. M/09/44. Glencore records show that \$2,901,634.00 was paid to Mr. Abu-Reyaleh under contract M/09/60 and that 8,609,000 barrels were lifted under the contract. This amounts to payment of \$0.34 per barrel. Committee note-to-file (Aug. 30-31, 2005) (detailing the review of terms for contract no. M/09/60); Committee oil company table, contract no. M/09/60.

³⁰¹ Committee oil company and financier tables, contract no. M/09/77; Committee note-to-file (Aug. 30-31, 2005) (detailing the review of terms for contract no. M/09/77). Glencore records show the following payments to Zangas’s account: \$132,110.86 on August 8, 2001 (corresponding to \$0.07 per barrel financed by letter of credit no. N729460) and \$140,108.29 on September 11, 2001 (corresponding to \$0.07 per barrel financed by letter of credit no. N730093). Glencore records show the following payments to Verplank Holding’s account at Credit Suisse Geneva: \$556,179 on August 15, 2001 (corresponding to \$0.30 per barrel financed by letter of credit no. N729460), and \$600,464.10 on September 5, 2001 (corresponding to \$0.30 per barrel financed by letter of credit no. N730093). Committee oil company and financier tables,

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Ministry of Oil records show that within a week of receiving the money from Glencore, Verplank Holding Ltd. transferred the same amounts to a SOMO account at the Jordan National Bank. The funds deposited by Verplank Holding Ltd. were used to satisfy the surcharge on Glencore's ³⁰² liftings under the Zangas contract.

Glencore also split its premium to Marbel Resources. Glencore purchased approximately two million barrels of oil under a contract signed by Marbel Resources. A total of \$593,510 in surcharges was levied on the oil financed and lifted by Glencore, corresponding to a \$0.30-per-barrel surcharge. Glencore records show that the company paid a \$0.36-per-barrel premium and split its payments to Marbel Resources between: (1) a wire transfer to Century Marketing Associates' bank account on May 25, 2001 in an amount that corresponds to \$0.06 per barrel; and (2) a transfer to Aamir Mansour's bank account on May 31, 2001, in an amount that corresponds to \$0.30 per barrel. Ministry of Oil records show that within a short period of time after the transfer to Mr. Mansour's account, cash deposits were made at the SOMO bank account in Jordan in satisfaction of the surcharge imposed on Glencore's lifting under the Marbel Resources contract.³⁰³

5. Glencore and Surcharge Payments on Incomed Trading's Contracts

In May 2001, after allegations surfaced that Glencore had diverted a cargo of oil from one destination to another without notice, the 661 Committee referred the company to Swiss authorities to investigate irregularities in Glencore's purchases of Iraqi oil. The 661 Committee also notified Glencore that future applications for oil purchases would be scrutinized if any irregularities with the transactions were noted. SOMO was not pleased with Glencore as a result of the diversion claim and did not contract with Glencore for the remainder of the Programme.³⁰⁴

contract no. M/09/77; Committee note-to-file (Aug. 30-31, 2005) (detailing the review of terms for contract no. M/09/77).

³⁰² Committee oil surcharge table, contract no. M/09/77. Verplank Holding transferred from its account at Credit Suisse Geneva to SOMO's account at Jordan National Bank Amman \$556,179.40 on August 10, 2001 and \$600,464 on September 12, 2001. Jordan National Bank record, SOMO account, credit advices (Aug. 15 and Sept. 12, 2001).

³⁰³ Committee oil company and financier tables, contract no. M/09/76 (showing that Glencore financed and lifted 1,978,367 barrels of oil); SOMO bill of lading, bbl/3110 (May 12, 2001) (relating to SOMO sales contract M/09/76 and showing that lift occurred on May 12, 2001); Records of SOMO surcharge invoices, contract no. M/09/76 (indicating that \$593,510 had been levied); Committee note-to-file (Aug. 30-31, 2005) (detailing the review of terms for contract no. M/09/76); Jordan National Bank record, SOMO account, credit advices (June 20, 2001) (showing a cash deposit of \$583,000 on behalf of Marbel Resources), (Aug. 20, 2001) (handwriting on advice notes that \$10,510.90 out of the cash deposit of \$253,473.00 relates to Marbel Resources's Phase IX contract).

³⁰⁴ Morten Buur-Jensen note-to-file (Apr. 4, 2001) (summarizing interaction of Mr. Buur-Jensen with Glencore staff regarding the matter); Glencore UK Ltd. fax to oil overseers (Apr. 23, 2001) (explaining Glencore's position and providing a copy of the holding and title certificate); 661 Committee Chairman letter to Switzerland Permanent Observer (May 8, 2001) (explaining the irregularity, attaching a summary

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Although it did not receive any further allocations directly, Glencore remained a major oil trader in Iraqi crude oil as it financed and lifted over 82 million barrels of oil during Phases X through XII. During this period, Glencore entered into an agreement with Incomed Trading Corporation (“Incomed Trading”) to purchase oil. Incomed Trading, a Panama-registered company, was closely held by members of Mr. Alvarez’s family, the main Glencore trader for Iraqi crude oil. Glencore purchased 11 million barrels of oil through Incomed Trading in Phases X through XIII. Glencore’s agents, Mr. Abu-Reyaleh and Mr. Lakhani, paid the surcharges imposed on Incomed Trading contracts in Phases X and XI.³⁰⁵

On Incomed Trading’s contract in Phase X, both Glencore agents were involved in paying the levied surcharge of \$800,821. An advance surcharge payment was made on the contract and the balance was paid through Glencore agents. Glencore records show that it paid Incomed Trading approximately €1,421,168 on the contract, which amounted to a premium of \$0.40 to \$0.45 per barrel. Incomed Trading, however, returned most of the money to Glencore’s agent, Mr. Lakhani, and kept an amount that would have corresponded to a lower agent commission of \$0.08 per barrel. Business records show that Incomed Trading directed the payment of €1,167,479 to Mr. Lakhani’s bank account in Cyprus. Shortly thereafter, Mr. Lakhani transferred €1,015,000 from his account in Cyprus to Mr. Abu-Reyaleh’s bank account in Dubai. In turn, Mr. Abu-Reyaleh transferred the funds into a bank account in Beirut that he appeared to have opened to transact short-term transfers. A total of \$710,822 was wire transferred from Mr. Abu-Reyaleh’s

of the situation, and asking the Swiss authorities to investigate Glencore’s activities highlighted in the oil overseers’ report); 661 Committee Chairman letter to oil overseers (May 10, 2001) (asking oil overseers to bring to the attention of Glencore International AG that “[t]he Oil Overseers will examine thoroughly the performance by Glencore International AG under future applications for the purchase of Iraqi oil”); Amer Rashid interview (Oct. 9, 2004) (stating that SOMO was incensed by Glencore’s diversion of oil); Iraq official interview (stating that there was a problem with Glencore because it was caught diverting oil to a different market than the one designated). Mr. Buur-Jensen served as an oil overseer under the Programme. Morten Buur-Jensen interview (Sept. 9, 2004).

³⁰⁵ Committee oil financier table; Committee note-to-file (Aug. 30-31, 2005) (detailing the review of Incomed Trading and Glencore International AG operating agreements (Oct. 25 and Nov. 22, 2002)). Mr. Alvarez’s father was the main shareholder in Incomed Trading and his mother was the chair. Panama Permanent Representative to 661 Committee Chairman (Mar. 27, 2000) (nominating Incomed Trading Corporation to participate in the Programme); Luis Alvarez interview (Sept. 13, 2005) (indicating that his father owned shares in Incomed Trading and that his mother was the Chairman); Murtaza Lakhani interview (Aug. 7, 2005) (indicating that Mr. Lakhani’s understanding was that the owner of Incomed Trading was the father of Luis Alvarez); Committee oil financier table, contract nos. M/10/26, M/11/22, M/11/12, M/12/60, M/12/124, M/13/63; Committee oil surcharge table, contract nos. M/10/26, M/11/22, M/11/12. Incomed Trading was incorporated in 1983 in Panama and is operated from an office in Spain. At the time of incorporation, it was owned by British Petroleum (“BP”). However, its shares were purchased in 1993 by certain former BP managers, including Mr. Alvarez’s father. Incomed Trading Corporation general information document (undated); Luis Alvarez interview (Sept. 13, 2005).

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bank account in Beirut to a SOMO account to satisfy the outstanding surcharge balance.³⁰⁶ The table below provides an overview of the flow of funds.

³⁰⁶ SOMO letter to Amer Rashid (July 23, 2001) (translated from Arabic) (approving contract M/10/26 for three million barrels of oil for Incomed Trading and referring to “Mr. Leith Shbeilat” as the allocation holder); Committee oil company table, contract no. M/10/26 (indicating that SOMO levied \$800,821 in surcharges on the contract); Committee note-to-file (Aug. 30-31, 2005) (detailing the review of payments relating to contract no. M/10/26); Incomed Trading fax to C. Palama (Dec. 11, 2001) (enclosing draft invoices, referring to payments to Mr. Lakhani’s account, which Incomed Trading wanted Ms. Palama to print on Al-Khaled letterhead); Incomed Trading fax to C. Palama (Dec. 11, 2001) (listing all the payment instructions that Incomed Trading had given the Bank of Cyprus); Murtaza Lakhani letter to Talal Hussein Abu-Reyaleh (Dec. 28, 2001) (attaching copy of transfer advices); Fransabank record, Talal Hussein Abu-Reyaleh account, credit advices (Mar. 5, 2002) (showing transfer of \$420,000,), (Mar. 8, 2002) (showing transger of \$199,995), (Mar. 8, 2002) (showing transfer of \$99,995); Fransabank record, SOMO account, credit advices (Mar. 8, 2002) (showing transfer of \$220,907 from Mr. Abu-Reyaleh), (Mar. 9, 2002) (showing transfer of \$218,392 from Mr. Abu-Reyaleh), (Mar. 9, 2002) (showing transfer of \$271,523 from Mr. Abu-Reyaleh). Only seven transactions were registered on the account of Mr. Abu-Reyaleh—six of which took place within four days. Fransabank record, Talal Hussein Abu-Reyaleh account, statement (Jan. 1, 2002 to May 17, 2005).

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Table 4 – Glencore’s Transfer of Funds and Mr. Abu-Reyaleh’s Surcharge Payments on M/10/26

| | Glencore Payments to Incomed Trading | Incomed Trading Payments to Lakhani | Lakhani Payments to Abu-Reyaleh | Abu-Reyaleh Surcharge Payments |
|---------------|---|--|------------------------------------|-----------------------------------|
| July 19, 2001 | – | – | – | \$90,000.00 |
| Nov. 29, 2001 | €450,106.96 | – | – | – |
| Nov. 30, 2001 | €451,467.90 | – | – | – |
| Dec. 8, 2001 | – | €185,000.00 | – | – |
| Dec. 10, 2001 | – | €180,833.00 | – | – |
| Dec. 12, 2001 | €519,593.72 | – | – | – |
| Dec. 12, 2001 | – | €183,000.00 | – | – |
| Dec. 14, 2001 | – | €183,598.00 | – | – |
| Dec. 17, 2001 | – | €140,000.00 | – | – |
| Dec. 19, 2001 | – | €145,000.00 | – | – |
| Dec. 21, 2001 | – | €150,048.00 | – | – |
| Dec. 31, 2001 | – | – | €300,000.00 | – |
| Jan. 2, 2002 | – | – | €500,000.00 | – |
| Jan. 3, 2002 | – | – | €100,000.00 | – |
| Jan. 3, 2002 | – | – | €115,000.00 | – |
| Mar. 8, 2002 | – | – | – | \$220,907.00 |
| Mar. 9, 2002 | – | – | – | \$218,392.00 |
| Mar. 9, 2002 | – | – | – | \$271,523.00 |
| Total | €1,421,168.58 | €1,167,479.00 | €1,015,000.00 | \$800,822.00 |

Mr. Lakani handled the payment of surcharges on Incomed Trading contracts in Phase XI. According to Mr. Lakhani, he was Glencore’s “man in Baghdad.” As part of a written agency agreement, Glencore agreed to pay Mr. Lakhani a monthly fee of \$5,000 for acting as a consultant for Glencore’s “proprietary activities in Iraq for the acquisition of Iraqi Crude Oil.” Mr. Lakhani paid approximately \$1 million in surcharges on Incomed Trading’s two contracts in Phase XI (M/11/22 and M/11/112).³⁰⁷

³⁰⁷ Committee oil surcharge table, contracts no. M/11/22, M/11/112; Murtaza Lakhani interview (Aug. 7, 2005); Iraq official interview (stating that Mr. Lakhani represented Glencore at SOMO); Committee note-

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Ministry of Oil records show that surcharges on these two contracts were paid in part by cash payments of \$710,000 made by Mr. Lakhani at the Permanent Mission of Iraq to the United Nations in Geneva from May 2002 to January 2003. According to Mr. Lakhani, he made the payments at the Permanent Mission of Iraq to the United Nations in Geneva with cash that he received from Glencore in Switzerland. He stated that he periodically received the cash from Glencore for payment of the surcharges through various individuals he could not identify. Copies of petty cash receipts obtained from Mr. Lakhani—some of which are produced below—show that, from January 24, 2002 through March 3, 2003, a series of cash payments totaling approximately \$1.36 million were made from Glencore's offices in Switzerland to Mr. Lakhani. In particular, the petty cash receipts obtained from Mr. Lakhani reflect a cash payment from Glencore on May 15, 2002 in the amount of \$415,000. Documents obtained from the Iraqi Mission to the United Nations in Geneva indicate that Mr. Lakhani made a surcharge payment of \$400,000 two days later.³⁰⁸

When asked about cash payments to Mr. Lakhani, Mr. Alvarez stated that he orally recommended, in 2001 or 2002, that Glencore pay Mr. Lakhani a “success fee” in the amount of \$300,000 or \$400,000. Mr. Alvarez stated that his recommendation was approved by his superior at Glencore. Glencore’s petty cash payments to Mr. Lakhani exceeded the amount of the “success fee.” Additionally, Andy Gibson, head of Glencore’s Crude Oil Operations in London, stated that he was unaware of Glencore awarding cash bonuses in the range of \$300,000 to \$400,000.³⁰⁹

to-file (Aug. 30-31, 2005) (detailing the review the Glencore and Murtaza Lakhani agency agreement (Jan. 23, 2001)); Luis Alvarez interview (Sept. 13, 2005). SOMO records reflect that one of the surcharge payments on contract M/11/22 was made by an entity named Imranco. Mr. Lakhani has indicated that Imranco was the trade name used by his company, Continental Oil, in Jordan. Murtaza Lakhani interviews (Dec. 6-13, 2004).

³⁰⁸ Iraq Permanent Mission to the United Nations in Geneva record, Payment receipts (May 17, 2002) (reflecting payment by Mr. Lakhani of \$400,000), (June 12, 2002) (reflecting payment by Mr. Lakhani of \$250,000), (Jan. 10, 2003) (reflecting payment of \$60,000); Murtaza Lakhani interviews (Dec. 6-13, 1994; Aug. 7, 2005); Murtaza Lakhani record, Glencore cash vouchers (Jan. 24, 2002) (for €170,850), (Apr. 24, 2002) (for €230,000), (May 15, 2002) (for \$415,000), (June 10, 2002) (for \$190,000), (July 4, 2002) (for \$80,000), (Oct. 7, 2002) (for CHF205,000), (Nov. 4, 2002) (for €10,000), (Nov. 20, 2002) (for €45,000), (Mar. 3, 2003) (for €5,000).

³⁰⁹ Luis Alvarez interview (Sept. 13, 2005); Andy Gibson interview (Sept. 14, 2005).

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|---|--------------------------|-----------|---|------------|--------------------|------|-----------------------|--------------------------|--------------------------|---------------------|---------|--|-------------------|----------------|------|---------------------------|----------------|----------------|-----------|---|---|----------|-----|--------|------------|--------------------|------|-----------------------|--------------------------|--------------------------|---------------------|---------|--|-------------------|-----------------|------|---------------------------|----------------|----------------|-----------|---|
| <div style="text-align: center; margin-bottom: 10px;"> GLENCORE <small>INTERNATIONAL AG</small> COPY </div> <p>Petty Cash Voucher M47 : 6379</p> <p style="text-align: center;">CASH 'OUT'</p> <table border="1" style="width: 100%; border-collapse: collapse; text-align: center;"> <tr> <td>Currency</td> <td>EUR</td> </tr> <tr> <td>Amount</td> <td>170'850.00</td> </tr> <tr> <td>Details of Payment</td> <td>Cash</td> </tr> <tr> <td>Account to be DEBITED</td> <td>10041.1001.151000.002.01</td> </tr> <tr> <td>Department / M.I.S. Code</td> <td>012 Oil - Baar only</td> </tr> <tr> <td>Project</td> <td></td> </tr> </table> <hr/> <table style="width: 100%; border-collapse: collapse;"> <tr> <td>Initials / Office</td> <td>GLE INTER,BAAR</td> <td>Name</td> <td>Glencore International AG</td> </tr> <tr> <td>Date / Cashier</td> <td>24.1.2002 /BK</td> <td>Signature</td> <td></td> </tr> </table> | Currency | EUR | Amount | 170'850.00 | Details of Payment | Cash | Account to be DEBITED | 10041.1001.151000.002.01 | Department / M.I.S. Code | 012 Oil - Baar only | Project | | Initials / Office | GLE INTER,BAAR | Name | Glencore International AG | Date / Cashier | 24.1.2002 /BK | Signature |  | <div style="text-align: center; margin-bottom: 10px;"> GLENCORE <small>INTERNATIONAL AG</small> COPY </div> <p>Petty Cash Voucher M47 : 7020</p> <p style="text-align: center;">CASH 'OUT'</p> <table border="1" style="width: 100%; border-collapse: collapse; text-align: center;"> <tr> <td>Currency</td> <td>EUR</td> </tr> <tr> <td>Amount</td> <td>230'000.00</td> </tr> <tr> <td>Details of Payment</td> <td>Cash</td> </tr> <tr> <td>Account to be DEBITED</td> <td>10041.1001.151000.002.01</td> </tr> <tr> <td>Department / M.I.S. Code</td> <td>012 Oil - Baar only</td> </tr> <tr> <td>Project</td> <td></td> </tr> </table> <hr/> <table style="width: 100%; border-collapse: collapse;"> <tr> <td>Initials / Office</td> <td>GLE INTER,BAAR</td> <td>Name</td> <td>Glencore International AG</td> </tr> <tr> <td>Date / Cashier</td> <td>24.4.2002 /IAC</td> <td>Signature</td> <td></td> </tr> </table> | Currency | EUR | Amount | 230'000.00 | Details of Payment | Cash | Account to be DEBITED | 10041.1001.151000.002.01 | Department / M.I.S. Code | 012 Oil - Baar only | Project | | Initials / Office | GLE INTER,BAAR | Name | Glencore International AG | Date / Cashier | 24.4.2002 /IAC | Signature |  |
| Currency | EUR | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Amount | 170'850.00 | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Details of Payment | Cash | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
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| Date / Cashier | 24.1.2002 /BK | Signature |  | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Currency | EUR | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Amount | 230'000.00 | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
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| Initials / Office | GLE INTER,BAAR | Name | Glencore International AG | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Date / Cashier | 24.4.2002 /IAC | Signature |  | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| <div style="text-align: center; margin-bottom: 10px;"> GLENCORE <small>INTERNATIONAL AG</small> COPY </div> <p>Petty Cash Voucher M47 : 7165</p> <p style="text-align: center;">CASH 'OUT'</p> <table border="1" style="width: 100%; border-collapse: collapse; text-align: center;"> <tr> <td>Currency</td> <td>USD</td> </tr> <tr> <td>Amount</td> <td>415'000.00</td> </tr> <tr> <td>Details of Payment</td> <td>Cash</td> </tr> <tr> <td>Account to be DEBITED</td> <td>10041.1001.151000.002.01</td> </tr> <tr> <td>Department / M.I.S. Code</td> <td>012 Oil - Baar only</td> </tr> <tr> <td>Project</td> <td></td> </tr> </table> <hr/> <table style="width: 100%; border-collapse: collapse;"> <tr> <td>Initials / Office</td> <td>GLE INTER,BAAR</td> <td>Name</td> <td>Glencore International AG</td> </tr> <tr> <td>Date / Cashier</td> <td>15.5.2002 /IAC</td> <td>Signature</td> <td></td> </tr> </table> | Currency | USD | Amount | 415'000.00 | Details of Payment | Cash | Account to be DEBITED | 10041.1001.151000.002.01 | Department / M.I.S. Code | 012 Oil - Baar only | Project | | Initials / Office | GLE INTER,BAAR | Name | Glencore International AG | Date / Cashier | 15.5.2002 /IAC | Signature |  | <div style="text-align: center; margin-bottom: 10px;"> GLENCORE <small>INTERNATIONAL AG</small> COPY </div> <p>Petty Cash Voucher M47 : 7329</p> <p style="text-align: center;">CASH 'OUT'</p> <table border="1" style="width: 100%; border-collapse: collapse; text-align: center;"> <tr> <td>Currency</td> <td>USD</td> </tr> <tr> <td>Amount</td> <td>190'000.00</td> </tr> <tr> <td>Details of Payment</td> <td>Cash</td> </tr> <tr> <td>Account to be DEBITED</td> <td>10061.1004.205919.001.01</td> </tr> <tr> <td>Department / M.I.S. Code</td> <td></td> </tr> <tr> <td>Project</td> <td></td> </tr> </table> <hr/> <table style="width: 100%; border-collapse: collapse;"> <tr> <td>Initials / Office</td> <td>BK SPECIAL,BAAR</td> <td>Name</td> <td>BK Special</td> </tr> <tr> <td>Date / Cashier</td> <td>10.6.2002 /IAC</td> <td>Signature</td> <td></td> </tr> </table> | Currency | USD | Amount | 190'000.00 | Details of Payment | Cash | Account to be DEBITED | 10061.1004.205919.001.01 | Department / M.I.S. Code | | Project | | Initials / Office | BK SPECIAL,BAAR | Name | BK Special | Date / Cashier | 10.6.2002 /IAC | Signature |  |
| Currency | USD | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Amount | 415'000.00 | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Details of Payment | Cash | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Account to be DEBITED | 10041.1001.151000.002.01 | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Department / M.I.S. Code | 012 Oil - Baar only | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
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| Initials / Office | GLE INTER,BAAR | Name | Glencore International AG | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Date / Cashier | 15.5.2002 /IAC | Signature |  | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Currency | USD | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Amount | 190'000.00 | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
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| Account to be DEBITED | 10061.1004.205919.001.01 | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Department / M.I.S. Code | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
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| Initials / Office | BK SPECIAL,BAAR | Name | BK Special | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Date / Cashier | 10.6.2002 /IAC | Signature |  | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |

Figure: Glencore cash vouchers (Jan. 24, Apr. 24, May 15, and June 10, 2002).

E. VITOL

Vitol S.A., a Swiss corporation, is part of the Vitol Group (“Vitol”), a major oil trader with a refinery in Canada that can process Iraqi crude oil. Like other oil companies and traders that were not based in countries favored by the Government of Iraq, Vitol was forced to purchase Iraqi crude oil through other companies during the Programme—until it later hired a French diplomat, Serge Boidevaix, to represent it in Baghdad. Mr. Boidevaix is discussed in Section IV.E of this Chapter. With Mr. Boidevaix’s assistance, Vitol obtained a series of oil contracts directly from SOMO. Surcharges were assessed on Vitol’s contracts in Phases IX and X. Vitol

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paid the surcharges assessed on its Phase IX contract through an entity named Peakville Limited.³¹⁰

Even after hiring Mr. Boidevaix, Vitol continued to acquire Iraqi crude oil through other agents and contracting companies. One of its most lucrative business relationships was with Mastek Sdn Bhd (“Mastek”), a previously dormant Malaysian company that had been revived by three individuals for the purpose of trading Iraqi oil allocations. During the Phase IX exporting crisis, the Ministry of Oil called upon Faek Ahmad Shareef, one of the Mastek partners, to help the country continue exporting crude oil and offered to sell him substantial amounts of oil. In Phase IX, Vitol financed 33 million barrels of oil through Mastek. SOMO assessed over \$10 million in surcharges on Mastek’s Phase IX contract, the single largest assessment on any given contract during the illicit scheme.³¹¹

Mr. Shareef and his partner, Jaya Sudhir, used commissions from Vitol to pay surcharges on the Mastek contracts. Vitol has denied paying any surcharges or knowingly financing them. When Mastek did not have sufficient funds to cover the surcharges assessed, it threatened to bring a lawsuit against Vitol. Vitol settled the dispute for \$2 million, most of which was used by Mastek to pay the outstanding surcharge balance.³¹²

In addition, in Phase XI, Vitol made a direct surcharge payment of approximately \$312,800 to one of SOMO’s accounts in Jordan with respect to oil that Vitol had purchased through Machinoimport, a Russian company.³¹³

³¹⁰ Vitol, “Organization and structure,” <http://www.vitol.com/general/organisation.php>; Robin D’Alessandro interview (Oct. 10, 2005); Committee oil company table, contract nos. M/04/08, M/05/36, M/06/40, M/07/30, M/08/34, M/09/97, M/10/78, M/13/74; Committee oil company table, contract no. M/09/97 (showing that surcharges in the amount of \$545,801 were assessed and paid); Fransabank record, SOMO account, credit advices (June 23, 2001) (showing transfer of \$250,217.00 from Peakville Limited’s account at HSBC Hong Kong), (Aug. 31, 2001) (showing transfers of \$108,000.00 and \$187,583.70 from Peakville Limited’s account at HSBC Hong Kong).

³¹¹ Vitol Asia record, Vitol Asia and Mastek purchase/sale agreement (Dec. 2, 1999) (regarding the purchase of Iraqi crude oil under Phase VII) (hereinafter “Vitol and Mastek Phase VII agreement”); Committee oil financier and company tables, contract no. M/09/18 (showing that Vitol lifted over 33 million barrels of oil through Mastek in Phase IX and that surcharges over \$10 million were assessed); Faek Ahmad Shareef interviews (Aug. 15-18, 2005).

³¹² Faek Ahmad Shareef interviews (Aug. 15-18, 2005); Jaya Sudhir interview (Aug. 19, 2005); Vitol Asia Pte Ltd, Mastek Sdn Bhd, Keppel Oil International Ltd Inc., and Jaya Sudhir settlement agreement (Feb. 26, 2002) (hereinafter “Vitol and Mastek settlement agreement”); Robin D’Alessandro interview (Oct. 10, 2005); Kho Hui Meng interview (Aug. 19, 2005). Mr. Hui Meng is president of Vitol Asia. Ibid.

³¹³ Committee oil financier, company, and surcharge tables, contract no. M/11/17 (contracting with Machinoimport); Jordan National Bank record, SOMO account, credit advice (Jan. 17, 2002) (translated from Arabic) and SWIFT message (Jan. 15, 2002).

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1. Vitol's Direct Contracts with SOMO

In the initial three phases, Vitol purchased Iraqi oil only through other contracting companies. Beginning in Phase IV, Vitol signed the first of eight SOMO contracts that had been obtained with the assistance of Mr. Boidevaix. The contracts resulted in the purchase of almost 30 million barrels of oil and were signed by Mr. Boidevaix as President of "Vitol – France for and on behalf of Vitol S.A. Geneva – Switzerland." No company called "Vitol France" existed. Vitol used the name simply to give it a "French angle" with SOMO. For his services, Mr. Boidevaix received a fee of \$30,000 per phase and a premium of \$0.01 per barrel, which was later raised to \$0.03 per barrel, for any barrels that Vitol lifted over the first three million barrels.³¹⁴

Surcharges were levied on the oil contracts executed by Vitol and Mr. Boidevaix in Phases IX and X. Vitol was aware that SOMO had imposed surcharges by Phase IX. At an OPEC conference in 2001, a SOMO official advised Mr. Boidevaix that Vitol had to pay surcharges if the company wanted any further oil contracts. Mr. Boidevaix discussed the matter with Robin D'Alessandro, the main Vitol trader for Iraqi crude oil, who in turn raised the issue with the management team in charge of crude oil at Vitol. Both Mr. Boidevaix and Ms. D'Alessandro stated that they agreed that no surcharges would be paid. However, after the OPEC conference, SOMO wrote a letter to the Minister of Oil seeking approval for Vitol's contract in Phase IX, and explicitly referenced that, under the contract, surcharges were due within 30 days of the lift. In the letter, the SOMO official wrote that the Minister of Oil—based on his meeting with Mr. Boidevaix during the OPEC conference—previously had approved giving this contract to Vitol. As demanded by SOMO, a surcharge payment on contract M/09/97 was made 23 days after Vitol lifted the oil.³¹⁵

³¹⁴ Robin D'Alessandro interview (Oct. 10, 2005) (indicating that, from Phases I through III, Vitol purchased from a number of companies including Total and Bayoil); Robin D'Alessandro fax to Oil overseers (Jan. 26, 1998) (indicating that Vitol was working with Sidanco regarding the purchase of 7.2 million barrels of oil); SOMO sales contract, no. M/04/08 (June 4, 1998); Vitol S.A. record, Vitol S.A. and S.B. Consultant consultancy agreement (Apr. 27, 1998); Committee oil company table, contract nos. M/04/08 (6,068,630 barrels lifted), M/05/36 (3,521,487 barrels lifted), M/06/40 (4,967,270 barrels lifted), M/07/30 (1,555,894 barrels lifted), M/08/34 (1,521,065 barrels lifted), M/09/97 (1,986,148 barrels lifted), M/10/78 (966,440 barrels lifted), M/13/74 (8,939,152 barrels lifted). A SOMO official has confirmed that SOMO would not have sold oil to Vitol as a Swiss company. Saddam Z. Hassan interview (Mar. 9, 2005).

³¹⁵ Committee oil company table, contract nos. M/09/97 (showing that surcharges in the amount of \$545,801 were levied and paid), M/10/78 (showing that surcharges in the amount of \$241,610 were levied and paid); Serge Boidevaix interview (Oct. 4, 2005); Robin D'Alessandro interview (Oct. 10, 2005); SOMO letter to Amer Rashid (Apr. 5, 2001)(approving contract M/09/97 for two million barrels of oil for Vitol) (translated from Arabic); SOMO bill of lading, bbl/3123 (May 31, 2001) (relating to contract M/09/97 and indicating that Vitol's first lift under contract M/09/97 occurred on May 31, 2001); Fransabank record, SOMO account, credit advice (June 23, 2001) (showing the transfer of \$250,217.00 from Peakville Limited's account at HSBC Hong Kong on June 23, 2001). SOMO records refer to a minimal shortfall of \$622 in the surcharge paid on contract M/10/78. These surcharge payments amounted to a \$0.27 per barrel surcharge on Vitol's Phase IX contract and a \$0.25 per barrel surcharge on Vitol's Phase X contract. Committee oil company table, contract nos. M/09/97, M/10/78.

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An entity named Peakville Limited was used to pay a total of \$545,801 in surcharges on Vitol contract M/09/97. Ministry of Oil and bank records show that this amount was transferred through three wires from the account of Peakville Limited at HSBC Bank Hong Kong to a SOMO bank account at Fransabank.³¹⁶

Table 5 - Surcharges Paid by Peakville Limited on Vitol's Phase IX Contract

| Source of Payment | Contract | Payment Date | Wire Amount | Recipient of Payment |
|---|-----------------|---------------------|---------------------|------------------------------------|
| Peakville Limited Account at HSBC Hong Kong | M/09/97 | June 23, 2001 | \$250,217.25 | SOMO Account at Fransabank Lebanon |
| Peakville Limited Account at HSBC Hong Kong | M/09/97 | Aug. 31, 2001 | \$108,000.00 | SOMO Account at Fransabank Lebanon |
| Peakville Limited Account at HSBC Hong Kong | M/09/97 | Aug. 31, 2001 | \$187,583.70 | SOMO Account at Fransabank Lebanon |
| Total | | | \$545,800.95 | |

The wire transfer documents do not identify Peakville Limited as being affiliated with Vitol. However, the Committee has obtained records for a number of other wire transfers that are not related to the Programme, but that originate from Peakville Limited. Some of these wire transfer records show the following information for Peakville Limited: "Peakville Limited c/o Mr. R. Favre – Vitol SA, Rue des Bains 33, PO Box 162."³¹⁷

Roland Favre is one of Vitol's financial directors with signatory authority on a number of Vitol commercial bank accounts around the world; indeed, Mr. Favre signed Vitol's consultancy agreement with Mr. Boidevaix. The address referenced in the wires was Vitol's address in Geneva at the time. When asked about these wire transfers, Ms. D'Alessandro stated that she had no knowledge of Peakville Limited or of its association with Vitol.³¹⁸

³¹⁶ Committee oil company table, contract no. M/09/97 (showing that surcharges in the amount of \$545,801 were paid); Fransabank record, SOMO account, credit advices (June 23, 2001) (showing transfer of \$250,217.25 from Peakville Limited's account at HSBC Hong Kong), (Aug. 31, 2001) (showing transfers of \$108,000.00 and \$187,583.70 from Peakville Limited's account at HSBC Hong Kong).

³¹⁷ Peakville Limited wire transfers through HSBC Hong Kong correspondent account at HSBC New York (Aug. 27, 2002; July 23 and Aug. 25, 2003); Crédit Lyonnais (Suisse) S.A. record, Vitol S.A. account, opening documentation (Sept. 28, 2000) (showing Mr. Favre as having individual signing authority over the account and Vitol S.A.'s address as "Rue des Bains 33, P.O. Box 162, 1211, Geneva").

³¹⁸ UEB record, Vitol Bahrain E.C. account, opening documentation (Aug. 17, 2004) (showing Mr. Favre as a director of Vitol with individual signing authority over the account); Crédit Lyonnais (Suisse) S.A. record, Vitol Bahrain E.C. account opening documentation (Jan. 12, 1994) (showing Mr. Favre as having individual signing authority over the account); Crédit Lyonnais (Suisse) S.A. record, Vitol S.A. account,

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Originator (5000) D6007295370001*PEAKVILLE LIMITED*C/O MR R FAVRE - VITOL S A*RUE DES BAINS
33*P O BOX 162*

Figure: Extract from Peakville Limited wire transfer through HSBC Hong Kong correspondent account at HSBC New York (July 23, 2003).

In Phase X, Peakville Limited was used to pay a surcharge on another oil contract financed by Vitol, but unrelated to Mr. Boidevaix. Vitol financed and lifted approximately two million barrels of oil under SOMO contract M/10/07 signed by Rosneftegazexport, a Russian company. A payment of \$556,828.80 was wire transferred from a Peakville Limited bank account to a SOMO account at Jordan National Bank. The transfer was used to make a surcharge payment on contract M/10/07 with Rosneftegazexport.³¹⁹

Two undated handwritten documents from Mr. Boidevaix also connect Peakville Limited to Vitol. One handwritten piece reads “250217.25 Peakwilli Hong Kong” while the other piece, handwritten but crossed out, states “250217.25 Peakwilli Hong Kong 31 May Eliki.” The notes appear to reference the *Eliki* vessel that lifted oil on May 31, 2001 under a contract for Vitol and Mr. Boidevaix. The reference to “250217.25” appears to be a reference to the amount of the first surcharge payment made to SOMO on this contract. Mr. Boidevaix denied paying a surcharge on this contract. He has acknowledged that he was instructed to write down this information by a female employee of Vitol—not Ms. D’Alessandro—during a telephone conversation.³²⁰

Surcharges were also assessed on the Phase X contract executed by Vitol and Mr. Boidevaix for one million barrels of oil. Vitol lifted the oil in December 2001 and a surcharge of \$241,610 was assessed on the lift. The surcharge amount remained outstanding, and Vitol did not enter into any contracts with SOMO in the two subsequent phases. The payment of the outstanding surcharge coincided with Vitol entering once again into a contract directly with SOMO in Phase XIII. Ministry of Oil and bank records show that the surcharge on the Phase X contract was finally paid

opening documentation (Sept. 28, 2000); Vitol S.A. record, Vitol S.A. and S.B. Consultant consultancy agreement (Apr. 27, 1998); Robin D’Alessandro interview (Oct. 10, 2005).

³¹⁹ Committee oil financier and company tables, contract no. M/10/07 (showing that Vitol financed and lifted 2,000,146 barrels of oil under Rosneftegazexport contract M/10/07 in Phase X); Jordan National Bank record, SOMO account, credit advice (Aug. 8, 2001) (translated from Arabic) (indicating that Peakville Limited paid \$556,828.80 into SOMO’s account; handwritten note on the advice indicates that payment relates to contract M/10/07 with Rosneftegazexport).

³²⁰ Serge Boidevaix record, handwritten notes (undated) (showing notes related to “Peakwilli Hong Kong”); Committee oil surcharge table, contract no. M/10/07; SOMO bill of lading, bbl/3123 (May 31, 2001) (relating to M/09/97); Serge Boidevaix interview (Oct. 4, 2005); Confidential document.

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on January 16, 2003 by Awad Ammora & Co., a Syrian company from which Vitol had purchased oil in Phase XIII.³²¹

In response to a notice letter from the Committee, Vitol has stated that “when Vitol refused to cooperate with Iraq over its surcharge policy, no further allocations were made by SOMO to Vitol under Vitol’s direct contract/s with SOMO.” However, the Committee notes that Vitol did lift oil under its direct contracts with SOMO in May, July, and December 2001—after the Government of Iraq had imposed surcharges and after Mr. Boidevaix informed Vitol about the imposition of such surcharges. As discussed above, surcharges were paid on these contracts by Peakville Limited, an entity connected to Vitol.³²²

2. Vitol’s Purchase of Oil through Mastek

A significant source of oil for Vitol during the Programme was Mastek. Vitol financed and lifted a total of 40 million barrels of oil under Mastek contracts. Vitol’s ties to Mastek started in 1999 when one of Mastek’s shareholders, Mr. Sudhir, approached Vitol’s subsidiary in Singapore, Vitol Asia, with an opportunity to acquire Iraqi crude oil. The oil had been allocated by SOMO to another Mastek shareholder, Mr. Shareef.³²³

Mr. Shareef was an Iraqi-born businessman living in Malaysia who started receiving oil allocations in Phase V. Mr. Shareef’s oil allocations were tied to political considerations as Iraqi officials perceived him as someone who could assist in countering the effects of sanctions by improving Iraq’s ties to Malaysia. This perception was due in part to Mr. Shareef’s family ties to Abdullah Ahmad Badawi, Malaysia’s Deputy Prime Minister in 1999 and its current Prime Minister, and Mr. Shareef’s ability to arrange for trade delegations to visit Iraq.³²⁴

³²¹ Committee oil company table, contract no. M/10/78; SOMO bill of lading, bbl/3236 (Dec. 20, 2001) (relating to M/10/78); SOMO sales contract no. M/13/74 (Jan. 9, 2003); Awad Ammora interview (Sept. 30, 2005) (indicating that he sold his oil allocation in Phase XIII to Vitol); SOMO sale contract no. M/13/40 (contracting with Awad Ammora); Jordan National Bank record, SOMO account, credit advice (Jan. 16, 2003) (translated from Arabic) (showing incoming transfer from Awad Ammora in the amount of \$240,988.00; handwritten notation indicates that the payment relates to “Vitol (Mr. Boidevaix) on contract M/10/78”).

³²² Vitol letter to the Committee (Oct. 20, 2005); Robin D’Alessandro interview (Oct. 10, 2005); Serge Boidevaix interview (Oct. 4, 2005); SOMO bills of lading, bbl/3123 (May 31, 2001) (relating to M/09/97); ck/5024(2) (July 14, 2001) (relating to M/09/97), bbl/3140(1) (July 28, 2001) (relating to M/09/97), bbl/3236 (Dec. 20, 2001) (relating to M/10/78).

³²³ Committee oil company table, contract no. M/07/59 (evidencing that Mastek received 2.4 million barrels in Phase VII); Vitol and Mastek Phase VII agreement; Committee oil financier table, contract nos. M/08/60, M/09/18 (evidencing that Vitol purchased 37.9 million barrels of oil from Mastek in Phases VIII and IX); Jaya Sudhir interview (Aug. 19, 2005); Kho Hui Meng interview (Aug. 19, 2005).

³²⁴ SOMO oil allocation table for Phase VI (approved on May 27, 1999) (indicating that an allocation had been given to Mr. Shareef in the previous phase) (translated from Arabic); Tariq Aziz interview (Aug. 16, 2005) (indicating that Mr. Shareef had many ties to Malaysian political parties); Taha Yassin Ramadan

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The oil allocated to Mr. Shareef in Phases V and VI was lifted by Tradeyear Sdn Bhd (“Tradeyear”), a Malaysian company. Mr. Shareef was unhappy with the commissions he was receiving from Tradeyear, and he decided along with his business partner and former sister-in-law, Noorasiah Mahmood, to revive Mastek, a long-dormant Malaysian company, for the purpose of obtaining Iraqi oil contracts. Mr. Shareef and Ms. Mahmood were joined at Mastek by Mr. Sudhir, a Malaysian businessman who had dealt previously with Vitol.³²⁵

Mastek received oil contracts from SOMO in Phases VII through IX, and Vitol financed and lifted the oil received under these contracts. Within Mastek, Mr. Shareef handled the company’s relations with SOMO and Iraq, and he often stayed in Amman or Baghdad. Mr. Sudhir managed Mastek’s business arrangements with Vitol. After receiving 2.5 million barrels in Phase VII and five million barrels in Phase VIII, Mastek’s oil allocation increased dramatically in Phase IX as it received over 39.5 million barrels of oil—the single largest allocation of oil during the Programme. Vitol and bank records indicate that Vitol financed and lifted at least 33 million barrels of oil obtained by Mastek during Phase IX, making Vitol one of the major purchasers of Iraqi crude oil during the Phase IX exporting crisis.³²⁶

interview (Aug. 17, 2005); Amer Rashid interview (Aug. 21, 2005) (indicating that Mr. Shareef was said to have some connection to Mr. Badawi); Iraq officials interviews; Faek Ahmad Shareef interviews (Aug. 15-18, 2005) (indicating that he brought delegations to Iraq from various countries and that Iraqis knew that he was married to the sister-in-law of Mr. Badawi); Jaya Sudhir interview (Aug. 19, 2005) (indicating that Mr. Shareef had leveraged his connection to Mr. Badawi). Mr. Shareef was married to the sister-in-law of Mr. Badawi. Faek Ahmad Shareef record, Faek Ahmad Shareef biographical data (undated). A review of Iraqi documents confirms that Iraqi officials associated Mr. Shareef with Mr. Badawi as references to Mr. Shareef’s oil allocations in SOMO documents appear in some instances as “Mr. Faek Ahmad Shareef / for the benefit of Abdullah.” SOMO oil allocation table for Phase VII (Dec. 17, 1999) (special requests) (translated from Arabic); SOMO letter to Amer Rashid (Dec. 23, 1999) (approving contract M/07/59 for Mastek) (translated from Arabic); SOMO oil allocation table for Phase VIII (June 14, 2000) (translated from Arabic); see also Abdullah Haji Ahmad Badawi letter to Taha Yassin Ramadan (Nov. 13, 2001) (recommending a delegation headed by Mr. Shareef and Noor Asiah Mahmood). The Committee has not found any evidence that Mr. Badawi has received any benefit from the oil allocations traded by Mastek, and Mr. Shareef and the other Mastek shareholders have denied that Mr. Badawi received any benefit from the oil traded. Jaya Sudhir interview (Aug. 19, 2005); Faek Ahmad Shareef interviews (Aug. 15-18, 2005). When asked about the letter sent by Mr. Badawi to Mr. Ramadan recommending the delegation headed by Mr. Shareef, Mr. Shareef indicated that Mr. Badawi had issued the letter as a way to support the Malaysian private sector and had done so for other Malaysian companies as well. Faek Ahmad Shareef interviews (Aug. 15-18, 2005).

³²⁵ Faek Ahmad Shareef interviews (Aug. 15-18, 2005); Jaya Sudhir interview (Aug. 19, 2005); Kho Hui Meng interview (Aug. 19, 2005); Farah Jaafar, “Bright Outlook for Mastek,” *The New Straits Times*, Jan. 24, 2000 (indicating that Mr. Shareef revived Mastek with the hope that it eventually would become an established oil trading company).

³²⁶ Committee oil company table, contract nos. M/07/59, M/08/60, M/09/18; Committee oil financier table, contract nos. M/08/60, M/09/18; Vitol and Mastek Phase VII agreement; Faek Ahmad Shareef interviews (Aug. 15-18, 2005) (indicating that it was “Vitol, all Vitol” when it came to lifting the oil for Mastek); Jaya Sudhir interview (Aug. 19, 2005); SOMO letters to Amer Rashid (Jan. 11, 2001) (approving contract

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Mastek obtained a high volume of oil in Phase IX because it agreed to pay the surcharges imposed by Iraq. According to Mr. Shareef, the Iraqi Minister of Oil, Amer Rashid, called him to a meeting in December 2000, at the beginning of Phase IX. During the meeting, Mr. Rashid told Mr. Shareef about the difficulty Iraq was experiencing with its oil exports, and he asked Mr. Shareef to perform his “national duty for Iraq” and help keep Iraqi crude oil flowing. Mr. Shareef admitted that Mr. Rashid also told him that Mastek would need to make some payments directly to Iraq to obtain the oil. Mr. Shareef recalled that, after his meeting with Mr. Rashid, Ali Hassan Rajab, a senior SOMO official, had a phone conversation with Mastek’s other shareholders, Mr. Sudhir and Ms. Mahmood, in which SOMO raised the issue of surcharges. After these conversations, Mr. Shareef wrote a note on December 24, 2000 to his partners, Mr. Sudhir and Ms. Mahmood (usually referred to as “Nonni”), reiterating that Mastek had to pay the surcharges in order to have the crude oil lifted. He also informed them that he had guaranteed payment of the surcharges on the oil loaded on the vessel *Moscliff*. The vessel was scheduled to load oil under Mastek contract M/08/60. On the same day that Mr. Shareef gave his guarantee, SOMO allowed the vessel *Moscliff* to lift the oil. The Committee has obtained a copy of the note that Mr. Shareef sent to his partners.³²⁷

M/09/18 for six million barrels of oil for Mastek), (Jan. 31, 2001) (increasing contract M/09/18 by seven million barrels of oil), (Mar. 25, 2001) (stating that Mastek’s new amount of oil under contract M/09/18 is 37 million barrels), (May 5, 2001) (increasing contract M/09/18 by 2.5 million barrels) (each translated from Arabic). Vitol also purchased Iraqi oil in Phase IX through other companies. Committee oil financier table, contract nos. M/09/54 (Masefield AG), M/09/66 (Seta Insaat Petrol ve Petrol Urunleri), M/09/70 (Al-Rasheed International Cooperation), M/09/78 (Oil & Gas Services Group Ltd.), M/09/80 (Kampac Oil Ltd.), M/09/89 (Oil & Gas Services Group Ltd.), M/09/106 (Unifuel LLC), M/09/116 (International Petroleum and Industrial Services), M/09/119 (Machinoimport).

³²⁷ Faek Ahmad Shareef interviews (Aug. 15-18, 2005) (recalling that his meeting with Mr. Rashid occurred during the month of Ramadan in 2000); Jaya Sudhir interview (Aug. 19, 2005) (confirming that Iraqi officials were putting pressure on Mr. Shareef to arrange for the oil lift as soon as possible); SOMO bill of lading, bbl/3029 (Dec. 24, 2000) (relating to the *Moscliff* vessel). In 2000, the month of Ramadan began on November 27. Encyclopedia of the Orient, “Ramadan,” <http://i-cias.com/e.o/ramadan.htm>.

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FROM : SULTAN PALACE HOTEL FAX NO. : 964 1 7195258 Dec. 24 2000 10:35PM P
-1- *private* -3-pages-

Dear Nonni & Mr. Sudhir

4

I have had a meeting with Top level
dignitaries in whom the outcome of
my meeting was as follows.

- ① Masteck must pay cent 40 for the Crude oil Loaded No way out of it.
 - ② Some officers made it clear by phone to PN Nonni about the near future assignments. The conversation was recorded.
 - ③ I Quaranteed some for the payment and release of the ship M/T Moscliff that is Loaded.
 - ④ Mr Sudhir has instructed me to do that many times.
 - ⑤ Please Directors of Masteck understand what's going on.

— Thanks Done.

Figure: Jaya Sudhir record, Faek Ahmad Shareef fax to Jaya Sudhir and Noor Asia Mahmood (referred to as “Nonni”) (Dec. 24, 2000).

SOMO levied a total of approximately \$10,380,361 in surcharges on Mastek's Phase IX contract and, between January 2001 and April 2002, approximately \$9,803,960 was paid into SOMO's account at Jordan National Bank through 31 separate payments.³²⁸ Mr. Shareef stated that, after

³²⁸ Committee oil company and surcharge tables, contract no. M/09/18; Jordan National Bank record, SOMO account, credit advices (Jan. 10, 2001) (cash payment by “Faek Shareef” in the amount of \$340,000), (Jan. 14, 2001) (cash payment by “Shareef” in the amount of \$370,000), (Feb. 6, 2001) (cash payment by “Shareef” in the amount of \$300,000), (Feb. 7, 2001) (cash payment by “Shareef” in the amount of \$390,000), (Feb. 13, 2001) (wire transfer by “Voeharm Holding Ltd” in the amount of \$194,290.42), (Mar. 27, 2001) (cash payment by “Shareef” in the amount of \$500,000), (Mar. 28, 2001) (cash payment by “Shareef” in the amount of \$300,000), (Mar. 29, 2001) (cash payment by “Shareef” in the amount of \$200,000), (Apr. 15, 2001) (cash payment by “Shareef” in the amount of \$450,000), (Apr. 17, 2001) (cash payment by “Shareef” in the amount of \$350,000), (Apr. 23, 2001) (cash payment by “Ahmed Younis” in the amount of \$80,000), (Apr. 23, 2001) (cash payment by “Ahmed Younis” in the amount of \$120,000), (Apr. 23, 2001) (cash payment by “Ahmed Younis” in the amount of \$100,000), (Apr. 30, 2001) (wire transfer by “Keppel Oil” in the amount of €499,960.22), (May 1, 2001) (cash payment by “Abu-Faras” in the amount of \$30,000), (May 2, 2001) (cash payment by “Shareef” in the amount of \$100,000).

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the first lift in December 2000, he was under constant pressure from the Iraqis to pay the surcharges. Between January and April 2001, Mr. Shareef paid approximately \$3.2 million in cash into SOMO's account at Jordan National Bank. Mr. Shareef received the money to pay these surcharges from Mr. Sudhir, who either would deliver the money to Mr. Shareef in cash or wire transfer it to one of Mr. Shareef's accounts in Jordan. According to Mr. Shareef, it was his understanding that Vitol would pay Mastek sufficiently high premiums to cover payment of the surcharges. In a fax sent on February 26, 2001 from Iraq, Mr. Shareef wrote to Ms. Mahmood and Mr. Sudhir that "we must clear SOMO's A/C as soon as possible – get the money from Vitol fast." Mr. Shareef was referring to the practice of paying outstanding surcharges to SOMO within 30 days of a previous lifting so that future oil liftings were not delayed. With respect to the first surcharge payment on the Mastek contract in Phase IX, Mr. Sudhir confirmed that Vitol paid money as a commission to Mastek, and Mastek used the money to pay the surcharge owed on the contract.³²⁹

According to Mr. Shareef, beginning in April 2001, the money to pay the surcharges was not consistently forthcoming from Mr. Sudhir, and he began to worry about his safety because Iraqi officials were harassing him to pay outstanding surcharges. Mr. Shareef wrote a letter dated April 17, 2001 to SOMO, requesting that it prohibit oil lifts scheduled for April and May 2001 under the Mastek contract until "all payments have taken place." Bank records show that, shortly thereafter, surcharge payments resumed through Keppel Oil. Keppel Oil was a "shelf-company" that Mr. Sudhir formed to avoid currency restrictions imposed in Malaysia. The company was used to transfer €2.3 million to a SOMO account for the payment of surcharges between April and July 2001.³³⁰

amount of \$20,000), (May 8, 2001) (cash payment by "Abu-Faras" in the amount of \$40,000), (May 8, 2001) (cash payment by "Abu-Faras" in the amount of \$50,000), (May 8, 2001) (cash payment by "Abu-Faras" in the amount of \$50,000), (May 14, 2001) (wire transfer by "Keppel Oil" in the amount of €199,950.22), (May 14, 2001) (showing cash payment by "Abu-Faras" in the amount of \$20,000), (May 17, 2001) (cash payment by "Abu-Faras" in the amount of \$40,000), (May 17, 2001) (wire transfer by "Keppel Oil" in the amount of €299,960.22), (July 9, 2001) (wire transfer by "Keppel Oil" in the amount of €269,948.50), (July 9, 2001) (wire transfer by "Keppel Oil" in the amount of €299,948.50), (July 16, 2001) (wire transfer by "Keppel Oil" in the amount of €499,946.50), (July 18, 2001) (wire transfer by "Keppel Oil" in the amount of €279,946.50), (Aug. 2, 2001) (wire transfer by "Keppel Oil" in the amount of €199,946.50), (Aug. 6, 2001) (wire transfer by "Keppel Oil" in the amount of €1,999,859), (Aug. 29, 2001) (wire transfer by "Keppel Oil" in the amount of €499,946.50), (Apr. 1, 2002) (wire transfer by "Cosmos Capital Group" in the amount of €1,708,428.25) (each translated from Arabic). "Abu-Faras" is a reference to Mr. Shareef, and Ahmed Younis is an assistant to Mr. Shareef. Faek Ahmad Shareef interviews (Aug. 15-18, 2005). Voeharm Holding Ltd. is a company used by Mr. Sudhir. Jaya Sudhir interview (Aug. 19, 2005).

³²⁹ Faek Ahmad Shareef interviews (Aug. 15-18, 2005); Jaya Sudhir record, Faek Ahmad Shareef fax to Noor Asiah Mahmood and Jaya Sudhir (Feb. 26, 2001); Jaya Sudhir interview (Aug. 19, 2005).

³³⁰ SOMO letter to Amer Rashid (Apr. 24, 2001) (indicating that "Faek Shareef had sent them a letter asking them to stop the remaining lifts scheduled for April and May until all payments have taken place") (translated from Arabic); Jordan National Bank record, SOMO account, credit advices (Apr. 30, 2001) (wire transfer by "Keppel Oil" in the amount of €499,960.22), (May 14, 2001) (wire transfer by "Keppel

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The relationship between Mastek’s three shareholders deteriorated in August 2001. According to Mr. Shareef, he felt increasing pressure from SOMO to pay the outstanding surcharges on Vitol’s oil lifts under the Mastek contract.³³¹ He urged Mr. Sudhir to make the payments, and Mr. Sudhir eventually agreed to assist in paying the outstanding surcharge balance in August 2001. In an August 3, 2001 e-mail to Mr. Shareef, Mr. Sudhir wrote:

I am prepared to sign and give a letter of apology to whom it may concern as to the delay in the payments which had to be made. I am also willing to say that this matter had nothing to do with you, as the premium was handled by me. . . . I will undertake to clear all outstanding balances owed to the people concern [sic] within 10 days from today, which includes the last 2 loadings. I would think it will be in the region of US\$1.5 mil.³³²

Three days after the e-mail, Mr. Sudhir sent a letter to SOMO asserting that he took “full responsibility for the delay in meeting the Company’s obligations to SOMO.” On the same day as the letter, Keppel Oil transferred €1,999,859 to a SOMO account at Jordan National Bank, followed by another payment of approximately €500,000 on August 29, 2001.³³³

Mr. Sudhir did not explain how he was able to cover the surcharge payments on the Mastek contract with the premium that Vitol purportedly paid Mastek. SOMO assessed an average surcharge of \$0.28 per barrel on Mastek’s Phase IX contract. Under their written agreement, Vitol paid a commission of \$0.21 to \$0.25 per barrel to Mastek. Mr. Sudhir stated that the highest premium Mastek received from Vitol in Phase IX was \$0.27 per barrel. According to Mr. Shareef, he and Ms. Mahmood thought that Mr. Sudhir and Vitol were cheating them by concealing the real premium that Vitol was paying Mr. Sudhir and by not paying them the money needed for Mastek to cover its surcharge payments.³³⁴

Oil” in the amount of €199,950.22), (May 17, 2001) (wire transfer by “Keppel Oil” in the amount of €299,960.22), (July 9, 2001) (wire transfer by “Keppel Oil” in the amount of €269,948.50), (July 9, 2001) (wire transfer by “Keppel Oil” in the amount of €299,948.50), (July 16, 2001) (wire transfer by “Keppel Oil” in the amount of €499,946.50), (July 18, 2001) (wire transfer by “Keppel Oil” in the amount of €279,946.50), (Aug. 2, 2001) (wire transfer by “Keppel Oil” in the amount of €199,946.50), (Aug. 6, 2001) (wire transfer by “Keppel Oil” in the amount of €1,999,859), (Aug. 29, 2001) (wire transfer by “Keppel Oil” in the amount of €499,946.50) (each translated from Arabic).

³³¹ Faek Ahmad Shareef interviews (Aug. 15-18, 2005).

³³² Faek Ahmad Shareef record, Jaya Sudhir e-mail to Faek Ahmad Shareef (Aug. 3, 2001).

³³³ Faek Ahmad Shareef record, Jaya Sudhir letter to Saddam Z. Hassan (Aug. 6, 2001); Jordan National Bank record, SOMO account, credit advices (Aug. 6, 2001) (wire transfer by “Keppel Oil” in the amount of €1,999,859), (Aug. 29, 2001) (wire transfer by “Keppel Oil” in the amount of €499,946.50) (each translated from Arabic).

³³⁴ Jaya Sudhir interview (Aug. 19, 2005); Vitol Asia record, Iraqi crude oil purchase/sale agreement between Vitol Asia and Mastek (undated) (regarding purchase of oil under Phase IX) (hereinafter “Phase IX agreement between Vitol and Mastek”); Vitol Asia record, Addendum no. 1 to Phase IX agreement

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In September 2001, Mr. Shareef met with Ian Taylor, the President of Vitol, and Kho Hui Meng, the President of Vitol Asia. According to Mr. Shareef, he told them that Vitol owed money to Mastek for the surcharges that Mastek owed the Iraqi regime. When interviewed by the Committee, Mr. Hui Meng stated that, at a meeting in September 2001, Mr. Shareef demanded additional compensation from Vitol. However, he stated that he did not recall Mr. Shareef telling them that the money was for the payment of surcharges. He stated that Mr. Shareef was complaining about being cheated by Mr. Sudhir.³³⁵

Ms. Mahmood notified Vitol that she planned to bring a lawsuit to recover the money owed to Mastek. Vitol Asia and Mastek eventually reached a written settlement on February 26, 2002, under which Vitol agreed to pay Mastek \$2 million. The settlement agreement provided that the payment would settle all of Mastek's claims against Vitol arising from the SOMO contracts. A month after the settlement, Mr. Shareef transferred approximately \$1.5 million from the account of Cosmos Capital Group Limited, a company that he and Ms. Mahmood had formed, to a SOMO account in Jordan to satisfy the surcharge obligation on the oil lifted by Vitol under the Mastek contract.³³⁶

Vitol Asia denied that the \$2 million was given to Mastek for the purpose of paying the outstanding surcharges. Mr. Hui Meng explained that Vitol's decision to sign the settlement agreement was a business decision driven by their perception that Ms. Mahmood was politically well-connected in Malaysia and their desire to avoid the potential business repercussions of upsetting her. In addition, Mr. Hui Meng indicated that he was not aware that Mastek had paid surcharges, and he added that he had not suspected such payments by Mastek as the premium that Vitol was paying Mastek was lower than the surcharge level that he had heard about in media reports.³³⁷

In two letters sent to the Committee, Mr. Sudhir contends that Mr. Shareef "was primarily and solely instrumental in establishing the entire series of oil transactions and that all . . . amounts to be paid . . . were undertaken by Faek in conjunction with SOMO." While Mr. Shareef played a key role in arranging the transactions and paying the surcharges, the evidence collected by the

between Vitol and Mastek (Jan. 15, 2001); Committee oil company table, contract no. M/09/18 (indicating that SOMO levied \$9,731,652 on 34,307,522 barrels, which corresponds to a \$0.28 surcharge per barrel); Faek Ahmad Shareef interviews (Aug. 15-18, 2005).

³³⁵ Ibid.; Kho Hui Meng interview (Aug. 19, 2005); see also Jaya Sudhir interview (Aug. 19, 2005) (recalling that Mr. Shareef met Ian Taylor at the Asian Oil and Gas Conference held in Singapore in 2001 to ask him about the premiums paid by Vitol to Mastek).

³³⁶ Kho Hui Meng interview (Aug. 19, 2005); Faek Ahmad Shareef interviews (Aug. 15-18, 2005); Jaya Sudhir interview (Aug. 19, 2005); Vitol and Mastek settlement agreement; Faek Ahmad Shareef record, Faek Ahmad Shareef letter to Maybank International (L) Ltd. (Mar. 27, 2002) (asking Maybank to remit the euro equivalent of \$1.5 million from the account of Cosmos Capital Group to SOMO's account at Jordan National Bank); Jordan National Bank record, SOMO account, credit advice (Apr. 1, 2002) (showing wire transfer by Cosmos Capital Group in the amount of €1,708,428.25) (translated from Arabic).

³³⁷ Kho Hui Meng interview (Aug. 19, 2005).

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Committee indicates that Mr. Sudhir also was actively and knowingly involved in paying the surcharges to the Iraqi regime. On August 6, 2001, Mr. Sudhir wrote to SOMO indicating that he was “primarily responsible for the financial administration the Company’s [Mastek] crude oil trading with Iraq” and undertaking to “make good all the Company’s obligations to SOMO.” As discussed previously, Keppel Oil, a company established by Mr. Sudhir, transferred €1,999,859 to a SOMO account on the same day that Mr. Sudhir wrote the letter. When interviewed by the Committee, Mr. Sudhir admitted that he had transferred funds to SOMO.³³⁸

3. Vitol’s Financing of Surcharge Payments by Hamida Na’ana

In at least one instance, Vitol funded the payment of surcharges by an individual beneficiary by paying a sufficiently high commission to cover the surcharge. During Phases X and XI, Vitol purchased oil allocated to Hamida Na’ana. Ms. Na’ana is a Syrian journalist who received oil allocations from Tariq Aziz to compensate her for her efforts in writing a book and articles about Iraq and its leaders.³³⁹ The contracts with SOMO to purchase Ms. Na’ana’s oil allocations in Phases X and XI were not signed by Vitol but by a Panama-registered company, Devon Petroleum. However, Ms. Na’ana dealt directly with Vitol. She communicated regularly with Gilles Chautard, a French-speaking trader at Vitol, and forwarded her invoices and received her payments from Vitol.³⁴⁰

³³⁸ Jaya Sudhir letters to the Committee (Oct. 19 and 24, 2005); Faek Ahmad Shareef record, Jaya Sudhir letter to Saddam Z. Hassan (Aug. 6, 2001); Jordan National Bank record, SOMO account, credit advice (Aug. 6, 2001) (wire transfer by “Keppel Oil” in the amount of €1,999,859); Jaya Sudhir interview (Aug. 19, 2005).

³³⁹ Confidential witness interview; Tariq Aziz interviews (Mar. 1 and Aug. 16, 2005); Taha Yassin Ramadan interview (Aug. 17, 2005) (commenting that Mr. Aziz selected Ms. Na’ana for allocations because “she wrote a lot about Iraq . . . she wrote good articles about Saddam, Uday, Qusay”); Saddam Z. Hassan interview (Mar. 9, 2005); Iraq officials interviews. During the Programme, Ms. Na’ana received oil allocations totaling 11.3 million barrels of oil over seven phases. Committee oil beneficiary table, contract nos. M/06/70, M/07/100, M/08/70, M/09/26, M/10/34, M/11/100, M/13/26. Ms. Na’ana has acknowledged publicly that she received oil allocations. CBC-TV Toronto, “Bribes from Baghdad” (Mar. 28, 2005). In an interview with CBC reporter Terence McKenna, when asked about the \$30,000 profit she made from her oil allocations, Ms. Na’ana stated: “Anyhow, it wasn’t for me, the \$30,000 wasn’t for me. I brought a group of artists and doctors from the Philippines, from the Philippines to Baghdad. Artists, you see. So it was to pay for that. Anyhow, you can see, I don’t have a fortune.” Ibid.

³⁴⁰ Committee oil financier tables, contract nos. M/10/34, M/11/100; SOMO sales contracts, nos. M/10/34 (Aug. 2, 2001), M/11/100 (Feb. 11, 2002); Confidential witness interview; Hamida Na’ana fax to Gilles Chautard (July 9, 2002) (sending invoice to Devon for total amount due of \$375,000 to be transferred to Ms. Na’ana’s account at Arab Bank Geneva); Vitol record, Robin D’Alessandro e-mail to Gilles Chautard, Othmar Willi, and Roland Favre (July 10, 2002) (authorizing payment to Ms. Na’ana for a lift of 1.5 million barrels of oil); Robin D’Alessandro interview (Oct. 10, 2005) (indicating that Vitol introduced Ms. Na’ana to Devon Petroleum); Riad El-Taher interview (Aug. 31, 2005) (describing Devon Petroleum as an agent of Vitol with respect to Iraqi oil purchases). Mr. El-Taher is an Iraqi engineer based in the United Kingdom, who ran Friends Across Frontiers, an organization that campaigned against Iraqi sanctions. Vitol purchased some of his allocations through Devon Petroleum. Riad El-Taher interview (Aug. 31, 2005).

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Surchages in the amount of \$710,782.25 were levied on the two contracts associated with Ms. Na'ana's allocations in Phases X and XI. Ms. Na'ana paid these surcharges in full in three payments that occurred between August 2001 and October 2002. Ms. Na'ana received the funds to make these surcharge payments from Vitol. SOMO bank records indicate that Ms. Na'ana made an advance surcharge payment of \$60,000 on August 12, 2001 with respect to her Phase X allocation. Ms. Na'ana had received an advance payment in a similar amount from Vitol. In an invoice dated October 10, 2001 sent to Mr. Chautard, Ms. Na'ana requested payment on her commission regarding the first lift executed by Vitol on her Phase X contract, and she acknowledged that Vitol had previously paid her \$60,000. Subsequent to the \$60,000 advance payment, Vitol paid Ms. Na'ana's account at Arab Bank Geneva over \$1 million between October 2001 and July 2002. Ms. Na'ana subsequently transferred \$725,000 from her bank account at Arab Bank Geneva to her account at the Arab Bank Amman. Surcharges in the approximate amount of \$650,000 were paid from Ms. Na'ana's account at Arab Bank Amman in December 2001 and October 2002. Ministry of Oil records confirm that these payments were made in connection with Ms. Na'ana's Phase X and XI allocations.³⁴¹

A source familiar with these transactions stated to the Committee that Ms. Na'ana made the surcharge payments after two or three phone conversations with Mr. Chautard from Vitol London, who advised Ms. Na'ana that these payments had to be made as "taxes" due to the Iraqi regime. In response to a notice letter from the Committee, Vitol stated that "Vitol had no knowledge that Ms. Na'ana paid surcharges to the regime of Saddam Hussein Neither Vitol,

³⁴¹ Jordan National Bank record, SOMO account, credit advices (Aug. 12, 2001) (showing transfer of \$59,985 from Ms. Na'ana's account at Arab Bank Amman; handwritten notation on advice indicates that it is an advance payment relating to contract M/10/34), (Dec. 2, 2001) (showing transfer of \$425,777 from Ms. Na'ana's account at Arab Bank Amman; handwritten notation on advice indicates that payment relates to contract M/10/34), (Oct. 29, 2002) (showing transfer of \$225,000 from Ms. Na'ana's account at Arab Bank Amman; handwritten notation on advice indicates that payment relates to contract M/11/100) (each translated from Arabic); Hamida Na'ana invoice to Gilles Chautard (Vitol London) (Oct. 10, 2001) (sending an invoice to Gilles Chautard for 981,608 barrels of oil shipped on September 7, 2001); Arab Bank Geneva record, Hamida Na'ana account, credit advices (Oct. 31, 2001) (wire transfer of \$283,562.80 by order of Vitol Geneva from Chase Manhattan Bank London), (Nov. 11, 2001) (wire transfer of \$358,506.05 by order of "Mansel Oil Ltd. c/o Vitol from Chase Manhattan Bank London"), (July 11, 2002) (wire transfer of \$375,000 by order of Vitol Bahrain from BNP Geneva); Arab Bank Geneva record, Hamida Na'ana account, account debit advices (Nov. 26, 2001) (wire transfer of \$500,000 to Ms. Na'ana's account at Arab Bank Amman), (Oct. 10, 2002) (wire transfer of \$225,000 to Ms. Na'ana's account at Arab Bank Amman); Jordan National Bank record, SOMO account, credit advices (Aug. 12, 2001) (showing transfer of \$59,985 from Ms. Na'ana's account at Arab Bank Amman; handwritten notation on advice indicates that it is an advance payment relating to contract M/10/34), (Dec. 2, 2001) (showing transfer of \$425,777 from Ms. Na'ana's account at Arab Bank Amman; handwritten notation on advice indicates that payment relates to contract M/10/34), (Oct. 29, 2002) (showing transfer of \$225,000 from Hamida Na'ana's account at Arab Bank Amman; handwritten notation on advice indicates that payment relates to contract M/11/100) (each translated from Arabic).

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nor Giles [*sic*] Chautard at Vitol who communicated with Ms. Na'ana, knowingly 'caused' Ms. Na'ana to pay such surcharges and did not tell her to do so."³⁴²

4. Vitol Bahrain's Direct Surcharge Payment

Vitol made a direct surcharge payment to SOMO's account at Jordan National Bank with respect to oil that Vitol had lifted through Machinoimport, a Russian company. In Phase XI, Vitol financed two lifts of oil totaling over one million barrels that were sold by SOMO to Machinoimport. The oil was lifted by Vitol, respectively, on December 31, 2001 and January 1, 2002. Ministry of Oil records show that surcharges amounting to \$312,801 were levied on these two lifts. Bank records evidence that two weeks after the lifts, Vitol Bahrain E.C., the Vitol entity that financed the purchase of Iraqi crude oil, wire transferred \$312,786.30 from its account at JPMorgan Chase London to a SOMO account at Jordan National Bank Amman. Ministry of Oil records reflect that Vitol's payment was used to satisfy Machinoimport's surcharge obligations under contract M/11/17.³⁴³ A copy of the SWIFT message detailing the transfer from Vitol Bahrain's account at JPMorgan Chase London to SOMO's account at Jordan National Bank is shown below.

³⁴² Confidential witness interview; Vitol letter to the Committee (Oct. 20, 2005).

³⁴³ Committee oil financier, company, and surcharge tables, contract no. M/11/17 (contracting with Machinoimport); SOMO bills of lading, ck/5128 (Part 2) A (Dec. 31, 2001), ck/5128 (Part 2) B (Jan. 1, 2002) (both relating to M/11/17); Records of SOMO surcharge invoices (Dec. 13, 2001), (Jan. 1, 2002) (each translated from Arabic); Jordan National Bank record, SOMO account, credit advice (Jan. 17, 2002) (translated from Arabic) and SWIFT message (Jan. 15, 2002).

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FileOutoutMT-3884-000017 19

 Received from SWIFT
 : Normal
 Output Reference : 1334 020115JONBJOAXAXXXB833341857
 Correspondent Input Reference : 1100 020115CHASGB2LXXX0372322202
 rt Output : FIN 103-STP Single Customer Crdt Transfer
 ter : CHASGB2LXXX
 JPMORGAN CHASE BANK
 (EUROPEAN HEADQUARTERS)
 LONDON GB
 oliver : JONEJOAXXXX
 JORDAN NATIONAL BANK PLC
 (JORDAN BRANCHES MANAGEMENT)
 AMMAN JO
 : 000204CB0352592
 ----- Message Text -----
 : Sender's Reference
 P9226687 232 1
 : Bank Operation Code
 CRED
 : 1l Rte/Curr/Interbank Settld Amt
 Date : 15 January 2002
 Currency : USD (US DOLLAR)
 Amount : #312,801.30#
 : Currency/Instructed Amount
 Currency : USD (US DOLLAR)
 Amount : #312,801.30#
 : Ordering Customer
 VITOL BAHRAIN E.C.
 MANAMA CENTRE
 GOVERNMENT AVENUE, ROOM 502
 ENTRANCE 4, FIFTH FLOOR
 : Sender's Correspondent - BIC
 CHASUS33
 JPMORGAN CHASE BANK
 NEW YORK,NY US
 : Beneficiary Customer
 /50032002
 MADAM IRINA
 : Remittance Information
 : DS4153 Q/INV.PO101185 Y/INV. 50
 1103/14
 : Details of Charges
 EN
 : Sender's Charges
 Currency : USD (US DOLLAR)
 Amount : #0.00#
 ----- Message Trailer -----
 :C:F7150A083
 IK:DOE5505750223

(Handwritten notes: C11, 21, 22, 23, 24, 25, 26, 27)

 ARAB NATIONAL BANK LAHORE
 SWIFT
 S62
 DATED 15/1/02
 SIG [Signature]

Figure: Jordan National Bank record, SOMO account, SWIFT message (Jan. 15, 2002).

F. COASTAL PETROLEUM COMPANY

American oil trader, Oscar Wyatt, a longtime and loyal oil customer of Iraq, was a rare exception to the Government of Iraq's ban on allocating oil to companies and individuals from the United States after the initial phases. In the first eight phases of the Programme, Mr. Wyatt's company, Coastal Petroleum, purchased Iraqi crude oil allocated under its company name. According to Iraqi officials, after surcharges were imposed, Mr. Wyatt requested that the oil be allocated in his own name not Coastal Petroleum's. Mr. Wyatt then used two other companies, Nafta Petroleum and Mednafta Trading Co., to purchase the 26 million barrels of oil allocated in his name.³⁴⁴

³⁴⁴ Iraq official interview; Committee oil company table, contract nos. M/08/72, M/09/28, M/10/13, M/11/55.

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1. Background

According to Iraqi officials, Mr. Wyatt was the exception to the general ban on selling oil to American companies after Phase III because of his “history with Iraq” and excellent relations with SOMO. Through his Houston-based company, Coastal Petroleum, Mr. Wyatt had been a buyer of Iraqi oil since the industry was nationalized in Iraq. He was the first to bring Iraqi oil to America in approximately 1972. In 1990, Mr. Wyatt used his connections to meet with Saddam Hussein and intervene on behalf of American hostages being held in Iraq. Together with former Texas governor, John B. Connally, Mr. Wyatt was involved in arranging for 21 hostages to be flown out of Baghdad after their release. Mr. Wyatt also maintained a supportive relationship with the Iraqi missions in the United States, donating furniture to the Iraqi Mission in New York and a car to the Iraqi Embassy in Washington. He also had a close relationship with Nizar Hamdoon, Iraq’s former Permanent Representative to the United Nations. When Mr. Hamdoon developed cancer, Mr. Wyatt guaranteed and paid some of his medical bills during hospital treatments in New York.³⁴⁵

2. Oil Allocations, Contracts, and Surcharges

In Phase I, Mr. Wyatt was the first customer to contract for the purchase of Iraqi crude oil under the Programme. During the initial eight phases, Coastal Petroleum signed contracts to purchase almost 50 million barrels of Iraqi crude oil. According to Iraqi officials and Ministry of Oil records, the allocations were granted in the name of his company, Coastal Petroleum, and Mr. Wyatt handled the contractual arrangements in Baghdad. After the mandatory imposition of surcharges in Phase IX, Mr. Wyatt stopped using Coastal Petroleum to purchase oil under the Programme. An Iraqi official stated that, when asked directly at the end of 2000 if he would be willing to pay surcharges, Mr. Wyatt initially responded that he had to think about it. Several Iraqi officials stated that, soon after surcharges were imposed, Mr. Wyatt agreed that he would continue to purchase Iraqi crude oil and pay the surcharges.³⁴⁶

³⁴⁵ Maurice Lorenz interview (Sept. 15, 2004); Amer Rashid interview (Oct. 29, 2004); Iraq officials interviews; The Handbook of Texas Online, “Coastal Corporation,” http://www.tsha.utexas.edu/handbook/online/articles/CC/doc5_print.html (recounting the development of Coastal Corporation); Augusto Giangrandi interview (July 24, 2005); Oscar Wyatt letter to Thomas Fehey (Jan. 31, 2003); Memorial Sloan-Kettering Cancer Center record, credit card payment authorization form (Mar. 6, 2003) (signed by Mr. Wyatt), sales receipt and credit card slip (Mar. 13, 2003) (noting a payment of \$44,705); American Express record, Oscar Wyatt account, credit card statement (Feb. 25 and Mar. 27, 2003); Memorial Sloan-Kettering Cancer Center record, Nizar Hamdoon account, receipts (Apr. 12 and May 5, 2000). Mr. Wyatt was still deemed responsible for Mr. Hamdoon’s bills by the hospital as late as April 2005. Memorial Sloan-Kettering Cancer Center record, Nizar Hamdoon account, invoice (May 4, 2005).

³⁴⁶ Committee oil company table, contract nos. M/01/01, M/02/01, M/03/12, M/04/28, M/05/29, M/06/27, M/07/18, M/08/72; Iraq officials interviews; Amer Rashid interview (Oct. 29, 2004); Michel Tellings interview (Oct. 14, 2004). The last contract executed on behalf of Coastal Petroleum was SOMO sales contract M/08/72 (June 26, 2000). Committee oil company table, contract no. M/08/72.

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According to Ministry of Oil records, when Phase IX began, Mr. Wyatt received an initial allocation of 4.5 million barrels following a meeting with Oil Minister Rashid in January 2001. Subsequently, Mr. Wyatt's allocation was increased to a total of 12 million barrels in that phase alone. During the surcharge phases, over 24 million barrels of oil allocated to Mr. Wyatt were purchased. Bayoil financed two contracts of oil allocated to Mr. Wyatt.³⁴⁷

Beginning in Phase IX, there were two major changes in the manner in which Mr. Wyatt received allocations and purchased Iraqi oil. First, Mr. Wyatt's allocations were no longer granted in the name of Coastal Petroleum, but instead were designated as personal allocations under his own name. Also, the oil was purchased not by Coastal Petroleum, but by two new companies, Nafta Petroleum and Mednafta Trading Co. Both companies were incorporated in Cyprus shortly after the surcharges were imposed. Nafta Petroleum was incorporated in January 2001, and Mednafta Trading Co. in March 2001.³⁴⁸

Neither company contracted to purchase Iraqi oil other than that allocated to Mr. Wyatt during the surcharge phases. Ministry of Oil records show that Mr. Wyatt's name appears next to Nafta Petroleum and Mednafta Trading Co. on SOMO allocation tables. Other ministry records reflect that the oil purchased by Nafta Petroleum and Mednafta Trading Co. was "for the benefit of Mr. Oscar Wyatt" or was "Mr. Oscar Wyatt's share." Ministry of Oil records indicate that, when Mr. Wyatt initially changed companies from Coastal Petroleum to Nafta Petroleum, his oil allocations were designated under "Cyprus," but subsequently were designated under "America."³⁴⁹

³⁴⁷ Committee oil company and beneficiary tables, contract nos. M/09/28, M/10/13, M/11/55; Committee oil financier table, contract nos. M/09/28, M/10/13; SOMO letters to Amer Rashid (Jan. 21, 2001) (approving contract no. M/09/28 for 4.5 million barrels of oil for "Nafta Petroleum" and referring to the approval being granted during "Mr. Oscar Wyatt's visit"), (May 28, 2001) (approving contract M/09/28 for an increased quantity of 12 million barrels of oil for "Nafta Petroleum (Oscar Wyatt)", (July 14, 2001) (approving contract M/10/15 for 10 million barrels of oil for "Nafta Petroleum (to the benefit of Mr. Oscar Wyatt)". Approximately 1.98 million barrels from contract M/09/28 (lifted Jan. 27, 2001) and 2.08 million barrels from contract M/10/15 (lifted Oct. 2, 2001) were lifted and financed by Bayoil. Catalina Miguel letter to oil overseers (June 19, 2001); Bayoil letter to Mednafta Trading Co. (Sept. 16, 2001); David Chalmers fax to Oscar Wyatt and Catalina Miguel (Sept. 27, 2001); Bayoil record, transaction detail by account (Jan. 1995 to Dec. 2003).

³⁴⁸ Nafta Petroleum fax to oil overseers (July 29, 2001); Confidential document; Nafta Petroleum record, Board of Directors meeting minutes (Jan. 22, 2001); Mednafta Trading Co. record, Certificate of Incorporation (Mar. 9, 2001).

³⁴⁹ SOMO letters to Amer Rashid (Jan. 21, 2001) (approving contract M/09/28 for 4.5 million barrels of oil for "Nafta Petroleum" and referring to the approval being granted during "Mr. Oscar Wyatt's visit"), (May 28, 2001) (approving contract M/09/28 for an increased quantity of 12 million barrels of oil for "Nafta Petroleum (Oscar Wyatt)", (July 14, 2001) (approving contract M/10/15 for 10 million barrels of oil for "Nafta Petroleum (to the benefit of Mr. Oscar Wyatt)", (Feb. 5, 2002) (approving contract M/11/55 for 4 million barrels of oil (later increased to 8.1 million) for "Mednafta (Mr. Oscar Wyatt's share)"); SOMO categorization of companies table (Phase IX) (May 20, 2001) (indicating an allocation of 10.3 million barrels of oil (later increased to 12 million) for "Nafta Petroleum/Oscar Wyatt" under "Cyprus"); SOMO oil allocation tables for Phase X (Aug. 4, 2001) (indicating an allocation of 10 million barrels of oil for "Oscar/America"), Phase XI (Dec. 1, 2001) (indicating an allocation of 8.1 million barrels of oil for

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Nafta Petroleum and, subsequently, Mednafta Trading Co. provided power of attorney to Catalina Miguel. She signed oil contracts as director of the companies. Mohammed Saidji also was given power of attorney for Mednafta Trading Co. He signed one oil contract as the company's director in Phase XII. Bank records show that Ms. Miguel and Mr. Saidji were account signatories, and Ms. Miguel was the beneficial owner of Mednafta Trading Co.'s account at BNP Suisse.³⁵⁰

In Mr. Wyatt's dealings with the United Nations, however, he identified himself as controlling Mednafta Trading Co. In correspondence with the United Nations, Mr. Wyatt identified himself as the director of Mednafta Trading Co. After a meeting with Mr. Wyatt, United Nations oil overseers referred to Mednafta Trading Co. in internal correspondence as being owned by Mr. Wyatt.³⁵¹

Mr. Wyatt also was involved in the finances of Mednafta Trading Co. The initial deposit to open Mednafta's Swiss bank account was made by Mr. Wyatt. Bank records show that Mr. Wyatt was described to the bank as a "consultant" to Mednafta Trading Co., and the first deposit of \$5 million as a "loan" to Mednafta Trading Co. Following this deposit, an additional sum of almost \$10 million was transferred to the Mednafta Trading Co. bank account by either Mr. Wyatt or NuCoastal, one of Mr. Wyatt's companies based in Houston. Between May 2002 and October 2003, over \$11 million was also transferred from the Mednafta Trading Co. account to accounts for Mr. Wyatt and NuCoastal.³⁵²

"Mednafta/Oscar Wyatt"), Phase XII (May 19, 2002) (indicating an allocation of 4 million barrels of oil for "Mednafta/Oscar Wyatt"). Contract M/10/13 was transferred from Nafta Petroleum to Mednafta Trading Co. (through which future oil was lifted) in Phase X. Nafta Petroleum fax to oil overseers (July 29, 2001); SOMO amendment to sales contract, no. M/10/13 (July 25, 2001); SOMO fax to oil overseers (Aug. 4, 2001).

³⁵⁰ SOMO sales contracts, nos. M/09/28 (Jan. 18, 2001), M/10/13 (July 12 and Aug. 4, 2001) (initially signed for Nafta Petroleum by Ms. Miguel and then signed again by Ms. Miguel as a director of Mednafta Trading Co.), M/11/55 (Feb. 4, 2002), M/12/19 (June 6, 2002). Nafta Petroleum record, power of attorney agreement (Jan. 22, 2001); Mednafta Trading Co. record, power of attorney agreements (Mar. 9, 2001); Iraq official interview.

³⁵¹ Oscar Wyatt letter to 661 Committee Chairman (Aug. 6, 2002); Michel Tellings e-mail to J. Christer Elfverson, Alexandre Kramar, and Morten Buur-Jensen (Aug. 19, 2002) (following a meeting with Mr. Wyatt); Michel Tellings interview (Oct. 15, 2004).

³⁵² BNP record, Mednafta Trading Co. account, account opening documents (June 1 and 7 and July 19, 2001); Confidential document; BNP record, Mednafta Trading Co. account, credit advices (June 7, 2001) (\$5,000,000), (May 29, 2002) (\$6,135,614.46), (Aug. 2, 2002) (\$500,000), (Dec. 2, 2002) (\$64,456.58), (Jan. 14, 2003) (\$600,000), (Feb. 21, 2003) (\$144,866.75), (May 14, 2003) (\$57,425.02), (Oct. 24, 2003) (\$1,400,000), (Oct. 27, 2003) (\$1,400,000); Monica Perin, "Nucoastal [sic] to revive shuttered electric plant," *Houston Business Journal*, Mar. 4, 2005; "Enron sells North American pipeline business for \$2.2B," *Houston Business Journal*, May 21, 2004, p.4; Mary Alice Robbins, "NuCoastal LLC purchases Enron's Crosscountry Energy," *Texas Lawyer*, June 7, 2004, p.5; Thora Qaddumi, "Mergers and acquisitions market remains active in Houston area," *Houston Business Journal*, July 2, 2004, p.35; David Chalmers letter to Oscar Wyatt (Feb. 7, 2003); Mednafta Trading Co. fax to BNP (May 20, 2002); BNP

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All surcharges on contracts for oil allocated to either Coastal Petroleum or Mr. Wyatt were paid under two names, Mohammed Ali and Nivara/Nivaria. For Coastal Petroleum contract M/08/72, Ministry of Oil and bank records show that surcharges totaling €226,627 (\$201,877) were imposed and paid through two deposits in a SOMO bank account: €222,000 (\$197,824.20) in December 2001 by “Nivara” and €4,627 (\$4,052.80) in March 2002 by “Mohammed Ali.” On Nafta Petroleum and Mednafta Trading Co. contracts M/09/28, M/10/13, and M/11/55, approximately \$7.2 million in surcharges was paid through deposits in SOMO bank accounts also in the names of Nivara/Nivaria and Mohammed Ali. The credit advices do not identify the originating bank accounts of the funds.³⁵³

According to his attorney, Mr. Wyatt’s position is that the initial money he provided to Mednafta Trading Co. was a loan to a long-term friend, Ms. Miguel. Mr. Wyatt maintains that he was merely a purchaser buying petroleum products from Mednafta Trading Co. and had no role in financing its lifts or other expenses during the Programme.³⁵⁴

record, Mednafta Trading Co. account, debit advices (June 18, 2002) (\$2,000,000), (July 31, 2002) (\$278,682.71), (Oct. 10, 2002) (\$149,139.37), (Oct. 17, 2002) (\$83,845.21), (Nov. 11, 2002) (\$1,000,000), (Nov. 26, 2002) (\$1,000,000), (Mar. 28, 2003) (\$4,000,000), (May 13, 2003) (\$401,669.15), (Oct. 24, 2003) (\$1,400,000); Mednafta Trading Co. faxes to BNP (Nov. 11, 2002 and Mar. 27, 2003). Ms. Miguel signed as a director of Nafta Petroleum, despite not being given power of attorney until four days later. SOMO sales contract, no. M/09/28 (Jan. 18, 2001); Nafta Petroleum record, power of attorney agreement (Jan. 22, 2001).

³⁵³ Committee oil surcharge table, contract nos. M/08/72, M/09/28, M/10/13, M/11/55; SOMO sales contract, no. M/08/72 (June 26, 2000); Murtaza Lakhani interview (Dec. 6, 2004); Jordan National Bank record, SOMO account, bank statements (Dec. 31, 2001 and Mar. 31, 2002), (Jan. 1 to Dec. 31, 2001) (US dollar account), (Feb. 13 to Dec. 31, 2001) (euro account), (Mar. 4 to Dec. 31, 2002) (euro account), (Jan. 1 to Dec. 31, 2002) (euro account); Jordan National Bank record, SOMO account, credit advices (May 13 and June 17 and 19, 2001; Mar. 25, 2002). In Phase XII, \$308,167 in surcharges imposed on the Mednafta Trading Co. contract was never paid. Committee oil surcharge table, contract no. M/12/19.

³⁵⁴ Carl Parker interview (Oct. 13, 2005). Mr. Parker is Mr. Wyatt’s attorney. Ibid.

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VII. TRAFIGURA, IBEX AND THE *ESSEX* TOP-OFFS

In September 2001, a sea captain of an oil tanker wrote to a United Nations oil overseer to warn of a smuggling scheme involving his ship. The captain alleged that his tanker—the *Essex*—had been “topped off” on two separate occasions with more oil than authorized under the Programme while loading at Mina al-Bakr in May and August 2001. To support his claim, the captain furnished copies of duplicate bills of lading substantiating the fact that excess oil had been loaded beyond what was authorized under the Programme.³⁵⁵

In both instances, 1.8 million barrels of Basrah light crude oil were officially contracted and approved for loading under the Programme. But each time these UN-approved quantities were loaded, more than 200,000 barrels were added. The addition of oil cargo beyond the UN-approved oil contract was forbidden without the prior notice and approval of the United Nations oil overseers.³⁵⁶

As set forth below, the parties complicit in this top-off scheme were: (1) Ibex Energy/Multi-Prestation S.A.R.L. (“Ibex”—a French oil services company that contracted for the purchase of oil from Iraq; (2) Trafigura Beheer B.V. and its London branch, Trafigura Limited (collectively “Trafigura”—a large oil and commodities trader that agreed to purchase the oil to be loaded onto the *Essex*; (3) the Government of Iraq; and (4) Armando Carlos Oliveira—Saybolt’s lead inspector at the Mina al-Bakr offshore oil platform.

The smuggled oil was bought through a complex financial scheme involving Ibex Energy and Trafigura. Both companies used off-shore companies in an effort to disguise the payments between them. The Government of Iraq earned nearly €9.4 million on the two smuggled loads of oil.³⁵⁷

A. TRAFIGURA AND IBEX ENERGY—THE OIL TOP-OFF SCHEME

Trafigura was among the first contractors under the Programme and directly purchased over 31 million barrels of oil from Iraq. This trade was facilitated in large part by Rui Cabeçadas de Sousa, an independent businessman in the oil industry, who arranged for meetings between the

³⁵⁵ Theofanis Chilidakis letter to Morten Buur-Jensen (Sept. 21, 2001). Annexed to this written statement, Captain Chilidakis provided copies of four bills of lading—two for a lifting on May 16, 2001, and two for a lifting on August 27, 2001; see also Shamkh H. Faraj report to Minister of Oil, “Allocations and Sales of Crude Oil in the phases of the Memorandum of Understanding 1996-2003,” app. 7 (Feb. 19, 2004) (translated from Arabic) (summary by SOMO officials of Iraq’s oil allocation and sales practices during the Programme and describing the *Essex* “top off” scheme) (hereinafter “SOMO Summary Report”).

³⁵⁶ Theofanis Chilidakis letter to Morten Buur-Jensen (Sept. 21, 2001).

³⁵⁷ Banque Audi record, Windmill Trade Ltd (hereinafter “Windmill”) account, statement (June 30 to Oct. 31, 2001) (June 30 to Oct. 31, 2001); Banque Saradar record, Windmill account, statement (June 30 to Oct. 31, 2001) (June 30 to Oct. 31, 2001); SOMO Summary Report.

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company and SOMO. During much of the 1980s, Mr. de Sousa worked at Vanoil Inc. (“Vanoil”), an oil trading firm that also employed Mr. Cayre. In 1987, Mr. de Sousa and Mr. Cayre both departed Vanoil to found Toro Energy S.A.M. (“Toro”) in Monaco. Mr. Cayre eventually left Toro to form Ibex, but continued to work with Mr. de Sousa through Toro Refining Inc, a related company. Toro participated indirectly in the Programme through a joint venture with Trafigura. Under this arrangement, Trafigura received sixty-five percent of the proceeds from its contracts with SOMO, and Toro Energy received thirty-five percent.³⁵⁸

During the first three phases of the Programme, Trafigura only lifted oil allocated in its own name. Beginning in Phase IV, Trafigura contracted with SOMO for the purchase of oil allocated to Patrick Maugein, another prominent oil trader. In connection with these allocations, Mr. Maugein and Mr. de Sousa met with Iraqi officials, including Tariq Aziz. By Phase VI, 14 million barrels of oil had been allocated to Mr. Maugein, most of which Trafigura lifted and sold. Today, Mr. Maugein and Mr. de Sousa are the Chairman and Director, respectively, of SOCO International plc (“SOCO International”), a United Kingdom energy investment firm. Trafigura denies having any contractual arrangement with Patrick Maugein and states that it does not know what arrangements, if any, Patrick Maugein or Mr. de Sousa had with Ibex Energy.³⁵⁹

In December 1999, Trafigura entered into a contract with SOMO to lift two million barrels of oil. That same month, SOMO sent a fax to Trafigura canceling the contract. This decision had significant economic consequences for Trafigura, which had already chartered a vessel for the contract and preemptively “sold” the oil it intended to purchase to a third party. In total, SOMO’s cancellation cost Trafigura over \$690,000. To make matters worse, Trafigura was now barred from any future contracts under the Programme. Hoping to rectify the situation, Trafigura

³⁵⁸ Graham Sharp telex to SOMO (Apr. 1, 1999); SOMO sales contract, no. M/03/33 (Jan. 18, 1998) (contracting with Trafigura); Rui de Sousa letter to SOMO (Sept. 16, 1997); Rui de Sousa letter to Oil overseers (Apr. 15, 1997) (signed by Mr. de Sousa for and on behalf of Trafigura); Trafigura letter to SOMO (signed by Mr. de Sousa on behalf of Trafigura); Trafigura letter to the Committee (Jan. 31, 2005); Jean-Paul Cayre interview (Dec. 1, 2004); Jean-Paul Cayre curriculum vitae (July 6, 1999); Confidential witness interview; United Kingdom H.M. Customs and Excise interview of Andy Summers (June 10, 2002). Mr. Sharp was a Director of Trafigura during the Programme. SOMO sales contract, no. M/03/33 (Jan. 18, 1998) (contracting with Trafigura). Mr. Summers was employed by Trafigura as a senior crude marketing consultant. United Kingdom H. M. Customs and Excise interview of Michele Sloan (June 11, 2002). Ms. Sloan was employed by Trafigura to oversee the logistics of crude oil operations after they had been successfully traded. Ibid. Mr. Cayre is the General Manager of Ibex Energy, an oil consulting services and equipment company. Jean-Paul Cayre interview (Dec. 1, 2004).

³⁵⁹ Committee oil company table, contract nos. M/01/03, M/02/14, M/03/33, M/04/30, M/05/10, M/06/47; Committee oil beneficiary table, contract nos. M/04/30, M/06/47; Amer Rashid interview (Feb. 20, 2005); Iraq official interview; SOCO International, “Board of Directors,” <http://www.socointernational.co.uk/corp.php>; Trafigura letter to the Committee (Jan. 31, 2005).

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pleaded its case to SOMO, but after Phase VI, Trafigura was involved in the Programme only as a secondary purchaser and trader, not a primary contractor with SOMO.³⁶⁰

One year later, in January 2001, Trafigura wrote a letter to the Iraqi Deputy Minister of Oil requesting a meeting. The request was granted, and Mr. de Sousa and Mr. Cayre went to Baghdad to meet with Iraqi officials. At these meetings, Iraqi officials initially offered to compensate Trafigura by selling oil to the company at a discount. During subsequent discussions, however, the officials proposed a top-off scheme. Under this arrangement, eighty percent of the proceeds generated from the sale of the smuggled oil would go to Iraq and the remaining twenty percent to Ibex.³⁶¹

As a part of this scheme, Ibex entered into two contracts under the Programme to lift Iraq Kirkuk crude oil from Ceyhan and Basrah light oil from Mina al-Bakr in March and July 2001, respectively. Under the first contract, M/09/81, 600,000 barrels of Kirkuk crude oil and 1.8 million barrels of Basrah light crude oil were lifted. The second contract, M/10/08, initially stipulated the sale of 2 million barrels of Basrah light crude oil, but was later reduced to 1.8 million barrels at Ibex's request. While Kirkuk crude exported from Ceyhan was measured by flow meters and monitored by Saybolt, at Mina al-Bakr there was no metering, and Saybolt inspectors were the sole means of validating quantities of loaded oil.³⁶²

³⁶⁰ SOMO sales contract, no. M/05/10 (Dec. 6, 1998) (contracting with Trafigura) (not executed); Editorial, “French Stalling on Iraq,” *New York Times*, Dec. 16, 1999; Edith M. Lederer, “France Pushes for Iraq Resolution,” *Associated Press*, Dec. 15, 1999; SOMO fax to Oil overseers (Dec. 17, 1999) (copied to Trafigura); Trafigura letter to the Committee (Jan. 31, 2005); Amer Rashid interview (Feb. 20, 2005); Iraq official interview; Confidential witness interview; Michele Sloan telex to SOMO (Dec. 20, 1999); Italia Chartering invoice to Trafigura for \$690,300 charterparty cancellation (Dec. 30, 1999).

³⁶¹ Amer Rashid interviews (Oct. 29, 2004 and Aug. 21, 2005); Iraq official interview; Andy Summers e-mail to Michele Sloan (Jan. 16, 2001); Graham Sharp fax to Jean-Paul Cayre (Jan. 19, 2001) (attaching letter to Faiz A. Al-Shaheen); United Kingdom H.M. Customs and Excise interview of Michele Sloan (June 16, 2002); Confidential witness interview; SOMO Summary Report (containing Amer Rashid letter dated April 12, 2002, to Deputy Prime Minister of Iraq); Jean-Paul Cayre affidavit, *Trafigura v. Ibex Energy*, claim no. 2001 folio 1232, para. 13 (United Kingdom High Court of Justice, Jan. 2002) (hereinafter “Jean-Paul Cayre Affidavit”). In his affidavit, Jean-Paul Cayre implicated Ibex and Trafigura in the top-off scheme. *Ibid.*

³⁶² SOMO sales contracts, nos. M/09/81 (Mar. 4, 2001), M/10/08 (July 11, 2001) (contracting with Ibex); Oil overseers memorandum to United Nations Treasury (Aug. 20, 2001) (referencing an amendment to SOMO sales contract M/10/08); “Report on Technical Reconnaissance Mission to Iraq,” (June 17, 1996) (hereinafter “1996 Technical Report”); “Report of the Group of United Nations Experts established pursuant to Paragraph 30 of the Security Council Resolution 1284 (2000)” (Mar. 2000) (hereinafter “2000 Experts Report”). Ibex Energy sold Kirkuk crude oil to an Italian refinery through a business owned by Mr. de Sousa, Mediterranean Oil Supply and Trading Ltda (“MOST”) of Monaco. Confidential witness interview.

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B. BRIBERY OF SAYBOLT INSPECTOR

By April 2001, with the approval of Ibex contract M/09/81, SOMO, Ibex and Trafigura were poised to smuggle oil on the vessel chartered for the contract: the *Essex*. In order to implement the scheme, however, the parties needed to ensure that Saybolt would not report any irregularities involving the *Essex* to the United Nations. It was the Government of Iraq that accomplished this objective by bribing Saybolt's team leader in Mina al-Bakr, Mr. Oliveira. Although Mr. Oliveira has consistently denied allegations of bribe-taking and repeatedly stated that he had no involvement in or knowledge of the *Essex* top-offs at the time they occurred, evidence obtained by the Committee suggests this was not the case.³⁶³

Several Iraqi officials stated that the Government of Iraq agreed to make payments to Mr. Oliveira in return for his assistance in concealing the *Essex* top-offs. According to Amer Rashid, the Iraqi Minister of Oil, SOMO staff persuaded Mr. Oliveira to disregard unauthorized oil loadings by offering him cash payments. In addition to these bribes, the Government of Iraq also agreed to pay Mr. Oliveira two percent of the proceeds from the smuggling operation. Mr. Rashid authorized the cash payments to Mr. Oliveira in foreign currency and facilitated his exit from Iraq with the cash.³⁶⁴

³⁶³ Amer Rashid interviews (Oct. 29, 2004 and Aug. 21, 2005); Iraq official interview; Peter Boks interview (Oct. 6, 2004). In October 2001, Benon Sevan asked Saybolt to conduct an investigation into the allegations of the *Essex* top-offs on behalf of the United Nations. Bruce Rashkow note to Benon Sevan (Oct. 31, 2001). Saybolt's conclusions relied in large part upon the statements of their team leader in Mina al-Bakr, Mr. Oliveira. "Report on alleged loadings of Crude Oil from Mina al-Bakr outside the United Nations Oil for Food Program" (Oct. 17, 2001); Armando Carlos Oliveira interview (May 14, 2005). Mr. Oliveira is also referred to in SOMO and Ministry of Oil records as "Armando Carlos." See, e.g., Amer Rashid letter to Central Bank of Iraq (Mar. 5, 2002). Mr. Oliveira's full name is Armando Carlos Costa Oliveira. Armando Carlos Costa Oliveira Portuguese passport (July 4, 2000).

³⁶⁴ Amer Rashid interviews (Oct. 29, 2004 and Aug. 21, 2005); Iraq official interview; SOMO Summary Report. According to Oil Minister Rashid, Saybolt and its managers did not know about Mr. Oliveira's arrangement with the Government of Iraq. Amer Rashid interview (Aug. 21, 2005).

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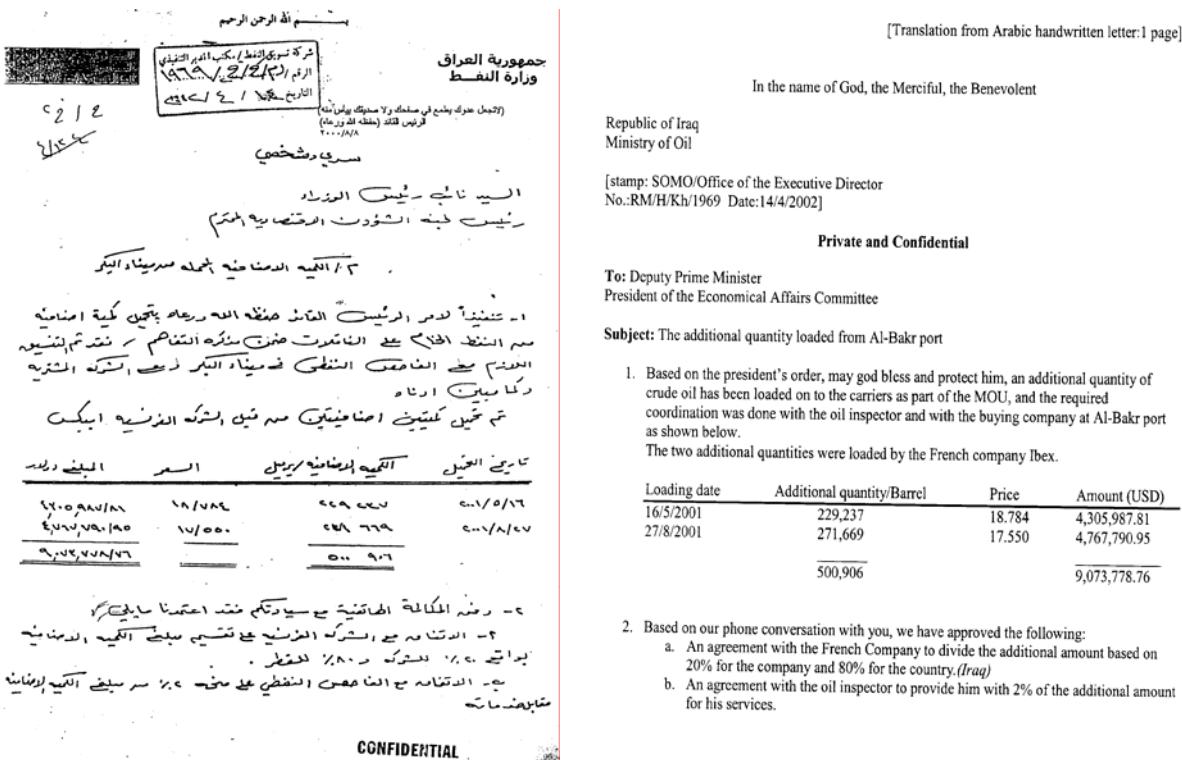
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السيد محافظ البنك المركزي العراقي
To: Governor of the Central Bank of Iraq

م/ تسهيل مهمة
بالنظر لقيام السيد (ARMANDO CARLOS) برتغالي الجنسية حامل جواز السفر المرقم
F - ٥٠٤٤٦٤ الصادر في ٢٠٠٠/٧/٤ البرتغال ي تقديم خدمات الى هذه الوزارة لقاء مبلغ
قدره -/١٩,٧٠٠ دولار (سعة عشر ألف وسبعمائة دولار) نقداً .
يرجى التفضل بالموافقة على تزويدة بكتاب تسهيل مهمة إخراج المبلغ أعلاه بصحبته نقداً من
خلال مجمع القadesية الحودي (طربيل)
مع التقدير
Amer Mohammed Rashid
Minister of Oil
March 5, 2002

Figure: Amer Rashid letter to Central Bank of Iraq (Mar. 5, 2002) (translated from Arabic).



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-٤- في صدور اعدهم في كسب ما يسمى به (ARMANDO CARLOS) (ARMANDO CARLOS) عن اختيارات اعدهم وفي
 اول من استئناف المتفق عليه
 -٥- تم اعتبار المطلب المتحقق عن اجله القديم الدال على صدوره
 بالاتفاق ستة وسبعين يوماً ملائمة على هذه المسألة

3. In light of the above an amount of 105,819 dollars was paid to the oil inspector (Armando Carlos) for the two aforementioned shipments. This is less than the amount agreed upon.
 4. The amount realized of the total additional quantity above is considered to be a surcharge, and therefore is to be treated on this basis.

Please take note,

Regards,

'Amer Muhammad Rashid
Minister of Oil
12th April 2002

Figure: Amer Rashid letter to Tariq Aziz (Apr. 12, 2002) (translated from Arabic)

Falcon Navigation Corp. (“Falcon Navigation”), an affiliated company of Trafigura, oversaw the two *Essex* loadings, along with Manolis Manoussakis, Trafigura’s “on-site loss control representative.” In May 2001, Mr. Manoussakis flew to Dubai where he boarded the *Essex* prior to proceeding to Mina al-Bakr. Theofonis Chiladakis, the captain of the tanker *Essex*, was instructed by Trafigura to follow Mr. Manoussakis’s instructions for the loading.³⁶⁵

In May 2001, after the first parcel of 1.8 million barrels was loaded at Mina al-Bakr, Mr. Oliveira, Mr. Manoussakis, and the loading master for the Iraqi South Oil Company at the port, oversaw the gauging of the *Essex*. Once the initial measurements were performed, loading resumed for the top-off cargo and a second gauging was done to measure the total quantity after the top-off. These same circumstances occurred during the second *Essex* lifting in August 2001. Mr. Manoussakis accounted for the total quantity of oil aboard the vessel and documented the top-off parcels with a second bill of lading. With both top-offs, Total Quality on Board forms (“TQOB forms”) of the total quantity lifted by the *Essex* were signed by Mr. Manoussakis and Mr. Al-Seraih.³⁶⁶

³⁶⁵ Trafigura, "Companies Worldwide," <http://www.trafigura.com> (identifying Falcon Navigation as one of Trafigura's global companies); Trafigura letter to the Committee (Jan. 31, 2005); Manolis Manoussakis interview (May 12, 2005) (stating that Theofanis Chiladakis died in 2002); Beverly Rudy letter to Benon Sevan (Nov. 2, 2001); Michele Sloan memorandum to Falcon Navigation (July 30, 2001); Jean-Paul Cayre handwritten note (May 2001); Jean-Paul Cayre affidavit (paras. 21 and 27) (stating that the May 2001 lifting was the first time in Trafigura's dealings with Ibex that Trafigura sent a representative to supervise the loading).

³⁶⁶ Manolis Manoussakis interview (May 12, 2005). TQOB forms were completed for each of the two Essex loadings. These forms were not normally used, but were requested by Mr. Manoussakis as a record of the total load amounts. Ibid. See also Jean-Paul Cayre Affidavit (para. 27) (relating that Trafigura instructed Mr. Manoussakis to supervise the second Essex loading). Mina al-Bakr had no metering capability. Thus the actual amount of Basrah light crude lifted by a vessel could only be measured after it was loaded. This practice, called gauging, and the measurement calculations that resulted, were the responsibility of Saybolt. 1996 Technical Report; 2000 Experts Report; Manolis Manoussakis interview (May 12, 2005).

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Mr. Oliveira has denied having any familiarity with the TQOB forms despite Mr. Manoussakis's insistence that Mr. Oliveira filled in all of the hand-written numerals on both TQOB forms, but refused to sign them. At the Committee's request, Mr. Oliveira provided several handwriting examples. Though not conclusive, given the limited number of examples, there is considerable similarity between several of the examples he provided and the numerals found in the TQOB forms.³⁶⁷

Correspondence and banking records further confirm Mr. Oliveira's agreement with the Government of Iraq. Mr. Oliveira received payments in the amount of \$105,819, of which \$86,119 was paid during September 2001 and the remaining \$19,700 during March 2002. According to Saybolt records, Mr. Oliveira left Mina al-Bakr to return to Lisbon, Portugal, less than a day after Mr. Rashid provided him with a letter facilitating his departure from Iraq. When interviewed, Mr. Oliveira confirmed that he left Iraq through the Trebil border to Jordan on his way home to Lisbon. While Mr. Oliveira denies receiving any cash during this trip, bank records show that he made a \$5,000 cash deposit into his personal bank account in Lisbon on March 11, 2002. Mr. Oliveira has stated that he routinely carried such amounts of cash when he traveled back and forth between Portugal and Iraq.³⁶⁸

C. THE FINANCIAL TRAIL OF THE *ESSEX* TOP-OFF SCHEME

1. The May 16, 2001 *Essex* Top-Off Load

As described above, on May 16, 2001, the *Essex* vessel lifted two million barrels of oil—of which only 1.8 million was authorized for sale under the Programme. The oil that was lifted legitimately by the *Essex* was authorized under Ibex contract M/09/81 and purchased through a letter of credit in the name of Ibex that was financed by Trafigura. Trafigura sold the full cargo to United States refiners Marathon Ashland and Koch Petroleum, each receiving approximately one million barrels. In exchange for the oil, Koch Petroleum made two payments to Trafigura totalling \$20.8 million. Both payments were wired to Trafigura's account at BNP Paris. Marathon Ashland, meanwhile, made two payments to Trafigura totalling \$23.2 million: first, \$18 million was wire-transferred to a Trafigura account at BNP Paris for 795,265 barrels; second, \$5.2 million was wire-transferred to a Trafigura account in London at Crédit Agricole Indosuez

³⁶⁷ Armando Carlos Oliveira interview (May 14, 2005); Manolis Manoussakis interview (May 12, 2005). See Annex 1 for Handwriting Examples.

³⁶⁸ SOMO Summary Report (containing Amer Rashid's letter to the Central Bank of Iraq, dated March 5, 2002, and Amer Rashid's letter to Tariq Aziz, dated April 12, 2002); United States Senate Permanent Subcommittee on Investigations hearing on "The United Nations' Management and Oversight of the Oil-for-Food Program," Exhibit 8 (Feb. 15, 2005); Armando Carlos Oliveira interview (May 14, 2005); Feodore Aquino interview (June 7, 2005). Mr. Aquino, a Saybolt inspector, advised that there was no need to have that much cash at Mina al-Bakr, an isolated platform in the ocean, since all provisions had to be purchased at Baghdad or Basrah. Ibid.

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(Suisse) S.A. (“Crédit Agricole Indosuez”) for 229,375 barrels—a volume nearly equal to the top-off cargo.³⁶⁹

Trafigura did not secure a standard letter of credit to finance the top-off parcel of oil. Instead, Trafigura financed a standby letter for the top-off purchase in the name of Roundhead Inc. (“Roundhead”) at Crédit Agricole Indosuez. Roundhead, which was named on the SOMO bills of lading for the top-off cargoes, was an “off the shelf” Bahamian company beneficially owned and operated by Trafigura. On June 14, 2001, Ibex Service & Equipment Ltd. (“Ibex S&E”), a British Virgin Islands company that was beneficially owned and operated by Mr. Cayre, received €5.1 million from Trafigura into its account at Crédit Agricole Indosuez, thereby cancelling Roundhead’s standby letter of credit.³⁷⁰

After receiving these funds, Ibex S&E wired €4.2 million to the bank account of Windmill Trade Ltd. (“Windmill”) at Banque Audi in Beirut, Lebanon. Windmill was another British Virgin Islands “shelf” company that was beneficially owned and operated by Mr. Cayre. The next day, Windmill wired a payment of €4.2 million to a SOMO controlled bank account at Fransabank in Beirut for the smuggled oil.³⁷¹

Mr. Cayre has acknowledged that Ibex S&E channelled money to SOMO, but he denied having any knowledge of Windmill or the payments made through Windmill’s bank accounts. But, as discussed above, banking and financial records identify Mr. Cayre as the beneficial owner of both

³⁶⁹ SOMO sales contract, no. M/09/81 (Mar. 4, 2001) (contracting with Ibex); Committee oil financier table, contract no. M/09/81; Beverly Rudy letter to Benon Sevan (Nov. 2, 2001); Trafigura invoices to Koch Petroleum (July 12, 2001); Craig Thomas e-mail to Crédit Agricole Indosuez (July 11, 2001); Craig Thomas e-mail to BNP (July 11, 2001); Crédit Agricole Indosuez record, payment order (June 14, 2001).

³⁷⁰ Theofanis Chilidakis letter to Morten Buur-Jensen (Sep. 21, 2001) (containing bills of lading in the name of Roundhead, Inc.); Ibex Service & Equipment Ltd. invoice to Roundhead (June 6, 2001); Beverly Rudy letter to Benon Sevan (Nov. 2, 2001); Banque Audi record, Ibex S&E account, account opening records (May 3, 2001) (including the Articles of Association of Ibex S&E and a photocopy of Mr. Cayre’s French passport); Crédit Agricole Indosuez record, Ibex S&E account, statement (June 30 to Oct. 31, 2001) (containing numerous wire transfer requests signed by Jean-Paul Cayre and references to the British Virgin Islands address of Ibex S&E); United Kingdom H.M. Customs and Excise interview of Alan Gordon (June 10, 2002) and Craig Thomas (June 10, 2002).

³⁷¹ Crédit Agricole Indosuez record, Ibex S&E account, payment order (June 8, 2001); Ibex S&E invoice to Roundhead (June 6, 2001); Crédit Agricole Indosuez record, Ibex S&E account, debit advice (June 14, 2001); Banque Audi record, Windmill account, account opening records (April 3, 2001) (including the Articles of Association of Windmill and a photocopy of Mr. Cayre’s French passport); Fransabank record, SOMO account, credit advice (June 19, 2001) (showing deposit from Windmill); Jean-Paul Cayre affidavit (paras. 20 and 22) (acknowledging that upon receiving payment for the top-off cargo, Ibex S&E in turn paid SOMO through a designated account in Lebanon).

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Windmill and Ibex S&E and the sole signatory to Windmill's bank accounts at Banque Audi and also at Banque Saradar, both used for payments to SOMO.³⁷²

2. The August 27, 2001 Essex Top-Off Load

On August 27, 2001, the *Essex* lifted 1.8 million barrels under Ibex contract M/10/08, again through a Trafigura-financed letter of credit, which was again topped-off with over 200,000 barrels of smuggled oil. Trafigura sold approximately one million barrels of oil from the resulting cargo each to Koch Petroleum and Petromar, S.A., an affiliate of Petroleos de Venezuela. Captain Chiladakis's revelations prevented the sales from being completed, however. On October 24, 2001, the *Essex* arrived at Curaçao and was prevented from off-loading the cargo for Koch Petroleum by authorities until the legality of the cargo was reconciled.³⁷³

In order to purchase the top-off cargo on this second *Essex* trip, Trafigura again opened a standby letter of credit on behalf of Roundhead. To cancel the letter of credit, Trafigura transferred payment of €6.4 million to Ibex S&E's Crédit Agricole Indosuez bank account on September 25, 2001. Two days later, Ibex S&E wired €5.3 million to Windmill's Banque Saradar account in Beirut. On October 5, 2001, Windmill executed a wire transfer of €5.2 million to a SOMO bank account at Fransabank in Beirut.³⁷⁴

3. Surcharge Payments to SOMO

Surcharge payments were also made to the Government of Iraq in connection with each of the two United Nations-approved oil cargoes lifted by the *Essex*—with financing from Trafigura—under Ibex's contracts M/09/81 and M/10/08. On June 15, 2001, Trafigura wired two payments to Ibex S&E's Banque Audi account in the amounts of €637,336 and €81,242. On June 18, 2001, Ibex S&E wired €18,590 to the Windmill account at Banque Audi. The next day, Windmill wired €637,348 to SOMO's Fransabank account. SOMO records reflect this payment as satisfying the surcharges imposed on the Trafigura-financed lift under M/09/81. On October 2, 2001, Windmill received a wire transfer of €67,978 into its Banque Saradar account from Ibex

³⁷² Jean-Paul Cayre interview (Dec. 1, 2004); Banque Audi account opening records for Windmill account no. 595136 (Apr. 3, 2001); Banque Saradar record, Windmill account, account opening records (Aug. 2, 2001).

³⁷³ SOMO sales contract, no. M/10/08 (July 11, 2001) (contracting with Ibex); Committee oil financier table, contract no. M/10/08; SOMO bill of lading, bbl/3161 (Aug. 27, 2001); Beverly Rudy letter to Benon Sevan (Nov. 2, 2001).

³⁷⁴ Beverly Rudy letter to Benon Sevan (Nov. 2, 2001); Crédit Agricole Indosuez record, Ibex S&E account, payment order no. 16050 (Sept. 25, 2001); Crédit Agricole Indosuez record, Ibex S&E account, payment order from Ibex S&E to Windmill at Banque Audi (Sept. 27, 2001); Banque Audi record, Windmill account, statement (June 30 to Oct. 31, 2001); Jean-Paul Cayre Affidavit, para. 27 (acknowledging that upon receiving payment for the top-off cargo, Ibex S&E in turn paid SOMO for the oil).

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S&E. The next day Windmill wired €79,324 to SOMO’s Fransabank account. SOMO records reflect this payment as satisfying surcharges imposed contract M/10/08.³⁷⁵

A surcharge payment was also made for additional oil lifted under contract M/10/08. On August 6, 2001, the *Hellas Warrior* lifted 601,812 barrels of Kirkuk crude oil from Ceyhan, on which SOMO assessed a surcharge of \$0.25 per barrel. On September 9, 2001, Ibex S&E’s Banque Saradar account received €69,000 from Ibex S&E’s Crédit Agricole Indosuez account in Paris and on the same day wired €68,367 from its Banque Saradar account to SOMO’s bank account at Fransabank.³⁷⁶

4. Trafigura’s False Invoicing

On June 27, 2001, Trafigura sent an invoice to Ibex Energy for \$379,650 requesting rebilling of demurrage incurred by the vessel *Argo Hebe*.³⁷⁷ This invoice contained a handwritten note in French addressed to an individual named “Rui” and stating “there is no time to waste.” Upon receiving the invoice, Mr. Cayre e-mailed Michele Sloan, a Trafigura employee, asking her to change the invoice to the attention of Ibex S&E rather than Ibex Energy. On July 2, 2001, Ibex S&E wired €451,175 (the equivalent of \$379,650) from its Swiss bank account at Crédit Agricole Indosuez to Trafigura’s bank account at Banque Paribas in Paris. Neither Ibex nor Ibex S&E had any involvement with Trafigura’s chartering of the *Argo Hebe*. Mr. Cayre has stated that the invoice was created as cover for the payment of Trafigura’s share of the profit on the first top-off cargo.³⁷⁸

³⁷⁵ Crédit Agricole Indosuez record, Ibex S&E account statement; Banque Saradar record, Windmill account, statement (June 30 to Oct. 31, 2001); Fransabank record, SOMO account, credit advice (Oct. 4, 2001) (showing deposit from Windmill); Banque Audi record, Ibex S&E account, statement (June 30 to Oct. 31, 2001); Banque Audi record, Windmill account, statement (June 30 to Oct. 31, 2001). Committee oil surcharge table, contract nos. M/09/81, M/10/08.

³⁷⁶ SOMO commercial invoice, C/104/2001 (Aug. 6, 2001) (relating to Ibex Energy contract M/10/08); Crédit Agricole Indosuez record, Ibex S&E account, statement (June 30 to Oct. 31, 2001); Banque Saradar record, Windmill account, statement (June 30 to Oct. 31, 2001); Committee oil surcharge table, contract no M/10/08.

³⁷⁷ *Argo Hebe* was the vessel contracted for by Trafigura when Iraq cancelled their contract in December 1999, resulting in a \$690,300 demurrage. SOMO fax to Oil overseers (Dec. 17, 1999) (copied to Trafigura); Michele Sloan telex to SOMO (Dec. 20, 1999); Italia Chartering invoice to Trafigura (Dec. 30, 1999) (\$690,300 for charterparty cancellation).

³⁷⁸ Trafigura invoice to Ibex and Ibex S&E (June 27, 2001); Jean-Paul Cayre e-mail to Michele Sloan (June 27, 2001); Crédit Agricole Indosuez record, Ibex S&E account, statement (June 30 to Oct. 31, 2001)s (May 31 and Aug. 31, 2001); Jean-Paul Cayre affidavit, para. 23 (acknowledging that the invoiced amount actually represented the agreed percentage of profit from the top-off cargo for transfer to Trafigura).

REPORT ON PROGRAMME MANIPULATION

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OIL TRANSACTIONS AND ILLICIT PAYMENTS

D. UNITED NATIONS RESPONSE TO THE *ESSEX* TOP-OFF ALLEGATIONS

As discussed above, on October 9, 2001, United Nations oil overseer Morten Buur-Jensen received a written statement with attached documents from Captain Chiladakis. In his statement, Captain Chiladakis alleged that the *Essex* twice loaded crude oil at Mina al-Bakr outside of the Programme—once in May and a second time in August 2001. Captain Chiladakis also annexed numerous documents to his statement, including two sets of bills of lading for the *Essex* loadings. In addition, Captain Chiladakis provided two TQOB forms, which contained handwritten data identifying the sum of both the UN-approved and illegal top-off parcels of oil. Both the May 16, 2001 and the August 27, 2001 TQOB forms were signed by Mr. Manoussakis, and the loading master for the Iraqi South Oil Company at Mina al-Bakr.³⁷⁹

Mr. Buur-Jensen quickly shared this information with the other oil overseers, Benon Sevan and Stephani Scheer of OIP, and Peter Boks at Saybolt. Mr. Boks responded within hours and assured OIP that the matter would be investigated thoroughly. The following day, the oil overseers provided Captain Chiladakis's letter and attachments to Mr. Boks, and Saybolt initiated its own investigation of the matter.³⁸⁰

Although the *Essex* allegations were immediately shared with the oil overseers, OIP, and Saybolt, nearly two weeks passed before the 661 Committee was notified. Mr. Sevan delayed informing the 661 Committee until the Government of Iraq had been given an opportunity to respond to the allegations. On October 19, 2001, Mr. Sevan presented Captain Chiladakis's allegations to the Iraqi Ambassador to the United Nations, Mohammed Al-Douri, and requested an urgent response. In his October 22, 2001 response, Ambassador Al-Douri stated that SOMO had looked into the matter and found no information that corroborated Captain Chiladakis's allegations. The next day, with news of the matter beginning to circulate, the Permanent Mission of the Kingdom of the Netherlands to the United Nations requested OIP to provide information regarding the *Essex*.

³⁷⁹ Theofanis Chiladakis died in 2002, therefore the Committee was not able to interview him. Manolis Manoussakis interview (May 12, 2005); Theofanis Chiladakis letter to Morten Buur-Jensen (Sept. 21, 2001). The *Financial Times* reported that Captain Chiladakis walked into the United States Embassy in Athens on September 21, 2001, completed his letter there and provided it to United States Embassy officials. Carola Hoyos, "Oil smugglers keep cash flowing back to Saddam," *Financial Times*, Jan. 17, 2002, p. 9.

³⁸⁰ Morten Buur-Jensen e-mail to Benon Sevan (Oct. 9, 2001); Peter Boks email to Benon Sevan (Oct. 9, 2001); Oil overseers letter to Peter Boks (Oct. 10, 2001). On October 17, 2001, Saybolt completed its investigative report on the *Essex* top-off loadings. Saybolt's investigative findings on the matter relied in large measure upon the statements and denials of Armando Carlos Costa Oliveira. "Report on alleged loadings of Crude Oil from Mina al-Bakr outside the United Nations Oil for Food Program," (Oct. 17, 2001) (hereinafter "Saybolt Essex Report"); Peter Boks interview (Oct. 6, 2004); Armando Carlos Oliveira interview (May 14, 2005).

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Rather than conducting an independent investigation of the matter, OIP simply adopted Saybolt's investigative findings which found no improper conduct by Mr. Oliveira.³⁸¹

In a letter dated October 24, 2001, Mr. Sevan formally referred Captain Chiladakis's allegations regarding the *Essex* to the 661 Committee Chairman. Distribution to the members of the Security Council occurred that same day. This matter was discussed at the next three 661 Committee meetings. At the November 6, 2001 meeting, Mr. Sevan invited Mr. Boks to present Saybolt's investigative findings to the 661 Committee. He also updated the 661 Committee on Trafigura's efforts to resolve this matter and acquire authorization from the Dutch authorities to sell the now-tainted oil.³⁸²

During a 661 Committee meeting two days later, Mr. Sevan noted that he would be working constantly with Saybolt during the coming weeks and would report back to the Committee. Further discussion focused on Trafigura's payment to the escrow account for the top-offs and referring the matter for investigation to each of the member states affected by the situation: the Netherlands, France, the United States, the United Kingdom, the Bahamas, and Venezuela. Although significant investigations were initiated in the Netherlands, the United Kingdom, the United States, and France by Customs and financial prosecutorial authorities, no charges were ever brought against any of the companies or individuals involved in the *Essex* top-offs. Investigations in the Netherlands and the United States remain active while the United Kingdom and France investigations have since been closed.³⁸³

³⁸¹ Morten Buur-Jensen e-mail to Benon Sevan (Oct. 9, 2001); Benon Sevan letter to 661 Committee Chairman, S/AC.25/2001/COMM.474 (Oct. 24, 2001); Benon Sevan e-mail to Oil overseers (Oct. 24, 2001) (copied to Stephani Scheer); Benon Sevan letter to Mohammed Al-Douri (Oct. 19, 2001); Mohammed Al-Douri letter to Benon Sevan (Oct. 22, 2001); Netherlands Mission letter to OIP (Oct. 23, 2001). By the time the 661 Committee was notified, Saybolt had investigated the matter and already provided its results to OIP. Saybolt and Mr. Oliveira denied any knowledge of the top-offs. Saybolt Essex Report. On October 30, 2001, Mr. Sevan informed Bruce Rashkow, Director of the General Legal Division of the Office of Legal Affairs that he had requested that Saybolt investigate the matter, and to appear before the 661 Committee on November 6, 2001. The following day, Mr. Rashkow warned Mr. Sevan: “[A]s we previously indicated, it is incumbent on the Organization to investigate this matter, including the actions of Saybolt.” Benon Sevan e-mail to Bruce Rashkow (Oct. 30, 2001); Bruce Rashkow note to Benon Sevan (Oct. 31, 2001).

³⁸² Benon Sevan letter to Mohammed Al-Douri (Oct. 19, 2001); Mohammed Al-Douri letter to Benon Sevan (Oct. 22, 2001); Benon Sevan letter to 661 Committee Chairman, S/AC.25/2001/COMM.474 (Oct. 24, 2001); Benon Sevan note to Joseph Stephanides (Oct. 24, 2001); Provisional record of 661 Committee meeting, S/AC.25/SR.225 (Nov. 6, 2001); Provisional record of 661 Committee meeting, S/AC.25/SR.226 (Nov. 8, 2001); Provisional record of 661 Committee meeting, S/AC.25/SR.227 (Dec. 3, 2001).

³⁸³ Provisional record of 661 Committee meeting, S/AC.25/SR.226 (Nov. 8, 2001); 661 Committee Chairman letters to the permanent representatives of the Netherlands, France, the United States, the United Kingdom, the Bahamas, and Venezuela (Nov. 20 and 23, 2001) (requesting official investigations into the actions of those companies from their respective states who were involved in the oil lifted by the *Essex*).

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E. EXPLANATIONS OF SAYBOLT, ARMANDO CARLOS OLIVEIRA, AND TRAFIGURA

On October 15, 2005, Saybolt was notified of the Committee's proposed findings regarding the conduct of Mr. Oliveira, and invited to provide the Committee with any additional information prior to the issuance of its Report. In response, Saybolt pointed out its role in conducting an internal investigation of the incident, which found no evidence that Saybolt employees knew of the *Essex* top-off. According to Saybolt, when new information came to light in February 2005, the company suspended Mr. Oliveira, who then abruptly resigned.³⁸⁴

By letter dated October 14, 2005, Mr. Oliveira was also provided notice of the Committee's proposed findings regarding his conduct. Mr. Oliveira responded by stating that he was not involved in the top loading incidents and did not facilitate the production of any documents outside of the Programme.³⁸⁵

Trafigura has refused to make any of its personnel available for interview with Committee investigators. Trafigura maintains that it is the victim of a top-off scheme between Jean-Paul Cayre and the Government of Iraq—and that the company was not involved with any of Ibex Energy's dealings with the Government of Iraq. Trafigura further claims that it relied upon a Saybolt inspector apparently bribed by Ibex Energy. According to Trafigura, Roundhead is a legitimate business vehicle that was used in order to avoid the problem of "offset" where the buyer and seller use the same bank. The company denies that its invoice of June 27, 2001 to Ibex Energy for \$379,650 for the rebilling of demurrage for the *Argo Hebe* was improper and maintains that this invoice had nothing to do with the first top-off, of which the company had no knowledge.³⁸⁶

³⁸⁴ Committee letter to Saybolt (Oct. 15, 2005); Saybolt letter to the Committee (Oct. 20, 2005).

³⁸⁵ Committee letter to Armando Carlos Oliveira (Oct. 14, 2005); Armando Carlos Oliveira letter to the Committee (Oct. 15, 2005).

³⁸⁶ Committee meeting with Trafigura (Oct. 21, 2005). Despite repeated requests for interviews, it was only on October 22, 2005, following a meeting with the Committee, that the company offered for the first time to make Eric de Turckheim, Trafigura's Finance Director, available for interview. Trafigura e-mail to the Committee (Oct. 22, 2005). Given the unwillingness of the company to make its staff available during the course of the investigation, at this late date the Committee declined. By letters dated October 17, 2005, Trafigura and Jean-Paul Cayre (Ibex Energy) were each similarly provided with notices of the Committee's proposed findings and were invited to provide any additional information. Trafigura provided written responses. Committee letter to Trafigura (Oct. 17, 2005); Committee letter to Jean-Paul Cayre (Oct. 17, 2005); Trafigura letter to the Committee (Oct. 20, 2005); Trafigura e-mail to the Committee (Oct. 22, 2005).

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OIL TRANSACTIONS AND ILLICIT PAYMENTS

Chart G – Handwriting Samples of Mr. Oliveira

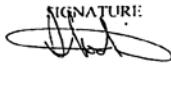
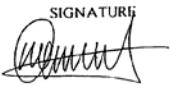
| <p style="text-align: center;"><u>TOTAL QUANTITY ON BOARD</u></p> <p style="text-align: center;">TOTAL QUANTITY LOADED ON BOARD VESSEL "ESSEX" ON (/ 6/2001) AS FOLLOWS:-</p> <table style="margin-left: auto; margin-right: auto; border-collapse: collapse;"> <thead> <tr> <th style="text-align: left; padding-bottom: 5px;">GROSS</th> <th style="text-align: right; padding-bottom: 5px;">NET</th> </tr> </thead> <tbody> <tr> <td style="padding-top: 5px;">CUBIC METERS : 322,603.512</td> <td style="text-align: right; padding-top: 5px;">322,365.530</td> </tr> <tr> <td style="padding-top: 5px;">U.S. BBLS : 2,029,764</td> <td style="text-align: right; padding-top: 5px;">2,027,622</td> </tr> <tr> <td style="padding-top: 5px;">LONG TONS : 275,030.148</td> <td style="text-align: right; padding-top: 5px;">274,792.48</td> </tr> <tr> <td style="padding-top: 5px;">METRIC TONS : 219,464.412</td> <td style="text-align: right; padding-top: 5px;">219,202.892</td> </tr> </tbody> </table> <p style="text-align: center;">SIGNATURE </p> <p style="text-align: center;">SIGNATURE </p> | GROSS | NET | CUBIC METERS : 322,603.512 | 322,365.530 | U.S. BBLS : 2,029,764 | 2,027,622 | LONG TONS : 275,030.148 | 274,792.48 | METRIC TONS : 219,464.412 | 219,202.892 | <p style="text-align: center;"><u>TOTAL QUANTITY ON BOARD</u></p> <p style="text-align: center;">TOTAL QUANTITY LOADED ON BOARD VESSEL "ESSEX" ON (27/08/2001) AS FOLLOWS:-</p> <table style="margin-left: auto; margin-right: auto; border-collapse: collapse;"> <thead> <tr> <th style="text-align: left; padding-bottom: 5px;">GROSS</th> <th style="text-align: right; padding-bottom: 5px;">NET</th> </tr> </thead> <tbody> <tr> <td style="padding-top: 5px;">CUBIC METERS : 322,625.147</td> <td style="text-align: right; padding-top: 5px;">322,366.316</td> </tr> <tr> <td style="padding-top: 5px;">U.S. BBLS : 2,060,704</td> <td style="text-align: right; padding-top: 5px;">2,059,076</td> </tr> <tr> <td style="padding-top: 5px;">LONG TONS : 279,452.07</td> <td style="text-align: right; padding-top: 5px;">279,197.86</td> </tr> <tr> <td style="padding-top: 5px;">METRIC TONS : 219,937.246</td> <td style="text-align: right; padding-top: 5px;">219,678.986</td> </tr> </tbody> </table> <p style="text-align: center;">SIGNATURE </p> <p style="text-align: center;">SIGNATURE </p> | GROSS | NET | CUBIC METERS : 322,625.147 | 322,366.316 | U.S. BBLS : 2,060,704 | 2,059,076 | LONG TONS : 279,452.07 | 279,197.86 | METRIC TONS : 219,937.246 | 219,678.986 |
|--|-------------|-----|----------------------------|-------------|-----------------------|-----------|-------------------------|------------|---------------------------|-------------|--|-------|-----|----------------------------|-------------|-----------------------|-----------|------------------------|------------|---------------------------|-------------|
| GROSS | NET | | | | | | | | | | | | | | | | | | | | |
| CUBIC METERS : 322,603.512 | 322,365.530 | | | | | | | | | | | | | | | | | | | | |
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| GROSS | NET | | | | | | | | | | | | | | | | | | | | |
| CUBIC METERS : 322,625.147 | 322,366.316 | | | | | | | | | | | | | | | | | | | | |
| U.S. BBLS : 2,060,704 | 2,059,076 | | | | | | | | | | | | | | | | | | | | |
| LONG TONS : 279,452.07 | 279,197.86 | | | | | | | | | | | | | | | | | | | | |
| METRIC TONS : 219,937.246 | 219,678.986 | | | | | | | | | | | | | | | | | | | | |

Figure: (LEFT) Total Quantity on Board form documenting 2,027,622 net barrels loaded (May 16, 2001) and (RIGHT) Total Quantity on Board form documenting 2,059,076 net barrels loaded (Aug. 27, 2001).

| | | | | | |
|---|---|---|---|---|---|
| Numerals from Essex TQOB Form | 4 | 9 | 3 | 2 | 7 |
| Examples of Mr. Oliviera's Handwriting | 4 | 9 | 3 | 2 | 7 |

Figure: Comparison of Numerals written by Mr. Oliveira (TOP) and Numerals taken from the Aug. 27, 2001 Total Quantity on Board form (BOTTOM).

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VIII. RESPONSES OF OIL TRADING COMPANIES

REPORT ON PROGRAMME MANIPULATION

CHAPTER TWO

OIL TRANSACTIONS AND ILLICIT PAYMENTS

A. RESPONSE OF ALCON PETROLEUM LTD.

| | |
|--|--|
| <p>WOLFF GSTOEHL & PARTNER Advokaturbüro</p> <p>Via DHL Fax No. 001 212 842 2555 4555 Pages: -2-</p> <p>Independent Inquiry Committee into the United Nations Oil-for-Food Program Mr. Reid Morden Executive Director 825 Third Avenue Fifteenth Floor New York, New York 10022 USA</p> | <p>RECEIVED OCT 18 2005 BY: <i>Kar</i></p> <p>Advokaturbüro Wolff Gstoehl & Partner</p> <p>Mitteldorf 1 Postfach 343 9490 Vaduz Liechtenstein</p> <p>Tel. +423 238 10 30 Fax +423 238 10 31 info@wgp-law.li</p> <p>Rechtsanwälte Dr.iur. Peter Wolff lic.iur. Martin Gstoehl</p> <p>Juristischer Mitarbeiter lic.iur.HSG Markus Hutter</p> |
| <p>Vaduz, 17. October 2005 PW/ik</p> | |
| <p>Alcon Petroleum Ltd.</p> | |
| <p>Dear Mr. Morden</p> | |
| <p>I have received your letter to my client Alcon Petroleum Ltd. dated 15.10.2005. I am quite surprised about this letter because it is totally wrong that my client, despite to the efforts of the Committee, did not cooperate or meet with Committee investigators.</p> | |
| <p>As you should know we have met with Mr. Mark Pieth, a Committee member, and (), Senior Committee Investigator, on 13.04.2005 in Basel and the Committee at this occasion had the possibility to ask all interesting questions which was done at length.</p> | |
| <p>My client also presented to the Committee members all documents which they wanted to see and lateron additional documents which were asked for have been sent to the Committee.</p> | |
| <p>Therefore, your letter is not understandable at all.</p> | |
| <p>Referring to the proposed content of your report to be issued later this month it is correct that purchase contracts for more than 64 million barrels of oil have been concluded on behalf of Alcon Petroleum Ltd. and that Alcon Petroleum Ltd. in connection with these purchase contracts transferred more than 7 million USD to Jabal Petroleum, Lebanon, based on a commission contract the investigating members of the Independent Inquiry Committee were informed about by my client.</p> | |

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OIL TRANSACTIONS AND ILLICIT PAYMENTS

- 2 -

What we do not know and what I cannot confirm therefore is how these commission payments were used by Jabal Petroleum.

If Jabal Petroleum, Lebanon, used a significant portion of these commission payments to pay surcharges to the government of Iraq - as you are going to say in your oncoming report - this is their fault and Jabal Petroleum, Lebanon, has to be blamed for that and certainly not Alcon Petroleum Ltd. which did not know and could not know that possibly these funds were used by Jabal Petroleum in that manner.

Finally, I would like to ask you first of all to contact Mr. Mark Pieth and I () who will confirm to you that Alcon Petroleum Ltd. did cooperate and meet with Committee investigators and informed Committee Investigators about everything they wanted to know.

Best regards.

Yours Sincerely

WOLFF GSTOEHL & PARTNER
Dr. iur. Peter Wolff

The names of Committee Investigators have been redacted from all letters included in the Appendices

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CHAPTER TWO

OIL TRANSACTIONS AND ILLICIT PAYMENTS

B. RESPONSE OF ALFA-ECO

**Mr Reid Morden
Executive Director
Independent Inquiry Committee**

October 19, 2005

Dear Mr Morden,

Thank you for your letter dated October 13, 2005. In accordance with our procedures we have forwarded your letter to the Russian MFA Special Work Group specially established for coordination with IIC.

Besides we declare once again that your data is contrary to the facts and that Alfa-Eco has never violated the Programme and UN sanctions imposed upon Iraq. It always acted in accordance with 661 Committee's regulation and International business practice.

That is why we can not accept your statement concerning Alfa-Eco actions during the UN Oil-for-Food Programme that you are going to publish in ICC report.

Sincerely Yours,

Alexey Kousmichoff

REPORT ON PROGRAMME MANIPULATION

CHAPTER TWO

OIL TRANSACTIONS AND ILLICIT PAYMENTS

C. RESPONSE OF FENAR PETROLEUM LTD.

17/10/2005 16:00 +423-2381031

S. 01/02

WOLFF GSTOEHL & PARTNER
Advokaturbüro

Via DHL
Fax No. 001 212 842 2555 4555
Pages: -2-

Independent Inquiry Committee into
the United Nations Oil-for Food Program
Mr. Reid Morden
Executive Director
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Fifteenth Floor
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Rechtsanwälte
Dr.iur. Peter Wolff
lic.iur. Martin Gstoehl

Juristischer Mitarbeiter
lic.iur. HSG Markus Hutter

Vaduz, 17. October 2005 PW/ik

Fenar Petroleum Ltd.

Dear Mr. Morden

I have received your letter to my client Fenar Petroleum Ltd. dated 15.10.2005. I am quite surprised about this letter because it is totally wrong that my client, despite to the efforts of the Committee, did not cooperate or meet with Committee investigators.

As you should know we have met with Mr. Mark Pieth, a Committee member, and ... Senior Committee Investigator, on 13.04.2005 in Basel and the Committee at this occasion had the possibility to ask all interesting questions which was done at length.

My client also presented to the Committee members all documents which they wanted to see and lateron additional documents which were asked for have been sent to the Committee.

Therefore, your letter is not understandable at all.

Referring to the proposed content of your report to be issued later this month it is correct that purchase contracts for more than 55 million barrels of oil have been concluded on behalf of Fenar Petroleum Ltd. and that Fenar Petroleum Ltd. in connection with these purchase contracts transferred more than 5 million USD to Petroncorp AVV, Lebanon, based on a commission contract the investigating members of the Independent Inquiry Committee were informed about by my client.

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OIL TRANSACTIONS AND ILLICIT PAYMENTS

17/10/2005 16:00 +423-2381031

S. 02/02

- 2 -

What we do not know and what I cannot confirm therefore is how these commission payments were used by Petrocorp AVV.

If Petrocorp AVV, Lebanon, used a significant portion of these commission payments to pay surcharges to the government of Iraq - as you are going to say in your oncoming report - this is their fault and Petrocorp AVV, Lebanon, has to be blamed for that and certainly not Fenar Petroleum Ltd. which did not know and could not know that possibly these funds were used by Petrocorp AVV in that manner.

Finally, I would like to ask you first of all to contact Mr. Mark Pieth and Mr. () who will confirm to you that Fenar Petroleum Ltd. did cooperate and meet with Committee Investigators and informed Committee Investigators about everything they wanted to know.

Best regards,

Yours Sincerely

WOLFFGSTOEHLL & PARTNER
Dr. iur. Peter Wolff

The names of Committee Investigators have been redacted from all letters included in the Appendices

REPORT ON PROGRAMME MANIPULATION

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OIL TRANSACTIONS AND ILLICIT PAYMENTS

D. RESPONSE OF GLENCORE

PESTALOZZI LACHENAL PATRY

RECHTSANWÄLTE ATTORNEYS AT LAW

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TEL. +41 44 217 91 11 - FAX +41 44 217 92 17 - ZRH@PLPLAW.CH - WWW.PLPLAW.CH

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DR. URS JORDI
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DR. MARCUS DESAX, M.O.L.
DR. ROBERT FURTER
DR. SILVIA ZIMMERMANN, LL.M.
DR. PETER STRAUB, LL.M.
DR. VIKTOR HOHN, LL.M.
DR. JÖRG DÜRR, LL.M.
GERHARD NIGGLI, LL.M.
DR. ROBERT G. BRINER
CHRISTIAN ROOS
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MICHAEL KRAMER, LL.M.
URS KLOT¹⁵
ANDRÉA KÜPFER, LL.M.
DR. CHRISTOPH G. LANG, LL.M.
DR. MARC VET¹⁶
OLIVER WIDMER, M.Sc.
FRANZ SCHUBIGER, LL.M.
JOACHIM R. KLOTER, LL.M.
DR. LORENZA FERRARI HOFER
DR. THOMAS ROHNER, LL.M.
DR. MARTIN S. MÜLLER, LL.M.
DR. MICHAEL UPS, LL.M.
SEVERIN ROELLI, LL.M.
TANIA PLANING, LL.M.
ROGER MORF, LL.M.
CLARA-ANN GORDON, LL.M.
DR. BERTOLD MÜLLER, LL.M.
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YVES SEDI¹⁷
SANNA MARS
DR. GUIDO LAREDO

KONSULENTEN
DR. RUDOLF HEIZ
DR. SIBYLLE PESTALOZZI-FRÜH¹⁸
DR. ANNE-C. IM-HOFF-SCHEIER¹⁹
PROF. DR. MARKUS REICH²⁰
PROF. DR. ANDREAS FURRER, LL.M.

GENÈVE
JEAN PATRY
JEAN-CHARLES ROGUET
CLAUDE BRECHBUHL
BERNARD LACHENAL, LL.M.
ALAIN LE FOORT, BATONNIER
GUY-PHILIPPE RUEBEL
PHILIPPE COTTIER
CHRISTIAN MARCHETONET
FRÉDÉRIC COTTIER
GILLES THIEFFRY, LL.M.
EMMANUEL GENEOUAND
SERGE CALAME
DONATELLA AMADUCCI
CHRISTIAN SCHILLY
FRANCISCA MARCHETONET
DR. MARC-OLIVE VAN DE SANDT
NADINE MAIER VINAS
DANIEL UDRY, LL.M.
PASCAL DE LUCIA
AZADEH TALEGHANI²¹
LIONEL CONSTANTIN
OLIVIER BLANC, LL.M.
ZEINA WAKIM, LL.M.
DR. THIERRY AFSCHRIFFT²²

BRUXELLES
CHRISTOPHE RAPIN*, DEA
LAURENCE VAN ZUYLEN²³

EINGETRAGEN IM ANWALTSPRREGISTER
*DPL STEUERBERATER
¹⁴NICHT ALS RECHTSANWÄLTE ZUGELASSEN
¹⁵AVOCAT AU BARREAU DE BRUXELLES
¹⁶AVOCAT AU BARREAU DE GENÈVE

Zurich, 21 October 2005
glei4_dba_mc_211005.doc/edoc

Dear Mr. Morden

As counsel to Glencore International AG ("GIAG"), we are writing in response to the IIC's letter dated 12 October 2005 (the "Letter").

As set forth in greater detail below, our objections to the IIC's proposed summary are both procedural and substantive.

As a procedural matter, it was understood between us that the IIC will provide us with more than just a summary of what it intends to publish in its report. GIAG has actively cooperated with the IIC's investigation. Under the auspices of Swiss authorities, GIAG has made available documents for inspection and personnel for interviews by the IIC in Switzerland. GIAG would expect the IIC to comply with the letter and spirit of the understanding. In particular, we would expect to see the text - rather than a mere summary - of what the IIC intends to publish about GIAG. We also wish to make the point that there is no mention in the summary of GIAG's co-operation; we trust that the IIC will ensure that GIAG's co-operation is properly acknowledged in their report.

Prior to issuing the Letter, the IIC had never expressed an interest in obtaining information from GIAG concerning the humanitarian vendor side of the Oil-for-Food ("OFF") Programme. In several telephone conversations with GIAG's counsel, several e-mail exchanges and several visits by the IIC to our offices in Zurich, the IIC never once mentioned this. It therefore comes to us as a surprise that the IIC refers to a USD 78,000 transportation charge, and asserts that payment of that charge

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REPORT ON PROGRAMME MANIPULATION

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violated UN sanctions. We strongly disagree with the assertion. Here are the facts. In March 2000, Glencore (Grain) Pakistan (Pvt) Ltd. ("GP") contracted to sell 6,250 mt of rice to the Ministry of Trade/Grain Board of Iraq under a contract approved by the United Nations, the terms of which required the seller to deliver "Net CIF free on trucks to all governorates of Iraq via Umm Qaser". As such GP was contractually obliged by such contract to arrange for and pay for discharge and delivery from the Port of Umm Qaser to the ultimate inland destinations in Iraq. In performance of this contractual requirement GP contracted with a Jordanian shipping company to transport the rice from the port to Iraqi governorates at GP's costs satisfying the delivery term as stipulated by the buyer and approved by the UN as reflected in UN document S/AC.25/2000/986/OC.700413.

We take particularly strong issue with the three paragraphs of the Letter under the heading "Oil Purchaser." This entire section is extremely misleading, and is wholly at odds with the facts presented to the IIC in Zurich. The juxtaposition of the sentences creates the false and misleading impression that GIAG knowingly funded payments of surcharges to the Government of Iraq. There are no facts to support this. To the contrary, GIAG had no knowledge of any such payments, and expressly prohibited its employees, agents, and commercial counter parties from making such payments or from violating UN sanctions in any way. If such payments turn out to have been made, they were in violation of explicit written and oral contractual undertakings and were made in violation of GIAG's policies. It would have constituted a very serious breach of trust by two businessmen on whom GIAG had every reason to rely. There is no mention of this in the IIC's summary.

Mr. Abu-Reyaleh is a respected Jordanian businessman and construction engineer with a variety of business interests in the Middle East including representation of major German industrial companies in the region. As permitted under the OFF Programme from the outset, the Iraqi regime was favouring nationals of certain countries including Jordan with oil allocations, in consideration for the political support provided to Iraq by those countries. GIAG had every reason to believe and did believe that Mr. Abu-Reyaleh was acting in full compliance with UN sanctions, and expressly mandated such compliance in its written agreement with Mr. Abu-Reyaleh, as well as in direct communication with him. Similarly, GIAG expressly mandated such compliance in its written agreement with Mr. Lakhani, as well as in direct communication with him. There is no mention of this in the IIC's summary.

We have not seen any documentation that either Mr. Abu-Reyaleh or Mr. Lakhani actually made any payments to the Government of Iraq. If such documents exist, they are not GIAG documents. The preamble paragraph in the Letter states that the IIC's summary about GIAG is "based upon the Committee's review of witness interviews and a review of relevant documents, including . . . corporate records . . ." No GIAG record, and no interview of any GIAG employee, supports the implication that GIAG made, authorized, or knew about any purported surcharge payments by either Mr. Abu-Reyaleh or Mr. Lakhani. Indeed, there are no facts that support the implication that GIAG or its employees knew about - let alone approved or authorized - surcharge payments. There is no mention of this in the IIC's summary.

GIAG consistently made it clear to all concerned - employees, agents, counter parties - that it expected full compliance with UN regulations. As a result, every GIAG contract that related to the OFF Programme - including the agreements with Mr. Abu-Reyaleh and Mr. Lakhani - expressly required compliance with UN regulations. There is no mention of this in the IIC's summary.

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There is another forced and false distortion in the IIC's summary. The amount GIAG paid to Mr. Abu-Reyaleh, has been artificially reduced by the IIC to match the amount supposedly paid by Mr. Abu-Reyaleh to the Government of Iraq. The apparent purpose of this reduction by the IIC is to create the false impression that Mr. Abu-Reyaleh was a mere transmittal agent who passed along to Iraq whatever funds he received from GIAG. What GIAG paid to Mr. Abu-Reyaleh was disclosed in detail by GIAG to the IIC, and was substantially more than the amount reflected in the IIC's summary. It is inappropriate for the IIC to reduce the actual amount in order to make it dovetail with a false suggestion that Mr. Abu-Reyaleh made surcharge payments with the knowledge and approval of GIAG. In a similar vein, the amount in the IIC's summary purportedly paid by GIAG to Mr. Lakhani is not reflected in the facts presented by GIAG.

In addition, what the summary does not reflect - but should - is the economic backdrop against which GIAG and major oil companies, refiners, end users and other trading companies were led to believe that Iraqi oil could be obtained under the auspices of the UN and in full compliance with UN sanctions. Under the OFF Programme, the UN authorized the Iraqi regime to award oil allocations to whomever it chose, in its unfettered discretion. It was known and accepted by the world community that the Iraqi regime was awarding oil allocations to its political friends and allies - to individuals who were favoured by the regime, and to numerous companies based in countries such as Jordan, that were politically sympathetic to the regime.

The price for the oil was proposed by the Iraqi regime and at all times approved by the UN. The price so established was generally below market. With UN approval, the Iraqi regime provided oil to its political friends and allies at terms, enabling them, in turn, to resell the oil in the open market at a premium.

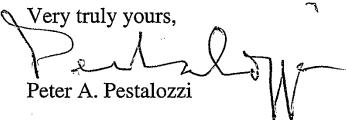
The oil market evaluated the differential between the UN-approved price and the market. Buyers openly and lawfully paid prices within this differential to sellers of Iraqi oil. Along with numerous other participants in the oil industry GIAG participated openly and lawfully in this substantial free market for the supply of Iraqi crude. GIAG purchased its oil from companies that had UN-approved contracts with SOMO, and in some instances directly from SOMO with UN approval.

The prevailing understanding in the world community at the time was that recipients of oil allocations were being rewarded by the regime for their loyalty and political support, not because they had paid surcharges to the regime.

In sum, GIAG acted responsibly at all times, and acted in full compliance with UN sanctions. If it turns out that Mr. Abu-Reyaleh or Mr. Lakhani made surcharge payments, they did so without GIAG's knowledge and in direct contravention of their contractual commitments and GIAG's instructions. The IIC's report should so reflect.

Very truly yours,

Peter A. Pestalozzi



cc: Mr. Roland Vock, Swiss State Secretariat for Economic Affairs

REPORT ON PROGRAMME MANIPULATION

CHAPTER TWO

OIL TRANSACTIONS AND ILLICIT PAYMENTS

E. RESPONSE OF ITALTECH

28/09 2005 11:08 FAX 0586421223

DRASS GALEAZZI U.T. SRL

001

From : S. CARLINI
To : Susan Ringer

ITALTECH s.r.l.

Dear Sir,
I am writing in answer to your fax dated September 25, 2005.

During the course of this investigation, your investigators, in particular the investigation team coordinated by the Senior Investigator Chris Eaton, approached a former Director of Italtech, Mr Sergio CAPPELLETTI. Starting from this contact they were able to contact Mr GIANGRANDI, the main shareholder of Italtech, and previously Chairman and Director of the Company.

Mr GIANGRANDI ordered and provided personally the complete collaboration of Italtech with all the concerned authorities. Italtech provided to the IIC Team the complete copy of the Oil for Food documentation and all relevant and connected information, including banking accounts and transfers. At the same time Mr. GIANGRANDI, the only Director involved in the Oil for Food program together with Mr MORICONI Lucio, was available during several days for clarification with your investigation Team.

Moreover Italtech and myself were available to whoever having title for clarification, investigation, copy of documentation; specifically Italtech gave full collaboration to the Swiss and Italian authorities in the requested terms.

No other request of information came from any other official entity has been received until now.

In conclusion:

- As per the information currently available in Italtech, not a single request of information has been denied or even delayed, if and when requested by official and authorised entities, herewith including the IIC.
- Relevant to the personal position of myself, Sergio CARLINI, I confirm that I provided the full cooperation whenever required, but I have to highlight that I was never personally involved in the Oil for Food business, which was personally and fully managed by Mr Augusto GIANGRANDI and Lucio MORICONI. My personal role in the company was exclusively limited to the design and manufacturing of a close circuit engine for underwater application.

We hope the above will answer your request and I confirm the availability of Italtech and myself to additional requests of information, if any.

Best regards

For Italtech s.r.l.
Sergio CARLINI


ITALTECH s.r.l.

REPORT ON PROGRAMME MANIPULATION

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OIL TRANSACTIONS AND ILLICIT PAYMENTS

F. RESPONSE OF TAURUS PETROLEUM LTD.

30. SEP. 2005 16:01

N°7988 P. 1/1

PONCET TURRETTINI AMAUDRUZ NEYROUD & ASSOCIÉS

AVOCATS AU BARREAU DE GENÈVE

6-10, RUE DE HESSE
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JOSEPHINE BOILLAT
AVOCATE

ERNEST TONSI
PRINCIPAL CLERC

ISMAIL EBOO
BARRISTER

GENEVA, 30 September 2005 / 19.lt
E-mail address : philippe.neyroud@ptan.ch

By fax N° 001 212 842 2555

Mr Reid MORDEN
Executive Director
INDEPENDENT INQUIRY COMMITTEE
INTO THE UNITED NATIONS
OIL-FOR-FOOD PROGRAMME
825 Third Avenue
Fifteenth Floor
New York, N.Y. 10022
USA

Re : TAURUS PETROLEUM LIMITED

Dear Mr Morden :

We are writing on behalf of Taurus Petroleum Limited («Taurus») in response to your letter dated 25 September 2005.

We note that Taurus has not been provided by the Committee a copy of any documents or information upon which the Committee relies in reaching its conclusions.

Taurus denies the conclusions set forth in your letter, and hereby requests that a copy of this letter be included in any future report in which Taurus is discussed.

Yours sincerely,



Philippe Neyroud

REPORT ON PROGRAMME MANIPULATION

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OIL TRANSACTIONS AND ILLICIT PAYMENTS

G. RESPONSE OF TRAFIGURA



SOLICITORS

130 Fenchurch Street
London EC3M 5LY

20 October 2005

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Our Ref : MSA/1243/5

Your Ref :

By Hand and E-mail

Mr. Reid Morden
Executive Director
Independent Inquiry Committee into The United
Nations Oil-For-Food Programme
825 Third Avenue, 15th Floor
New York, New York 10022

Re: Proposed Narrative Regarding Trafigura

Dear Mr. Morden,

This letter responds to your letter of October 17, 2005 on behalf of the Independent Inquiry Committee into the United Nations Oil-For-Food Programme (the "Committee"), which sets out a proposed narrative intended by the Committee to be included in a report to be issued this month. More particularly, I write on behalf of my client, Trafigura, to provide additional information and clarification for the purpose of having the proposed narrative corrected or deleted from the report.

The proposed narrative set out in the October 17 letter provides an unsubstantiated and misleading description of Trafigura's role in purchases of oil from Ibex Energy. The Committee appears to be relying on the assertions of Mr. Jean Paul Cayre, who is recognized as a liar in the proposed narrative. It will severely damage the reputation of a respected and reputable company, when the known facts do not substantiate Cayre's allegations. Specifically, we would like to address points in the proposed narrative which imply that Trafigura knowingly participated in, or was complicit with, Cayre's misconduct. We trust that the information in this letter, together with the anticipated content of our meeting tomorrow, will lead to further consideration of the evidence and to a correction of the narrative.

J.W. Hicks, M.J. Wisdom, B.M. Isola, M.S. Aspinall, T.D. Baker, A.S. Ridings

Regulated by the Law Society

UN Letter 4

REPORT ON PROGRAMME MANIPULATION

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waterson hicks

Confidential

Trafigura's true role in the two subject transactions can be found in the documentation Trafigura provided to your office and the testimony of Trafigura personnel given in the course of the United Kingdom and Dutch investigations presently in the Committee's possession.

With respect to both voyages of the Essex (Voyage 13 – loading completed May 16, 2001, and Voyage 14 – loading complete August 27, 2001) Trafigura and its subsidiary Roundhead engaged in transactions with Ibex Energy and its subsidiary Ibex Services & Equipment to load cargo under the UN Oil-For-Food Programme ("OFFP"). On each occasion, Ibex was the legitimate holder of a UN-approved oil contract. Trafigura requested, and Ibex provided, relevant documentation to support the validity of the transactions.

1. Trafigura was an ordinary buyer in the chain of commerce, as were its own customers. Ibex, as the allocation holder, was the party responsible for compliance with OFFP procedures.

As a buyer in the chain of commerce, Trafigura did not know that for both transactions Ibex had sold it a top-off parcel that had not been reported by Saybolt and thus had been loaded outside the OFFP. Moreover, Trafigura had no warning that Ibex did not intend to pay the proceeds of the oil into the UN escrow account. In Voyage 13, Trafigura relied upon Ibex's warranty and the UN approval document showing its allocation had been increased that the top-off parcel was approved under the OFFP. In Voyage 14, Trafigura had a copy of Ibex's contract with the UN showing that it had been approved for eight million barrels of oil during that Phase of the OFFP. Indeed, an internal memorandum from the UN shows that the UN, itself, considered the Voyage 14 top-off parcel to be within Ibex's allocation (c.f. internal UN memorandum, dated November 5, 2001).

2. The role of Saybolt.

At an operational level, Trafigura, like other traders, relied upon Saybolt as UN appointed inspectors at Mina Al Bakr to ensure liftings were authorized and sent its own loading inspector to report on the volumes lifted. However, it appears that Ibex bribed a Saybolt inspector to file an inaccurate report with the UN.

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waterson hicks

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3. Purchase price was based on OSP formula and Trafigura had no added financial benefit from the trade.

Trafigura paid the official selling price plus the standard mark-up for the main parcel and for the top-off parcel of both shipments – there was no price difference between the main and top-off prices and, therefore, no added benefit to Trafigura from the top-offs. For the main parcels, the purchase price based on the OSP formula was paid by Trafigura to the UN escrow account on behalf of Ibex Energy. For the top-off parcels, the purchase price was based on the same OSP formula as the main parcels and was paid by Trafigura, on behalf of its subsidiary Roundhead, to the Geneva Credit Agricole Indosuez account of Ibex.

Trafigura had no reason to believe that Ibex would not, in turn, remit the money to the UN escrow account. In addition, all payments to Ibex were routed through a reputable world standard bank, namely Credit Agricole Indosuez (now Calyon), a global bank, with knowledge of OFFP transactions.

4. Premiums were known and commercially accepted.

There is no evidence to suggest that Trafigura paid illegal surcharges through its ‘premia payments.’ As the Committee is well aware, holders of Iraqi oil contracts under the OFFP (such as Ibex) “*...insisted on unusually high premiums without any financial risk, because the contract holders were not obligated to lift their oil if third-party buyers were not willing to offer them high premiums. . . . If contract holders could not maintain premiums at thirty to forty-five cents per barrel, they would not lift their oil, thereby causing a substantial reduction in oil exports and losses to the escrow account.*” (Report of the Independent Inquiry Committee, Sept. 7, 2005, Vol. II, Ch. 3, pg. 147, briefing paper by the oil overseers reporting on their statement at an informal 661 Committee meeting.)

All purchasers of oil from primary allocation holders paid a “premium” only insofar as they paid a standard markup to the contract holder on the original price. The \$0.30 premium per barrel paid by Trafigura was the standard market rate at that time (c.f. Eperon Weekly Crude Oil Report, 24 Aug. 2001). It is therefore wrong to suggest that, by paying “premia” in the ordinary course of doing business under the OFFP, Trafigura was paying a surcharge to the Government of Iraq. By the same logic, all purchasers in the chain of commerce could be accused of paying a

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waterson hicks

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surcharge in that they paid a purchase price that reflected the markup that the contract holders charged at the outset. Rightly, it was the primary allocation holder that was to provide a warranty that no illegal surcharges had been paid. As the 661 Committee recognized, there was no benefit in being an allocation holder if the oil could not be sold for a profit.

5. Trafigura was not involved in any dealings that Ibex had with the government of Iraq.
Trafigura was not party to or aware of any financial arrangements or other incentives Ibex may have had in place with the government of Iraq. Trafigura therefore strongly objects to and absolutely refutes the suggestion in the wording of the proposed narrative that it was acting in conjunction with Ibex. For example, there is no basis for the phrases: "in coordination with" or "participated in", to quote the proposed narrative.

In contrast, Ibex clearly benefited both by fraudulently not paying the money into the UN escrow account and by generating favour with SOMO by diverting the UN's funds to it.

6. Roundhead is a legitimate business vehicle.
The proposed narrative also implies that Roundhead was set up as a vehicle to hide payments when it is, in fact, a wholly-owned subsidiary of Trafigura used legitimately in its normal business practice. On the two occasions involving the May and August shipments, it was used to prevent the potential problem of off-set. Off-set can be a particular problem with Swiss banks, where the off-set rule is applied in situations where the buyer and seller both use the same bank. Trafigura has used Roundhead in another commercial context. In 1997, it was used as a counterpart in a contract with Sonacop to lift oil out of Cotonou – Benin. Trafigura has never sought to conceal the use of Roundhead and has never denied knowledge of it.

7. Trafigura did not and does not use "fraudulent invoices."
The Committee also suggests that Trafigura used "false invoicing" to hide payments. This is simply not true: neither Trafigura nor Roundhead have ever issued or paid against false invoices. Ibex issued invoices for its 30 cent mark-up and Trafigura paid them. Trafigura and its Roundhead subsidiary paid \$0.30 per barrel visibly, and this amount was the standard market rate at the time (*c.f. Eperon Weekly Crude Oil Report, supra*).

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Having cooperated with the Committee and having provided detailed relevant documentation, Trafigura had anticipated that the Committee would come to a clear understanding of the transactions at issue and thus form a balanced opinion. We are confident that the contents of this letter, and our meeting with the Committee, will go some way to redress all misunderstandings and inaccuracies pertaining to Trafigura's conduct regarding the OFFP.

Yours faithfully,



Mark S. Aspinall

WATERSON HICKS

Enclosures

INDEPENDENT INQUIRY COMMITTEE INTO THE UNITED NATIONS OIL-FOR-FOOD PROGRAMME

REPORT ON PROGRAMME MANIPULATION

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S023903



MIL. ST. 1133,

To: The Oil Overseers

DATE: 5 November 2001

and

Mr. Teklay Afeworki, Senior Finance Officer,
Treasury

REFERENCE:

THROUGH:

S/C DE:

FROM: Ms. Vicien-Milburn, Deputy Director
RE: In charge of the General Legal Division, OLA

subject: Stand-by letter of credit opened by Trafigura

OBJETI

URGENT

- I refer to a memorandum from Mr. Afeworki of 2 November 2001 to the Oil Overseers. Attached to that memorandum is a copy of a "stand-by letter of credit" opened by Trafigura Beheer B.V. in favour of the UN, for an amount of EUR 6,438,930.99. The letter of credit is styled as a "stand-by" letter of credit, and purports to cover 271,669 barrels of Basrah light crude. It was apparently transmitted by Trafigura's bank to BNP-Paribas which, in turn, forwarded it to Treasury under cover of a BNP-Paxibas memorandum of 2 November 2001. Mr. Afeworki's memorandum listed this Office as a "cc" addressee, and contained a request that we provide advice with respect to the letter of credit.
 - In its cover memorandum, BNP-Paribas notes that the letter of credit does not follow the required standard format of letters of credit for the purchase of Iraqi oil under Security Council resolution 986 (1995). BNP-Paribas further states that, as the letter of credit gives no destination, it cannot confirm the dollar value of the letter of credit. Further, BNP-Paribas states that it cannot add its confirmation to the letter of credit.
 - It appears that this letter of credit may relate to the matter of 229,756 barrels of oil loaded onto the vessel "Essex", which Mr. Sevan has brought to the attention of the 661 Committee in his letter of 24 October 2001 to the Chairman of the Committee. From information previously provided to us

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S023904

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NATIONS UNIES - MEMORANDUM INTERIEUR

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concerning this matter, including a fax dated 21 September 2001 from the master of that vessel to the UN, the loading of this oil might not have been monitored or verified by the UN independent inspection agents, as required by the 661 Committee Procedures, paragraph 15, and the MOU between the UN Secretariat and the Government of Iraq, Annex II, paragraph 4. We also understand that payment for the oil has not been made into the UN Iraq Account.

5. From the information provided to us, we understand that this portion of oil may be covered by an approved contract between Ibex and SOMO, and that Trafigura has agreed to purchase this oil from Ibex. We further understand that, even though this oil was allegedly loaded in violation of the procedures referred to above, Trafigura has provided the "stand-by letter of credit" as a means of guaranteeing payment for the oil in the event that it is not otherwise paid for, e.g., by Ibex. Thus, the "stand-by letter of credit" provides that it is payable against presentation of a letter signed by the UN Treasurer stating that the payment of the oil covered by the letter of credit has not been made within 180 days from the issuance of the letter of credit, and that no third party has by that date either irrevocably committed to pay the amount or provided other security allowing the Treasurer to confirm that such funds will be received.

6. We understand that the Committee is scheduled to meet on Tuesday, 6 November 2001, to discuss this matter. Accordingly, we suggest that the letter of credit and the correspondence from BNP-Paribas be brought to the attention of the Committee for that meeting, and that the Oil Overseers, which are to report any irregularities to the Committee (see 661 Committee Procedures, paragraph 15), be prepared to inform the Committee of the relevant facts relating to this loading and shipment, including, *inter alia*, information as to any other letters of credit issued or payments made for the oil in question.

7. If the Committee determines that the loading of the oil was not in conformity with applicable requirements and procedures under Security Council resolution 986 (1995), the 661 Committee Procedures or the MOU, the export of the oil would be a violation of the sanctions regime against Iraq. Pursuant to Security Council resolution 778 (1992), paragraph 2, the oil should be sold at fair market value and the proceeds paid into the escrow account provided for in Security Council resolution 706 (1991) and 712 (1991). Conceivably, such oil could be sold to Trafigura. However, it would have to be determined whether

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S023905

UNITED NATIONS - INTEROFFICE MEMORANDUM

NATIONS UNIES - MÉMORANDUM INTÉRIEUR

PAGE 3

the amount of the "stand-by letter of credit" presented by Trafigura represents fair market value for the oil in question. The Oil Overseers should be prepared to advise the 661 Committee in this regard. Moreover, it should be pointed out that, if the "stand-by letter of credit" were accepted as payment for the oil, funds would not be received until at least 180 days after the date of its issuance, which was 1 November 2001.

cc: Mr. Golitsyn

REPORT ON PROGRAMME MANIPULATION

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OIL TRANSACTIONS AND ILLICIT PAYMENTS

H. RESPONSE OF VITOL S.A.

25 Oct 05 15:09

(202) 342-8451

1-212-842-2555 Collier Shannon

Pg 002



Vitol S.A.

Boulevard du Pont-d'Ave 28
P.O. Box 384, 1211 Geneva 4, Switzerland
Tel. +41(0)22 322 1111, Fax +41(0)22 781 66 11
Telex 423 421

Mr Reid Morden
Executive Director
Independent Inquiry Committee
825 Third Avenue
New York, New York 10022
By Fax : +1-212-842-2555

Geneva 20th October 2005

Dear Mr. Morden,

By letters dated October 14, 2005, Vitol S.A. was sent notification by the Independent Inquiry Committee (IIC) that they would be included in the IIC's narrative in its final report relating to the payment of surcharges during the operation of the United Nations Oil-for-Food Program. This letter is submitted by Vitol SA on behalf of itself and all its employees and directors collectively in response. Vitol S.A. takes full responsibility for the actions of its employees.

Vitol S.A., a Swiss corporation, is part of the Vitol Group (Vitol), which is comprised of Vitol companies worldwide. Vitol is one of the most highly-respected participants in the global crude oil and refined petroleum product markets. Vitol is both a refiner and a trader and its involvement in the Oil-for-Food Program was primarily to obtain feedstock for its refinery in Newfoundland, Canada, that processes 125,000 barrels per day of crude oil.

Throughout the course of the Oil-for-Food Program, Vitol primarily purchased Iraqi crude oil from third party sellers. In addition, Vitol purchased a much smaller volume of Iraqi crude oil directly from Iraq's State Oil Marketing Organization (SOMO).

Vitol, for its own direct purchases from SOMO, obtained contracts that were approved by the UN 661 Committee, and Vitol listed crude oil under those contracts. When Vitol refused to cooperate with Iraq over its surcharge policy, no further allocations were made by SOMO to Vitol under Vitol's direct contract/s with SOMO as confirmed at page 191 of the Duerfer Report.

REPORT ON PROGRAMME MANIPULATION

CHAPTER TWO

OIL TRANSACTIONS AND ILLICIT PAYMENTS

25 Oct 05 15:10

(202) 342-8451

1-212-842-2555 Collier Shannon

Pg 003



Vitol S.A.

Vitol, in its purchases of Iraqi crude oil from third parties, only entered into such contracts with third parties approved by the 661 Committee. These third parties were themselves direct purchasers from SOMO under contracts approved by the UN 661 Committee.

The price paid for Iraqi crude oil by Vitol to such third party sellers was a fair market value at the time for this crude oil. This fair market value consisted of the Official Selling Price for the crude oil as determined by SOMO and the UN Overseers, plus a market premium. This market premium reflected many market factors for Vitol: Unlike most other middle east crude oil, Iraqi crude oil had no destination restriction and that optionality had value allowing Vitol to assess alternative crude oil availability for its refinery right up to the time of the bill of lading date of the Iraqi crude oil. The quality of Iraqi crude oil was and remains particularly suitable to Vitol's refinery. The OSP was set one month in advance of the month of lifting and thus changing market factors including the changing prices of alternative, competitive crude oils would change the market value for the Iraqi crude.

On payment of the purchase price to the third party seller, Vitol would pay the Official Selling Price to the UN escrow account pursuant to the Oil for Food Program and the market premium to the third party seller's account or accounts as per the sellers' invoice and at seller's request.

Vitol had no knowledge of the use or intended use of such payments. Indeed, Vitol specifically incorporated into the majority of its purchase contracts with such third party sellers a contractual provision requiring the third party seller to guarantee that crude oil purchased by Vitol was obtained in accordance with all necessary approvals and procedures of the UN Security Council Committee and relevant UN Security Resolutions and specifically no surcharges or other payments had been or would be made.

As Vitol informed the IIC, Vitol did have a relationship with Ms Hamida Na'ana who originally worked for a Yemen oil company from whom Vitol purchased Iraqi crude oil. Vitol had no knowledge that Ms. Na'ana paid surcharges to the regime of Saddam Hussein. In fact when the issue was raised with her, she assured us that she had no such obligation. Neither Vitol, nor Giles Chautard at Vitol who communicated with Ms. Na'ana, knowingly "caused" Ms. Na'ana to pay such surcharges and did not tell her to do so.

Throughout the Oil-for-Food Program, Vitol spoke with both the United Nations and two governments who are permanent members of the Security Council in an effort to make the program more effective and transparent. Vitol was supportive of the fair retrospective pricing policy introduced by the UN which reduced the potentially undesirable role of the middleman companies. Vitol continued to work with the UN in a responsible and proactive way throughout the program.

In addition, Vitol has cooperated with both the IIC and various national governments and investigative bodies since investigations have commenced into the Oil-for-Food Program. In particular, when the IIC first approached Vitol a year ago to learn more about the Oil-for-Food Program, Vitol willingly met with the IIC. After the meeting, the IIC said that they knew of no other issues regarding Vitol, and Vitol told the IIC to contact it if the IIC had any further questions. For almost a year, Vitol heard nothing from the IIC until it initiated some general

REPORT ON PROGRAMME MANIPULATION

CHAPTER TWO

OIL TRANSACTIONS AND ILLICIT PAYMENTS

25 Oct 05 15:11

(202) 342-8451

1-212-842-2555 Collier Shannon

Pg 004



Vitol S.A.

discussion a few weeks ago. Again, Vitol willingly made representatives available for interview and have provided substantial documentation. It is to our disappointment therefore that the IIC intends to make certain findings against Vitol at this stage without affording Vitol enough time to make full representations to the IIC before publication of the final report.

Yours sincerely,


D.B. Fransen

REPORT ON PROGRAMME MANIPULATION

CHAPTER TWO

OIL TRANSACTIONS AND ILLICIT PAYMENTS

I. RESPONSE OF ZARUBEZHNEFT

12/10 05 WED 19:07 FAX 001

Открытое акционерное общество
ЗАРУБЕЖНЕФТЬ



Joint Stock Company
ZARUBEZHNEFT

Our Ref. No. 19-11-2903

Your Ref. № 13685 dated October 11, 2005

Mr. Reid Mordien
Executive Director
Independent Inquiry Committee into
the United Nations Oil-for-Food Programme

Dear Mr. Mordien,

OCT 12 2005

In your letter you state that "the Committee has information indicating that your company had contracts during the Programme on which unauthorized payments were made. Such information will be reported in the tables accompanying our next report." In this regard please be advised of the following.

JSC "Zarubezhneft" had contracts during the Programme, but has never made any unauthorized payments. We absolutely know that no information exists that may indicate otherwise and we are sure that the Committee does not possess any single document to support alleged facts of unauthorized payments. If the Committee has any kind of documents it considers to be a proof of unauthorized payments made by our Company we would appreciate to receive it from the Committee to help the Committee to avoid the unintended confusion. We are ready to stand by our opinion in any form.

It appears that your conclusions concerning our company are either based on falsified documents or on the false and unfounded extrapolation methods, as it is seen from data sources for your tables. In both cases your conclusions are false – by a genuine mistake or intentionally. In this regard we will consider the inclusion of the suggested tables into your next report as an intention to slander our Company and to harm our business reputation.

Best regards



Evgeny Grevtsov
Head of Legal Department

Российская Федерация, 101990, г. Москва, Армянский пер., д. 9/1/1, строение 1
Building 1, 9/1/1 Armiinsky perenok, Moscow, 101990, Russian Federation
Тел./Tel.: (095) 748-65-00 | Факс/Fax: (095) 748-65-05, 956-14-91 | Телекс/Telex: 113803 STEK RU
E-mail: nesstro@nesstro.ru

REPORT ON PROGRAMME MANIPULATION

CHAPTER TWO

OIL TRANSACTIONS AND ILLICIT PAYMENTS

J. RESPONSE OF ARMANDO OLIVEIRA

Dear Reid Morden

Regarding the letter that I received yesterday, I apologise the call that I didn't make to Ms Susan Ringler but the call is too expensive for me and as I told to your colleges that interviewed me on the May 14, 2005, at the moment I don't have regular job and I have to make some economies to maintain my family.

Concerning the data that the committee intents to include in the report, my opinion regarding this matter are as follow:

I never been involved in any engaging with others, assisting and concealing those acts with the UN's Office of Iraq Programme and 661 committee , because and as you know the only documents produced were UN Letter signed by the master and internal documents to Saybolt, therefore no other documents were prepared outside of the Programme.

All other documents were produced by Iraqis representatives at the Platform.

During the interview on the May 14, 2005 with IIC investigators, with all my cooperation, I told them all I knew about this matter, but now I see that nothing is enough to prove my innocence.

At this moment I don't have any additional and relevant information to provide, and after 5 or 6 interviews regarding this matter I sincerely think that I don't have anything more that could be relevant to the case.

Hopping that inquiry ends

Sincerely,

Armando Oliveira

The Committee has converted Armando's e-mailed response into a Word document.

¹ The names of Committee investigators have been redacted from all letters included in the Appendices.

REPORT ON PROGRAMME MANIPULATION

CHAPTER TWO

OIL TRANSACTIONS AND ILLICIT PAYMENTS

K. RESPONSE OF BERNARD GUILLET

21 10 05 12:14 Bernard GUILLET Iesso Fran 33 1 39 52 66 48 p.1

Paris october the 18 th 2005

21 10 05 12:14 Bernard GUILLET

To REID MORDEN ,executive director
Of the inquiry committee into the UN oil for food programme
From BERNARD GUILLET

Thank you for your fax (October the 13 th 2005).

Regarding the investigation by « the committee »as well as attempts by investigators to contact me i can only say that it was easy to reach through the french ministry of foreign affairs or even by consulting France s telephone directory-like many journalists from the French and international press MARK CALIFANO and (). Members of the committee finally managed to meet with me on October the 3rd and the 5th and discuss thoroughly during more than seven hours matters and items related to IRAQ and UN oil for food programme-therefore no doubt can be casted upon my cooperation .

I avail myself of this opportunity as a friend of the IRAQI people who traveled extensively to BAGDAD between 1994 and 2002, but also as a peace loving citizen, to express my sincere admiration and appreciation for what the UN have accomplished under resolution 986 for the good of the Iraqi despite various attempt by member states like the UNITED KINGDOM to slow and reduce (by nearly 10 billions US dollars) the implementation of the programme while the IRAQI leadership in response constantly tried to twist the system in its own favor.

Because I m proud of the UN I do not understand nor approved the bitter and ugly partisan attacks against a very complex programme which were unleashed early 2004 when everybody knew there was no W.M.D in IRAQ and no linkage between 9/11 terrorist attacks and SADDAM HUSSEIN . This is why i strongly question the integrity, authority and validity of some documents and interviews obtained by the « committee »especially those discovered or charbelled by the AMERICANS occupation forces or secret services, by IRAQI entities and personnel which were put in place after the U.S war on IRAQ. Both French judge P COURROYE and committee members who visited me used these documents and interviews which cannot be trusted while financial record and bank transfer can easily be traced and thus put in true perspective the implementation of the UN programme ,these called « allocation »in the first place.

As far as i m concern the only « document »(from SOMO and ministry of oil in IRAQ which were shown and related to me mentioned a total of 5 millions barrels of oil of which only 1.999 million barrels were lifted by AREDIO under phase 10 (2nd semester 2001).in this particular case ,it is clear to everybody that i did not pay any surcharges to the government of IRAQ and that i did not receive any commission or payment related to my so called oil allocation of 2 millions of barrels and the lifting of the 1.999 million barrels by AREDIO . In fact it was established during a five year separate inquiry by the French judge P COURROYE that i do not hold any foreign bank accounts except one in HOUSTON which has been reviewed and cleared by the AMERICAN IRS for the French treasury and justice department .my FRENCH bank accounts (year 2000,2001 and 2002) as well as my life style have been scrutinized by DNVSF(FRENCH equivalent of the IRS)and cleared for the second semester of 2001 as well as year 2002.

I have no further comment to make concerning the so called allocation of 10,11,12 millions barrel of oil under CHARLES PASQUAS's tabel. I was his diplomatic adviser from 1993 to April 2001 and i have given my written permission to Mr. CALIFANO and () to have access to my written statement to French judge P.COURROYE on April 28th 2005.

Last but not least ,i have admitted before the French judge and confirmed it to MR CALIFANO and () that on eight different private trips (mainly year 2000)to GENEVA i went upon the request of my friend ELIAS FIRZLI ,to his bank(BFO) where i receive upon presentation of my diplomatic passport and identity amount of 25,30,40.or 50 000 US dollars for a grand total of nearly 230 000 US dollar. Most of these amounts (representing 100 to 160 000 US dollars)were immediately handed over to two IRAQIS in Geneva who had been contacted by ELIAS FIRZLI .each amount (20 to 30000 US dollars each time)was used to take care of the expenses of IRAQI patients treated and hospitalized in Switzerland or Europe. The rest of the money was split between ELIAS FIRZLI and family members visiting Geneva(70 to 80000 US dollars),to religious leaders (Christian and Jewish)who could help IRAQIS to 50000 US dollars). ELIAS FIRZLI was not only a good friend but a well known Christian (orthodox) Lebanese ,member of the BAAS party as well as a lawyer and businessman. ELIAS FIRZLI's initiatives were blessed by TARFAK AZIZ who on two crucial occasions regarding "Christians in IRAQ "said help him by receiving the funds on his behalf because of numerous commitments in many countries as well as visa problems linked to his Lebanese nationality.

1 : 5d 19:08 09/01/06

: par mis à jour

The names of Committee Investigators have been
redacted from all letters included in the Appendices

REPORT ON PROGRAMME MANIPULATION

CHAPTER TWO

OIL TRANSACTIONS AND ILLICIT PAYMENTS

21 10 05 12:16

Bernard GUILLET Asso Fran 33 1 39 52 66 48

p. 1

19/10/05 19:03 Pg: 2

x émis par :

Between 1994 and 2002 i have managed Thanks to my friendly and family like relationship with TAREK AZIZ on one hand and my official connection in France ,middle east ,north Africa ,Russia and the united stated on the other end ,to do a lot of earnest lobbying and go between in order to keep IRAQ in touch and in compliance with the UN resolutions and ultimately avoid war on IRAQ.
French authorities were regularly briefed about my official meeting ,discussions and whereabouts during my trips to IRAQ this included a lot knowledge ,auditing and contacts regarding IRAQI oil exports within oil for food programme outside(border oil)but i was not directly and personally involved in oil trading inside or outside the programme.

BERNARD GUILLET

REPORT ON PROGRAMME MANIPULATION

CHAPTER TWO

OIL TRANSACTIONS AND ILLICIT PAYMENTS

L. RESPONSE OF CHARLES PASQUA

| | | |
|--|--|--|
| <p>SÉNAT COMMISSION DES AFFAIRES ÉTRANGÈRES DE LA DÉFENSE ET DES FORCES ARMÉES CHARLES PASQUA <i>Ancien Ministre d'Etat Sénateur des Hauts-de-Seine</i></p> | <p><i>République Française</i> RECEIVED OCT 24 2005 BY:  Paris, October 21, 2005</p> | <p>M. Reid A MORDEN Executive Director Independent Inquiry Committee U.N.O. 825 Third Avenue, 15th Floor New York NY10022 U.S.A.</p> <p>Dear Sir,</p> <p>Your letter of October 13 has come to hand, I thank you for it. I have taken careful note of the information set forth therein.</p> <p>My counsel has dispatched the documents requested to Mr CALIFANO ; You should have them by now.</p> <p>I trust that your investigations are now coming to clouture and that they will permit the confirmation of the truth that I had no knowledge of the oil allocations and received no benefit from them.</p> <p>Sincerely</p>  <p>Charles PASQUA</p> <p><i>15 rue de Vaugirard - 75297 Paris Cedex 06 Tel. 01 42 34 28 37 - Fax : 01 42 34 42 84</i></p> |
|--|--|--|

REPORT ON PROGRAMME MANIPULATION

CHAPTER TWO

OIL TRANSACTIONS AND ILLICIT PAYMENTS

SÉNAT

COMMISSION DES AFFAIRES ÉTRANGÈRES
DE LA DÉFENSE ET DES FORCES ARMÉES

CHARLES PASQUA

*Ancien Ministre d'Etat
Sénateur des Hauts-de-Seine*

République Française

RECEIVED

OCT 24 2005

BY: *[Signature]* Paris, le 21 octobre 2005

M. Reid A MORDEN
Executive Director
Independent Inquiry Committee
U.N.O.
825 Third Avenue, 15th Floor
New York NY10022
U.S.A.

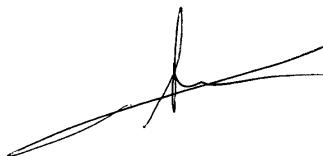
Cher Monsieur,

Votre lettre en date du 13 octobre dernier m'est bien parvenue et je vous en remercie. J'ai pris bonne note des informations qu'elle contenait.

Mon conseil avait fait parvenir à M. CALIFANO les documents demandés. Vous avez dû les recevoir entre-temps.

Maintenant que vos investigations sont sur le point d'être terminées, je suis convaincu qu'elles permettront de confirmer la vérité, à savoir que je n'avais aucune connaissance du système d'allocations de pétrole et que je n'en ai jamais retiré aucun bénéfice.

Veuillez agréer, Cher Monsieur, mes meilleures salutations.



Charles PASQUA

15, rue de Vaugirard - 75291 Paris Cedex 06
Tel. 01 42 34 28 37 - Fax : 01 42 34 42 84

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OIL TRANSACTIONS AND ILLICIT PAYMENTS

M. RESPONSE OF GEORGE GALLOWAY

From: GALLOWAY, George []
Sent: Monday, October 17, 2005 1:52 PM
To: Susan M. Ringler
Subject: FW: Reply from George Galloway MP¹

Dear Ms Ringler,

I have received what you say is the summary of the reference to me in your forthcoming report of the inquiry. You have not made available to me any of the basis on which you have drawn these conclusions. Insofar as it deals with me the summary is untrue, unjust, misleading and based on the same falsehood that has been levelled at me by the same sources time after time over the last two and a half years. There is no justification for the central conclusion you have drawn.

Firstly you give the impression that I was unwilling to co-operate with your inquiry. This is false. I met with your two counsel in good faith (though if I had known the IIC investigator's² background as a senior official of the CPA - the illegal occupation authority in Iraq I would never have agreed to meet him) in Washington on the eve of my Senate appearance and when I had many other pressing matters to attend to. In the course of a long interview your counsel gave no indication whatever that they were leaning towards these conclusions nor did they ask me any specific questions which justify their subsequent orientation. I did not undertake to provide any further documentation - I have none other than that in the hands of the Charity Commission – and you have no justification in implying otherwise in your letter to me.

Months later, and after I had discovered the IIC investigator's role in Iraq and his highly dubious modus operandi, he wrote to me asking for another interview. I made the perfectly normal request to be given written notice of the areas he wanted to cover in such an interview. This was at first refused, and then complied with to the extent that a cock and bull story about a Chilean oil trader and a fictitious meeting with me in a Baghdad restaurant was given as the subject matter. I note that this fictional meeting has now disappeared from the charge sheet. Again I offered to answer any questions put to me in writing. None have been so put.

Instead, you say you intend to merely restate the charges of Senator Coleman's Senate Committee - with whom it is now clear you share the same partisan motivation, the same carelessness with natural justice and with the normal rules of evidence.

As these charges are merely repetitious my response cannot avoid being similarly familiar. I had nothing to do with any oil deals done by Mr Fawaz Zureikat or anyone else. He and any other companies involved were trading on their own behalf and not on mine. It follows that I have no responsibility for any of these transactions. That Mr Zureikat was both a benefactor of the Mariam Appeal (and its chairman for most of its

¹ The Committee has converted George Galloway's e-mailed response into a Word document.

² The names of Committee investigators have been redacted from all letters included in the Appendices.

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life) and a businessman trading in all manner of things in Iraq and elsewhere was well known and deliberately advertised by us for the very avoidance of later smears such as these.

To now imply that I was somehow collectively guilty of paying more than a million dollars to the Saddam Hussein regime is simply preposterous and cannot be justified.

I restate the position I first laid out in The Independent newspaper in London just a few days after the first assault upon me by the Daily Telegraph. We had three benefactors; the late ruler of the United Arab Emirates Sheikh Zayed, the now king of Saudi Arabia Abdullah bin Abdel Aziz, and Mr Zureikat an Arab nationalist businessman with a long record of trading with Iraq (long before he met me) and who represented some of the world's leading companies there. Indeed he is still trading with Iraq with the explicit approval of the US government.

I never asked any of these three how they made the money they donated to our anti-sanctions campaign - or which part of which profits from their many interests they were donating. It was not my business. I was merely grateful that they were donating to a cause I believed in and a campaign which if it had been listened to would not have led Iraq into the maelstrom of mass murder and grand larceny it has become.

Turning lastly to the reference you have made to my soon to be ex-wife Dr Amineh Abu-Zayyad. Dr Abu-Zayyad announced, on the front page of the Sunday Times on May 1st 2005 - five days before the British General Election in which I was a candidate - that she was divorcing me. This is now imminent.

I cannot speak on her behalf - the divorce proceedings are underway and she is now undergoing treatment for cancer - but I have ascertained that you have at no time made any attempt to contact her, to ask her a single question about the allegation you intend to make about her. This too shows striking similarities to the style of Senator Coleman. I should inform you that Dr Abu-Zayyad says she has never received £120,000 from Dr Burhan Chelabi or anyone else.

George Galloway MP

REPORT ON PROGRAMME MANIPULATION

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N. RESPONSE OF HAMIDA NA'ANA

FRERE CHOLMELEY
Avocats à la Cour
8 Place d'Iéna
75116 Paris
France

Téléphone +33 (0) 1 55 73 40 00
Télécopie +33 (0) 1 55 73 40 11
Web www.eversheds.com



Paris, 13 October 2005

Mr. Reid MORDEN
Executive Director
Independent Inquiry Committee
United Nations OFFP
825 Third Avenue
NEW YORK 10022
USA

RECEIVED
OCT 18 2005
BY: -----
Sar

OFFICIAL

By letter and fax n° 00 212 842 2555 / 4555

Re : your letter dated 12 October 2005 sent by fax by Ms. Susan RINGLER

Dear Mr. Morden,

I acknowledge receipt of your letter dated 12 October 2005, indicating a week's deadline for response by 19 October 2005.

The contents of your letter surprised me. You stated that some investigators from the Independent Inquiry Committee ("the Committee") into the UN Oil-For-Food Programme ("the OFF Programme") attempted to contact my client, Mme. Na'ana, on several occasions, but that my client did not respond to them.

I can confirm to you that my client was contacted by (), who held himself out as part of the Committee. She also received a fax written in English on a letterhead of the Committee signed by Mr. Mark G. Califano which stated:
"Please be advised (...) that failure to cooperate with our investigation will result in a waiver of your entitlement to the Committee's adverse finding process, including any access to the Committee's documents and other information" (fax herein annexed under n° 1).

My client who is not fluent in English, sent me a copy of this letter requiring explanation but I was leaving France for professional obligations abroad and, since this letter did not require an urgent response, we decided to deal with it on my return on 4 October 2005. In view of the terms of this fax, my client who has no objection to cooperating, wanted to exercise her right to an adversarial finding process and to have access to Committee documents and information. We therefore organized, urgently, to meet Mr. Califano and () who were leaving France on 6 October 2005.

At the same time, Mrs Na'ana's lawyers, with conduct of criminal proceedings brought against her in France in front of Mr. Judge Courroye, had to contact the judge in order to confirm that such a meeting could take place, since at this stage Mrs Na'ana was (and is still) under "control measures" imposed by French jurisdiction.

Toque J014
Membre d'une association agréée. Le règlement par chèque est accepté.
FRERE CHOLMELEY, Partnership de droit anglais, est membre du groupement transnational EVERSHEDS.

Pour une liste complète de nos bureaux merci de visiter www.eversheds.com

par_bib12410951

The names of Committee Investigators have been redacted from all letters included in the Appendices

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This meeting took place in Paris (Hotel Lotti) on 5 October 2005 and lasted more than 3 hours (from 19:00 to 22:15).

I accompanied Mrs Na'ana who provided explanations and answered the questions of MM. Califano and (). MM. Califano and () seemed very well-versed in the OFF Programme and aware of the situation, so we did not have any reason to believe that they were neither part of the Committee nor the investigators you are speaking about in your letter (see also the e-mail exchange I had with () after this meeting, herein annexed under n° 2).

Consequently I think that there is a serious problem concerning the identity or substitution of investigators in this case. The Committee website does not provide any information in this respect and I am not even in possession of an original letter of the said Committee whereby I received official notification of who was who and to whom my client should provide explanations.

Thus we do not have any means to know who, between you and Mrs. Ringler or Mr. Califano and (), to whom I am copying this letter, are members of this Committee. Assuming that you are all part of this Committee, which seems to be the case, we still do not know who the investigators are that we have to speak with.

On behalf of my client, I will not accept a continuous substitution of investigators necessitating repeated hearings and the conclusion of a new agreement each time on methodology, confidentiality, procedural guarantees etc.

In order to avoid any doubt, my client and I are expecting from Mr. Volcker, Mr. Goldstone or Mr. Pieth whose names appears in the Committee letterhead and the Committee website, official clarification of the situation.

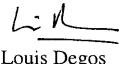
You will therefore understand that I have to give this letter an official status in order to preserve all my client's rights.

This official status allows me to provide a copy of this letter to my client who can use it freely, the letter not being covered by professional privilege.

For these reasons I will also not address matters in your letter which need to be discussed, confirmed or denied by my client. These matters are "Strictly Confidential", as designated in your letter, and cannot be dealt with before receiving official clarification requested above.

As soon as this situation is clarified my client will be very pleased to respond to the appropriate delegates or investigators of the Committee.

Sincerely,


Louis Degos

Cc : Mr. Califano,

REPORT ON PROGRAMME MANIPULATION

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OIL TRANSACTIONS AND ILLICIT PAYMENTS

Fax émis par : 00 33 1 47 78 42 82 ALWIFAQ ALARBI

26/09/05 20:01 Pg: 1

M. Degas

INDEPENDENT INQUIRY COMMITTEE
INTO
THE UNITED NATIONS OIL-FOR-FOOD PROGRAMME

B25 THIRD AVENUE
FIFTEENTH FLOOR
NEW YORK, NEW YORK 10022

TELEPHONE: 212.842.2500/4500
FACSIMILE: 212.842.2552/4538

www.iic-omp.org

PAUL A. VOLCKER
CHAIRMAN

RICHARD J. GOLDSMITH
MARK PIETH
MEMBERS

Ann 1

September 23, 2005

Via Facsimile

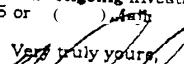
Mme. Hamida Na'na
81 gal Damiers 92400
Courbevoie
Facsimile: 01 47 78 13 75

Dear Mme Na'na,

On behalf of the Independent Inquiry Committee ("Committee"), I am writing to you concerning the Committee's ongoing inquiry into the United Nations Oil-for-Food Programme ("Programme") in Iraq. As you may know, the Committee was established by the Secretary-General and endorsed by Security Council Resolution 1538 on April 21, 2004, and is mandated to collect and examine information related to allegations of corruption on part of entities that have entered into contracts with Iraq under the Programme. For more information about the Committee please visit our website at www.iic-omp.org.

Pursuant to your conversations with (), Deputy Counsel, on September 14 and 23, 2005, we kindly request a meeting with you to discuss certain areas of our investigation. Specifically, we are interested in discussing your involvement in the Programme. Your assistance with our work would be greatly appreciated. Please be advised, however, that failure to cooperate with our investigation will result in a waiver of your entitlement to the Committee's adverse finding process, including any access to the Committee's documents and other information.

We would like to set up an appointment at your earliest convenience. We will follow up with you in the next few days to arrange a convenient time and place to meet. Should you have any questions or comments about these discussion areas or any other aspects of our ongoing investigation, please do feel free to contact me at 646-637-4435 or () .

Very truly yours,

Mark G. Calabrese
Chief Legal Counsel

The names of Committee Investigators have been redacted from all letters included in the Appendices

REPORT ON PROGRAMME MANIPULATION

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OIL TRANSACTIONS AND ILLICIT PAYMENTS

Louis Degos - RE: Me. L Degos

Page 1

From: () < @iic-offp.org>
To: "Louis Degos" <louisdegos@eversheds.com>
Date: 11/10/2005 2:30am
Subject: RE: Me. L Degos

ANN. 2

Dear Mr. Degos,

I would like to thank you and your client, Ms. Na'ana for taking the time to meet Mr. Califano and me in Paris. I acknowledge the receipt of your e-mail on October 6, 2005. I will get back to you shortly in response to your e-mail.

With kind regards,

--
()

Deputy Counsel
Independent Inquiry Committee into the
United Nations Oil-For-Food Programme

825 Third Avenue, New York, NY 10022, USA
Tel: +1-212-842-
Fax: +1-212-842-2555
www.iic-offp.org

The names of Committee Investigators have been
redacted from all letters included in the Appendices

-----Original Message-----

From: Louis Degos [mailto:louisdegos@eversheds.com]
Sent: Thursday, October 06, 2005 11:54 AM
To:
Cc: Louis Degos; Rodman Bundy
Subject: Me. L Degos

*** Before acting on this email or opening any attachment you are advised to read the Eversheds disclaimer at the end of this email ***

Cher Monsieur,

J'espère que vous avez fait bon voyage pour retourner à New York et je me permets de faire suite à notre réunion d'hier à Paris (Hôtel Lotti) avec Madame Hamida Na'ana.

Comme vous avez pu le constater, la complète coopération de Madame Na'ana ne fait aucun doute car elle recherche elle-même à savoir toute la vérité sur ce programme qu'elle n'a connu qu'incidentement (et peut être naïvement) mais qui lui fait malheureusement subir pleinement aujourd'hui épreuves et tracasseries.

Je suis désolé que cette audition ait du être interrompue, mais l'état de santé de madame Na'ana comme la tardiveté de l'heure ne permettaient pas de continuer.

Ainsi que nous en sommes convenus avec Monsieur Califano, je souhaiterai que vous puissiez me confirmer :

1- qu'en ce qui concerne les informations données par Madame Na'ana, vous préserverez la confidentialité complète de votre source : il s'agit d'une garantie primordiale pour la sécurité personnelle de Madame Na'ana comme vous l'avez parfaitement compris ;

2- que, de même que Monsieur le Juge Philippe Courroye que vous avez vu et que nous avons contacté à cet égard, Monsieur le Juge Jean-Bernard Schmid de Genève n'a aucune objection ou

The names of Committee Investigators have been
redacted from all letters included in the Appendices

REPORT ON PROGRAMME MANIPULATION

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Louis Degos - RE: Me. L Degos

Page 2

réserve à ce qu'une telle audition puisse avoir lieu.

En vous remerciant par avance, je vous prie de me croire,

Votre bien dévoué,

Louis Degos
Avocat à la Cour
Associé - Partner
Frere Cholmeley - Eversheds
8, place d'Iéna
75116 Paris
Tel. : +33 1 55 73 40 00
Fax. : +33 1 55 73 40 11
louisdegos@eversheds.com
www.eversheds.com

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***** [http://www.eversheds.com/] *****

CC: "Rodman Bundy" <RodmanBundy@eversheds.com>, "Mark G. Califano" <mcalifano@iic-offp.org>

REPORT ON PROGRAMME MANIPULATION

CHAPTER TWO

OIL TRANSACTIONS AND ILLICIT PAYMENTS

O. RESPONSE OF JEAN-MARIE BENJAMIN

From: benjamin@
Sent: Thursday, October 13, 2005 6:45 AM
To: Susan M. Ringler
Subject: At THE ATTENTION OF Mrs. Susan M. Ringler, from Fh. J-M Benjamin

Chère Madame Ringler,
J'ai bien reçu votre email avec la lettre de M. Reid Morden et m'excuse de vous répondre en français, car mon anglais n'est pas très bon.
Lorsque j'ai rencontré () en janvier 2005 à Genève, j'ai précisé les points suivant que je vous confirme aujourd'hui.

- Je n'ai jamais accepté de donation (pétrole ou autre) de l'Iraq.
- J'ai refusé toute donation par lettre à M. Tareq Aziz en date du 25 janvier 2002.
- J'ai envoyé par courrier la copie de cette lettre à ().
- Je sais que M^o Alain Bionda travaille depuis de nombreuses années pour des compagnies pétrolières et qu'il traitait des contrats avec beaucoup de pays, dont aussi l'Iraq. Je ne suis pas compétent en la matière et M^o Bionda ne m'a jamais fait de confidence à cet effet.
- La donation à la Fondation Beato Angelico n'a rien à voir avec les activités professionnelles de M. Bionda. C'est une donation faite à titre personnel à la Fondazione Beato Angelico et non à moi.
- J'ai transféré ces fonds au IOR (une partie en Euro l'autre en dollars) au bénéfice de la Fondation. Les documents du IOR sur ce virement ont été envoyé aujourd'hui de Rome par courrier DHL à la Independent Inquiry Committee. Vous les recevrez dans le prochaines 48 heures.
- Tous ces fonds ont été consacrés à la production de films documentaires sur l'Iraq, publications de livres, organisation de conférences et œuvres humanitaires. Sur toutes ces activités et dépenses (y compris celles d'actions humanitaires), nous préparons un documents qui sera publié prochainement.

Je vous remercie de votre attention et vous adresse, ainsi qu'à M. Morden, mes meilleures salutations.
Jean-Marie Benjamin

The names of Committee Investigators have been
redacted from all letters included in the Appendices

10/26/2005

REPORT ON PROGRAMME MANIPULATION

CHAPTER TWO

OIL TRANSACTIONS AND ILLICIT PAYMENTS

TRANSLATION BY IIC:

Dear Mrs. Ringler,

I received your email and Mr. Reid Morden's letter, and excuse me for responding to you in French but my English is not very good.
When I met with Messrs () and () in Geneva in January 2005, I specified the following points that I confirm today:

- I have never accepted any donations (oil or other) from Iraq.
- I refused all donations in a letter to Mr. Tareq Aziz on 25 January 2002.
- I sent by mail a copy of this letter to Messrs () and ().
- I know that Mr. Alain Bionda has been working for oil companies since numerous years, and that he dealt with contracts with many countries, among them Iraq. I do not have any competence regarding these matters, and Mr. Bionda never confided anything to me.
- The donation made to the Beato Angelico Foundation had nothing to do with Mr. Bionda's professional activities. The donation was made on a personal basis to the Fondazione Beato Angelico, and not to me.
- I transferred these funds to IOR (partly in Euros and the other part in Dollars) to the benefit of the Foundation. The documents of the IOR related to these transfers were sent to the Independent Enquiry Committee today by DHL from Rome. You shall receive them in the next 48 hours.
- All these funds were dedicated to the production of a documentary film about Iraq, publication of books and the organization of conferences and humanitarian works. We are preparing documents regarding these activities and expenses (including the humanitarian actions) which will be published soon.

I thank you for your attention and present to you and to Mr. Morden my best regards.

Jean-Marie Benjamin

The names of Committee Investigators have been redacted from all letters included in the Appendices

REPORT ON PROGRAMME MANIPULATION

CHAPTER TWO

OIL TRANSACTIONS AND ILLICIT PAYMENTS

P. RESPONSE BY MARC RICH GROUP

24/10/2005 19:42 NUM165 0002

C'M'S/ von Erlach Henrici
Rechtsanwälte Avocats Attorneys at law

By telecopier

Mr. Reid Morden
Executive Director
Independent Inquiry Committee Into
The United Nations Oil-For-Food Programme
825 Third Avenue
15th Floor
New York, NY 10022
USA

Dreikönigstrasse 7
P.O. Box
CH-8022 Zürich
Tel +41 44 285 11 11
Fax +41 44 285 11 22
office@cms-veh.com
www.cms-veh.com

Dr. Jodok Wicki
Attorney at law
jodok.wicki@cms-veh.com

Marc Rich Group October 24, 2005
104596/k0/00004464.doc/JWLjwi

Dear Mr. Morden

We refer to your letter of October 17, 2005 to Mr. Thomas Frutig by which you have informed the Marc Rich Group about the proposed finding to be included in the next report by the Independent Inquiry Committee and to our answer of October 18. The Committee has provided us on October 21, upon our request, with copies of the relevant documentation which allegedly supports the proposed finding. We are grateful for having been granted the opportunity to review that documentation. The Committee has not provided us, however, with summaries of possible interviews with witnesses nor has the Committee indicated to us the names of any such possible witnesses upon whom it may want to rely.

Despite a careful review of the documentation provided to us we have been unable to find any support for the statement made in your proposed finding that "In this period, Marc Rich and Co. Investment AG caused to be paid surcharges to the Government of Iraq in the amount of approximately \$992,630."

While some documents indicate that E.O.T.C. deposited or transferred certain amounts to an account with the Jordan National Bank in Amman, there is no evidence produced to us involving the Marc Rich Group or Marc Rich + Co Investment AG in any way in any such deposit or transfer. There is also no evidence whatsoever that the Marc Rich Group or Marc Rich + Co Investment AG "caused" any such deposit or transfer by E.O.T.C. or any evidence from which such an inference could be drawn. We should like

CMS von Erlach Henrici is a member of CMS, the transnational legal and tax services organization.
CMS law firms: CMS Adomino Ascoli & Ceccarelli Scamoni (Italy), CMS Albiñana & Suárez de Lezo (Spain), CMS Bureau Francis Lefebvre (France), CMS Cameron McKenna (United Kingdom), CMS DeBacker (Belgium), CMS Derkx Star Busmann (Netherlands), CMS von Erlach Henrici (Switzerland), CMS Hasche Sigle (Germany), CMS Reich-Rohrwig Hslitz (Austria)
Registered with the Attorneys' Registry

REPORT ON PROGRAMME MANIPULATION

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24/10/2005 19:42

NUM165 0003

C/M/S' von Erlach Henrici

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to emphasize that our client continues to dispute vigorously having caused any such payment.

Section E.1 of the Committee's Investigation Guidelines provides that the standard of proof necessary to result in a finding shall generally be "reasonably sufficient evidence." Nothing in the documents we have been provided with satisfies that standard of proof. In the absence of any evidence provided to us we would invite you to reconsider whether the standard defined by the Investigation Guidelines has been met. We maintain it has not been.

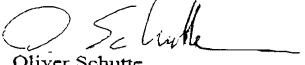
—
In other words, the Committee's proposed finding presents speculation (which in addition is disputed) as facts, without, however, identifying such speculation to the reader of the report. This may not only mislead the reader, but may also unjustifiably prejudice the concerned companies, consequences which are incongruent with the Committee's tasks.

Considering the above, we hereby request the Committee to remove the following statement from the report because it is devoid of any factual support and remains entirely disputed by our client:

"In this period, Marc Rich and Co. Investment AG caused to be paid surcharges to the Government of Iraq in the amount of approximately \$992,630."

Finally, we should like to note that we only received the documentation on October 21, the day on which the time limit originally set by your letter of October 17 would have expired, and that some documents provided required translation from Arabic into English. We have responded with the utmost expedition and we would invite you in the interests of fairness to favourably consider our submissions and remove the proposed finding referred to above from the Committee's report.

Sincerely yours
For Dr. Jodok Wicki


Oliver Schutte

REPORT ON PROGRAMME MANIPULATION

CHAPTER TWO

OIL TRANSACTIONS AND ILLICIT PAYMENTS

Q. RESPONSE BY ROBERTO FORMIGONI

21-OCT-05 12:53 Da-

T-559 P.01/01 F-558

RegioneLombardia

Giunta Regionale
Il Presidente

Milan, October 21st, 2005

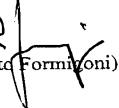
Dear Sir,

with reference to your letter of last October 17, 2005 I wish to inform you that I don't find myself by no means in what you write in the fourteen lines of such letter that are quoted below:

"Iraqi Oil Ministry records from the State Oil Marketing Organization ("SOMO") reflect that from Phase III through XIII of the Programme, oil allocations were issued in the name of Roberto Formigoni, and that these allocations were lifted and sold by Costieri Genovese Petrolifera ("CO.GE.P"). Tarek Aziz confirmed that Mr. Formigoni received oil allocations. In approximately 1998, Roberto Formigoni, President of Lombardy, met with a number of Iraqi officials in Rome and mentioned two Italian oil companies with an interest in doing business in Iraq: Costieri Genovese Petrolifera ("CO.GE.P") and NGR Oils S.r.l.. Thereafter, a Lombardy Region consultant, Marco Mazarino De Petro, faxed to Tariq Aziz a letter noting this meeting under Mr. Formigoni's name - though signed by another person. Through the Programme, Mr. De Petro and CO.GE.P proceeded use the allocations to buy oil from Iraq under the Programme, and Mr. De Petro received over \$700,000 from the sale of this oil."

I especially inform you that I never received oil allocations from Iraq. Therefore whoever maintains that I got them says something that is definitely untrue.

Your sincerely,


(Roberto Formigoni)

To:
Mr. Reid Morden
Executive Director
Independent Inquiry Committee

Cc:
Mr. Paul Volcker
Chairman Independent Inquiry Committee
NEW YORK

REPORT ON PROGRAMME MANIPULATION

CHAPTER TWO

OIL TRANSACTIONS AND ILLICIT PAYMENTS

R. RESPONSE BY SANDI MAJALI-IVUME

| | | | | |
|---|--|--|---------|-----------|
| 17 OCT. 2005 (MON) 17:53 | | BARRY AARON & ASSOCIATES | 6658462 | PAGE: 1/7 |
| <p style="text-align: center;">BARRY AARON & ASSOCIATES <i>Attorneys</i> <i>Johannesburg London Geneva Athens</i></p> | | | | |
| | | <p style="text-align: center;">P O Box 783125 Sandton 2146</p> | | |
| Susan M Ringler Counsel to Committee Independent Inquiry Committee | | <p style="text-align: center;">Suite 402, West Tower Nelson Mandela Square 3 Maude Street Sandton South Africa</p> | | |
| PER TELEFAX: 091 212 842 4555 | | <p style="text-align: center;">Tel: (011) 883-8483 Fax: (011) 883-8482</p> | | |
| 17 October 2005 | | <p style="text-align: center;">Dx 50 Nelson Mandela Square email: baaron@mweb.co.za VAT Reg. No. 4770138746</p> | | |
| Our Ref: BA/Jjs/1830 Your Ref: Susan M Ringler | | <p style="text-align: center;">& per e-mail: sringler@iic-offc.org</p> | | |
| <p>Dear Madam,</p> | | | | |
| <p><u>OUR CLIENTS: SANDI MAJALI & IMYUME MANAGEMENT (PTY) LTD</u> <u>RE: RESPONSE TO IIC SUMMARY</u></p> | | | | |
| <ol style="list-style-type: none">1. We refer to our telefax/e-mail to you dated 12 October 2005.2. We have not heard from you in regard thereto in any respect, but more particularly, have not received the full text of that portion of the report dealing with our clients. Your committee, investigators and entire operation are a law unto yourselves, disregard your own undertakings and generally act outside the spirit of the mandate conferred on you. Your representatives have their own agenda and act unilaterally, unfairly and in a biased and partial manner.3. The IIC has demonstrated ongoing <i>male fides</i> throughout its dealings with and relating to our clients, including in the following respects:-<ol style="list-style-type: none">3.1 the recording of the meeting of 30 June 2005 provided by disc cannot be opened and is entirely useless; | | | | |

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17. OCT. 2005 (MON) 17:53

BARRY AARON & ASSOCIATES

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- 3.2 despite our repeated requests, you refused to provide us with copies of any of the annexures produced by the investigators at the meeting on 30 June 2005 (yet the investigators gave these to Mail & Guardian);
- 3.3 you refused to provide us with a copy of an annexure referred to in a document produced by the investigators, knowledge of which our clients disputed, but in respect of which our clients' comments were required;
- 3.4 your investigators provided the Mail & Guardian with copies of the documents shown to our clients at the interview on 30 June 2005 (but which you refused to give to us) and generally discussed and disclosed the matters and the issues subject to the undertaking of confidentiality which the investigators had given to our clients;
- 3.5 you include in the summary report and clearly intend to report the fact that our clients illegally paid US\$60 000 as a surcharge, yet this issue was never raised with our clients at the meeting on 30 June 2005 or at any other time and no evidence of any such payment exists. At best you are relying on hearsay or other unrelated or unverifiable evidence;
- 3.6 you frequently failed to respond to or answer correspondence we had addressed to you;
- 3.7 you failed to provide our clients with the full text of the upcoming report, despite the investigators' undertakings in this regard and have only provided our clients with a summary thereof;
- 3.8 you have refused to provide confirmation that our clients' comments and rebuttal to the upcoming report will be published *verbatim*, despite the investigators' undertakings to our clients to this effect;
- 3.9 you have generally acted in a hostile, partial and obstructive manner towards our clients throughout the entire process.

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4. Any report which you issue in respect of or relating to our clients is irreparably tainted, flawed and contaminated.
5. The foregoing having been said, we attach our clients' responses and comments to the summary of the issues relating to our clients which you apparently intend to include in the upcoming report to be issued which we hereby furnish by Tuesday 18 October 2005, as required.
6. Our clients require this response to be published *verbatim*.
7. Please acknowledge receipt hereof.
8. In due course, please also provide us with that portion of the report dealing with our clients as may be published.
9. The publication of any report including an allegation that our clients paid any amount to SOMO or the Iraqi authorities in contravention of the UN regulations will be highly defamatory of our clients. Our clients will institute proceedings against the IIC, the commissioners and all those guilty of such irresponsible and unwarranted conduct. You publish such unfounded and reckless allegations against our clients at your own peril. No evidence of any such payment exists.
10. All of our clients' rights are reserved and, as necessary, will be enforced.

Yours faithfully,


BARRY AARON & ASSOCIATES

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**RESPONSES OF SANDI MAJALI & IMVUME MANAGEMENT
(PROPRIETARY) LIMITED TO THE SUMMARY PROVIDED BY THE IIC IN
RESPECT OF THE REPORT TO BE ISSUED IN REGARD TO THE CONDUCT
OF MONTEGA TRADING (PROPRIETARY) LIMITED AND IMVUME
MANAGEMENT (PROPRIETARY) LIMITED IN RELATION TO THE UNITED
NATIONS IRAQ OIL-FOR-FOOD PROGRAMME**

1. MONTEGA TRADING

The representatives of Montega Trading were Shakir Al-Khafaji, Rodney Hemphill and Sandi Majali. The initial discussions with SOMO regarding the terms of the Montega allocation were conducted by Al-Khafaji and Hemphill who negotiated the terms of the Montega allocation with SOMO. At the time, Majali was entirely unaware of the general SOMO requirement regarding the payment of surcharges linked to allocations. After the Montega cargo was lifted and when Majali first approached SOMO in respect of an oil allocation for Imvume, SOMO raised the issue of the outstanding surcharge due by Montega. This was the first time that Majali was aware of the surcharge arrangement in respect of Montega. In the course of the ongoing discussions and negotiations on behalf of Imvume, Majali, as a strategy, undertook to SOMO to attempt to resolve the Montega surcharge issue as there would otherwise have been no prospect whatsoever of Imvume receiving any allocation. Majali was by this time aware that the payment of surcharges was contrary to the UN sanctions arrangements and the Oil-for-Food Programme and, in fact, had no intention at all of paying any surcharges at all, whether in respect of the Montega account or otherwise.

The Montega surcharge was, to the best of Majali's knowledge, never paid.

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2. IMVUME ALLOCATION – PHASE XI

Although Imvume received an allocation of two-million barrels in Phase XI, Majali had made it clear to SOMO that no surcharge would be paid and a surcharge was never part of the arrangements in respect of this allocation. SOMO may well have levied a surcharge but this never part of the contractual arrangements nor would Majali or Imvume have agreed to pay any surcharge in respect thereof. Imvume and Majali deny having paid any amount in respect of any surcharge on this (or any other) allocation and deny that they made any advance payment of US\$60 000, as alleged in the summary report, or at all. The IIC investigators who met Majali on 30 June 2005 never, during the course of five-hour meeting, raised the issue of this alleged payment with our clients or made any mention thereof. Had they done so, Majali would, at the time, have denied the existence of this alleged payment. At the interview Majali denied generally that he had ever paid any surcharges. The investigators never contested or refuted this. No evidence of this alleged payment has ever been produced and the issue has only now been raised with Majali and Imvume for the first time. At best, the IIC is relying on hearsay evidence or other unreliable and unverifiable allegations. Majali and Imvume demand that proof of such payment is produced. They deny that any evidence of such a payment can exist and no such payment was made by them. Majali can only suppose that the payment of US\$60 000 was incorrectly “allocated” by SOMO to the Imvume account in respect of this transaction as no surcharge or advance on account thereof was ever paid.

Imvume subsequently received a further allocation in Phase XII for four-million barrels. No mention was ever made by SOMO to Majali in respect of any surcharge levied in respect of the allocation in Phase XI, the fact that an advance had been paid on account thereof, or that there was any balance outstanding in regard thereto. Had Imvume been obliged to pay any surcharge, or any shortfall, SOMO would never have provided a further allocation, corroboration that no surcharge was ever payable on this cargo.

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3. IMVUME ALLOCATION - PHASE XII

As with the allocation to Imvume in respect of Phase XI, no surcharges were ever discussed with Majali, on behalf of Imvume, or ever paid.

4. TIES TO THE AFRICAN NATIONAL CONGRESS

Majali admits to a long standing, close relationship with and membership of the ANC. Both Majali and the ANC have admitted that the ANC promoted the business activities of Imvume, with the authorities of the former Iraqi government. This was in the course of legitimate, above-board political support and the promotion of Imvume as an emerging Black Economic Empowerment resources trading company, in the restructuring of the South African oil and fuels industry. It is ordinary, standard, everyday, commercial international business practice for companies to receive political support and be promoted, at a political level, in international trading activities. It is routine for high-level political delegations throughout the world to include business delegations and to receive introductions, encouragement and political support in business opportunities. This is precisely how Majali "used his close ties" with the ANC in pursuing business opportunities in Iraq.

5. ADHERENCE TO UN REGULATIONS

Majali, whether on behalf of Montega Trading or Imvume Management, at all stages adhered to and complied with the requirements and regulations of the United Nations in respect of the Iraqi sanctions and in accordance with the Oil-for-Food Programme.

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Whilst the allegation is made in the report summary, that Imvume paid an advance of US\$60 000 on account of a surcharge levied on an allocation in Phase XI, Majali denies that any such payment was made or that he was aware that any such surcharge was even levied. No evidence has ever been presented to Imvume and Majali to this effect. This issue was never raised by the IIC investigators when they met Majali on 30 June 2005 or at any time since then.

Majali conducted lawful and legitimate business with Iraq and SOMO in respect of various allocations of crude oil, did not contravene any UN regulations and certainly did not pay any surcharges or other irregular payments to the Iraqi authorities. Any accusations against him to the contrary are unsustainable, unwarranted and highly irresponsible.

REPORT ON PROGRAMME MANIPULATION

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OIL TRANSACTIONS AND ILLICIT PAYMENTS

S. RESPONSE BY MARTIN SCHENKER

4-10-05; 18:03 : ; +413101303 # 1 / 1

SWISS LAWYERS GROUP MARTIN & DAVIDOFF
AVOCATS, ATTORNEYS AT LAW

Mr Reid Morden
Executive Director
Independent Inquiry Committee
825 Third Avenue
New York, NY 10022
USA
Via facsimile 212 842 2555

JEAN-JACQUES MARTIN
ALEXANDRE DAVIDOFF
DOMINIQUE MAISSEN
ANTJE BECK MANSOUR
DEA en droit européen
ROMAIN FELIX, LL.M.
New York Bar
CATHERINE VOUTSINAS

Geneva, October 4, 2004
mg

Re : Mr Martin Schenker

File handled by : Jean-Jacques Martin

Dear Mr Morden:

I am writing on behalf of Mr Martin Schenker in response to your letter of September 25, 2005.

I note that your letter states that the Committee sent to Martin Schenker a letter dated September 2, 2005, regarding your future report. My client never received such letter. I further note that Mr Schenker has not been provided by the Committee a copy of any documents or information upon which the Committee relies in reaching its conclusions.

Mr Schenker denies the conclusions set forth in your letter, and hereby requests that a copy of this letter be included in any future report in which Mr Schenker is discussed.

Sincerely,

Jean-Jacques Martin


FOGLIA, LUGANO
DR. ALDO FOGLIA
RENATA FOGLIA
FRANCO FOGLIA
HAUSHEER & PARTNER, ZUG
URS J. HAUSHEER
DR. MICHAEL ITEN
DANIELA VON FLÜE BOLLIGER
HODLER & EMMENEGGER, BERN
MARC HODLER
BEAT HODLER
GUY EMMENEGGER
BERNHARD HODLER
Mediator SAV
BERNHARD WELTEN, LL.M.
DR. PETER R. BURKHALTER
GEORG VOLZ
dipl. Steurexpert, Notar
DR. LORENZ HIRT
DR. BORIS GRELL, LL.M.

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geneva@swisslawyersgroup.ch
www.swisslawyersgroup.ch

REPORT ON PROGRAMME MANIPULATION

CHAPTER TWO

OIL TRANSACTIONS AND ILLICIT PAYMENTS

T. RESPONSE BY SERGE BOIDEVAIX

Fax émis par : 33 1

CABINET FAA ET ASS

17/10/05 12:18 Pg: 1/2

FARTHOUAT, ASSELINEAU & ASSOCIES

AVOCATS À LA COUR

7, RUE DE LA TOUR DES DAMES - 75009 PARIS
Téléphone (33) 01 45 55 75 05 - Télécopie (33) 01 45 55 29 79
Palais R 130

Oct 17 2005

Vincent ASSELINEAU
Ancien Secrétaire de la Conférence
Ancien Membre du Conseil de l'Ordre

Olivier BLUCHE
Ancien Secrétaire de la Conférence
Avocat au Barreau de New York

Isabelle DUQUESNE-CIERC

Jean-René FARTHOUAT

Ancien Bâtonnier de l'Ordre

Cyril FERGON

Christophe LLORCA

Jean-Christophe MAYMAT†
Ancien Secrétaire de la Conférence

Nathalie RORET

Marie-Manuèle SAMION

Patricia SIMO
Avocats à la Cour Associes

INDEPENDENT INQUIRY
COMMITTEE INTO THE UNITED
NATIONS
OIL-FOR-FOOD PROGRAM
Mr. R. MORDEN
Executive Director
825 Third Avenue
Fifteenth Floor
NEW YORK NEW YORK 10022

Fax : 1.212.842.25.55
1.202.842.45.55

Paris, October 17, 2005

Réf. : Mr. Serge Boidevaix

Zino ADJAS

Patrice BACQUEROT

Nicolas BOULAY

Nicolas CASSART

Bénédicte GRAULLE

Ancien Secrétaire de la Conférence

Sarah KHONSARI

Mayalen LACABARATS

Agnès LEBOUBE

Laurence MAROT

Fabien MASSON

Françoise POLACK

Eve PORTIAS

Juliette SCHWEBLIN

Avocats à la Cour

Dear Mr. Morden,

We are acting on behalf of our client Mr. Serge Boidevaix and revert to you with respect to the text of the next report of your committee.

Mr. Serge Boidevaix disagrees with the text provided for the following reasons:

- Mr. Serge Boidevaix was acting on behalf of VITOL, and this is not mentioned in the text provided,

- According to Mr. Serge Boidevaix, approximately 22 and not 29,5 barrels were lifted through VITOL during a six year period,

- Assuming that 786,789 \$ of oil surcharges were paid to the Government of IRAK in violation of the UN Oil for Food Programme, this would have been done without Mr. Serge Boidevaix being informed thereof.

Membre du réseau ALLIURIS :

PARIS, LYON, AMSTERDAM, BILBAO, BRUXELLES, EDIMBURG, HANOVRE, LISBONNE,
LONDRES, LUXEMBOURG, MADRID, MILAN, ZUG.

Correspondance organique :

MONTRÉAL : BROUILLETTE, CHARPENTIER, FOURNIER, DOZOIS, FORTIN

Membre d'une Association agréée - Le règlement des honoraires par chèque est accepté.

REPORT ON PROGRAMME MANIPULATION
CHAPTER TWO
OIL TRANSACTIONS AND ILLICIT PAYMENTS

Fax émis par : 33 1

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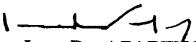
Oct 17 2005

Indeed, Mr. Serge Boidevaix was not aware of this fact.

The above comments are made further to the committee's proposal by fax dated October 12, 2005 to present additional information before October 19, 2005.

We hereby request the committee to include the above comments in his next report.

Sincerely,


Bâtonnier Jean-René FARTHOUAT


Nathalie RORET

REPORT ON PROGRAMME MANIPULATION

CHAPTER TWO

OIL TRANSACTIONS AND ILLICIT PAYMENTS

U. RESPONSE OF SUDHIR JAYA

Jaya Sudhir

26 Pages
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October 19, 2005

The Independent Inquiry Committee
United Nations Oil-for-Food Programme
825 Third Avenue
15th Floor
New York, NY10022
USA

Dear () / ()

Independent Inquiry Committee into the UN Oil-for-Food Programme ("IIC")

Reference is made to the e-mail dated October 12, 2005 to me from the IIC (copy attached). I deeply appreciate the opportunity given to me to give my feedback.

I am of the firm opinion that that Faek Ahmad Shareef ("Faek") was the originator, sole architect, organizer, go-between, coordinator, manager and principal of all dealings between the Iraqi authorities, including SOMO, and Mastek Sdn Bhd.

I am forwarding a number of documents to you that will amply demonstrate his multi-faceted role. For ease of reference, I have numbered (and circled) the documents at the top right hand corner. I am forwarding this letter by soft copy (without the documents) and by fax (with the documents) later.

| <u>Document No.</u> | <u>Date</u> | <u>Reference To</u> | <u>My Comments</u> |
|---------------------|-------------|--|--|
| 1. | 12/1/01 | Faek writes of receiving a call from the Top people and of their advise to perform as fast we could. | As far as SOMO was concerned, Faek was the key person. |

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The names of Committee Investigators have been redacted from all letters included in the Appendices

REPORT ON PROGRAMME MANIPULATION

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|----|--|--|
| 2. | 16/1/01 Under No.1, Faek writes about his level of confidentiality with SOMO; ‘they reason this why only I personally know this!!’ | SOMO and Faek could not possibly have achieved this level of confidentiality unless SOMO saw him as the principal and also as the go-getter. |
| | | Faek refers under C to negotiations with them (i.e. SOMO). |
| 3. | 19/1/01 Faek writes of confirming his meeting with the Top on 20/1/01. | Yet another indication that Faek was the only one trusted by the Top. |
| 4. | 22/1/01 Faek reverts with the outcome of his meeting with the Top level, in particular regarding sensitive matters. | He is the one who dealt with SOMO and subsequently passed on instructions. |
| 5. | 23/1/01 Faek gives instructions on who is to sign certain documents. | Obviously, this was at the direction of SOMO with whom Faek was in close contact. The fax is headed as “Advise from SOMO”. |
| 6. | 23/1/01 Faek writes of another important meeting. He senses that ‘they’ are getting much better and sensitive to our advantage. | Only someone who was in close and intimate contact with the Iraqi authorities could have sensed as such. |
| 7. | 23/1/01 Faek details vessel nominations. | Clearly he was involved in the operational details. |
| 8. | 23/1/01 Faek opens as follows:: “very important fax and final results of my meeting with SOMO and the Top!!!”. | By his own admission, he was intimate with not only SOMO but also with what he refers as the “Top”. |

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| | | Under No. 1, he talks of his efforts and hard work and of putting us at the 'Top of the Top'. He also says that he is in charge of the Iraq market. | There cannot be a doubt that Faek, by his own admission, was solely managing Iraq. |
| | | He also writes under No.1 for us to do exactly what he is advising. | He knew that he was fully in command of the situation and was dictating to us what needed to be done. |
| | | Under No. 3 and 3 (repeat), Faek talks of lifting and allocation. | Once again, he was in touch with SOMO at various key levels. Equally important, SOMO dealt with him as if he was the principal. |
| 9. | 24/1/01 | Faek talks of nomination details in Nos.1, 2 and 3. | This is a clear indication that he was receiving and dealing with information at even the operational level with respect to SOMO. |
| | | Faek refers to his meeting with SOMO under No. 4. | He was clearly intimate with SOMO. |
| | | He expresses his anger about a delay in an allocation. | He was even in a position to get angry with SOMO. |
| 10. | 24/1/01 | There is a reference to a gift towards the end of the fax. | Faek was the one who called the shots on even what gifts, etc to be made and to whom. |
| | | Faek directly refers to money to be paid to SOMO. He also says that we would be surprised about his performance. | Once again, he was referring to his ability to perform due to his contacts in Iraq. |

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CHAPTER TWO

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|-----|---------|---|--|
| 11. | 25/1/01 | No.1 talks of allocation and No. 2 of lifting. Under No.3, he asks us to proceed with documentation and to copy to him. | Interaction with key people within SOMO's operations team. We were at all times directed by Faek. Under No.10, Faek says "I have got some directions and advise from the Top!" |
| 12. | 25/1/01 | Under No.2, he writes that "at the moment I am exposed (expected) to bring money now to SOMO." | There is no doubt that it was Faek who was in close and intimate contact with the top people in the oil trade. |
| 13. | 25/1/01 | Faek focuses on vessel nominations. | Clearly, SOMO (and by inclusion, the 'Top' and the 'them') looked to Faek as the obligor for whatever payments that they expected to receive. He was also entrusted by SOMO to ensure that monies, in addition to whatever bank transfers, were given to the appropriate people. |
| 14. | 26/1/01 | Faek writes of SOMO waiting for a vessel nomination. Under No.3 he talks of not forgetting the transfer. | Faek was the principal person in whom SOMO trusted and dealt with. Clearly he was in direct interaction with key people within SOMO's operations team. He was directly in touch with SOMO's operations team. He was under pressure from Iraqi authorities to speed up the transfer as they looked to him as being principally responsible for transfers, etc. |

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| 15. | 29/1/01 | Faek himself talks of Iraq having achieved a lot in terms of breaking the sanctions. He also states that "our stand is very very strong and their support to us very very strong.". Also, he says that "he shall get new direction and advise from them on how to get the job done. So you can trust that we will get very far." | This is from someone who was the architect of the entire scheme. He was the only one who was in a position to have made such a judgment; a position created not by accident but one through his own principal role. He was clearly in the driver's seat with respect to discussions with the Iraqi authorities and that he accepts his role as facilitator, negotiator and deal maker. |
| | | He also refers to having had a first meeting and that he would revert with more direction and advise from 'them' on how to do the job. | Yet another piece of irrevocable evidence that Faek was the sole person entrusted by the 'them'. |
| 16. | 2/2/01 | Faek talks of having done everything and having put in efforts and that we should know what he means. | He was alluding to his interaction with the Iraqi authorities. |
| 17 | 26/2/01 | Under No.3, Faek talks of cleaning the SOMO accounts. | As the principal, he was under pressure to ensure that the accounts were cleared up. |

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Under No. 4, he says that Mastek has a big name and a good reputation with the Directors (of SOMO).

Only Faek knew the feelings of SOMO and its Directors towards Mastek. Only Faek was in a position to have access to such feelings.

It is my firmly held position and conviction that Faek was primarily and solely instrumental in establishing the entire series of oil transactions and that all allocations, vessel nominations, meetings and negotiations, amounts to be paid and to whom, were undertaken by Faek in conjunction with SOMO. All we did was to follow instructions passed on to us by Faek. Iraqi authorities, including SOMO officials, dealt with him as a principal and all key notes, messages, advices, instructions and announcements were passed to him and not to us.

They treated him not only as a principal but also as a negotiator (for allocations, etc), an implementer (for the smooth execution of shipments) and an obligor (for payments to be made).

Thus I would appreciate it very much if you could amend the paragraph in your forthcoming report to reflect the true situation. The wording, as it stands, that I paid and caused to be paid, suggests that I was the architect of the payments of the surcharge. This was certainly not the case.

I would like to suggest that the wording thus be amended to the following:
“During the Programme, Faek Ahmad Shareef, caused to be paid to the Government of Iraq.....”.

Secondly, to differentiate me from Mastek would be to suggest that Mastek undertook the purchase of the oil whilst I carried out the ‘seemingly unrelated’ job of making the surcharge payments is also misleading. The surcharge payments could not possibly have been effected without the concurrence, approval and consent of Mastek.

In the alternate, I suggest that the wording be amended to the following:
“During the Programme, Mastek Sdn Bhd, caused to be paid to the Government of Iraq

Yours truly,

JAYA SUDHIR

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OIL TRANSACTIONS AND ILLICIT PAYMENTS

Jaya Sudhir

October 24, 2005

The Independent Inquiry Committee
United Nations Oil-for-Food Programme
825 Third Avenue
15th Floor
New York, NY10022
USA

Dear [] / []

Independent Inquiry Committee into the UN Oil-for-Food Programme (“IIC”)

Further to my letter of October 19, 2005. I am pleased to forward herewith the following additional documents. The numbering here continues from my earlier letter and thus starts at 18.

| <u>Document No.</u> | <u>Date</u> | <u>Reference To</u> | <u>My Comments</u> |
|---------------------|-------------|---|---|
| 18. | 25/2/01 | SOMO sends a fax to Mastek for attention of Faek on a vessel nomination issue. | SOMO looked to Faek for operational matters. |
| 19. | 28/2/01 | He writes of having spoken to the Top and Mr. U for assistance and that they did what he requested for. He even complained about some people. He states that he had created the system and that it is under his supervision. | He was the only one who was totally and solely in touch with the Iraqi authorities and that they trusted and dealt with him only. He could not possibly have created the ‘system’ unless so guided by the Iraqi authorities. |
| | | He says that he stood guarantee. | The Iraqi authorities expected Faek to guarantee all obligations and he in turn accepted this obligation. |

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The names of Committee Investigators have been redacted from all letters included in the Appendices

REPORT ON PROGRAMME MANIPULATION

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| 20. | 2/3/01 | Remittance instructions from Faek requesting a change in recipient banks. | Faek was responsible for directing payments, including to himself, for and on behalf of various beneficiaries. |
| 21. | 29/3/01 | Faek categorically declares that the system has to be within his total control and that the crude oil is his and his responsibility. Further that we had to take instructions from him. | Here is someone who declared what was de facto the position all along, i.e. that he was in total control. |
| 22. | 12/4/01 | A confirmation from Faek on the receipt of US\$500,000. | Payments were made as instructed by Faek. This is a confirmation of receipt by him. |
| 23. | 12/4/01 | This is a statement prepared by Keppel Oil International stating clearly that: Faek is the procurement agent for Mastek and that he is to be paid a representation commission and procurement fee. Faek had been paid a commission/fee of US\$5.92 million on behalf of Mastek. | This statement was prepared to clarify what had transpired to date. Faek was entirely responsible for managing the Iraqi authorities and |
| 24. | 12/4/01 | He urges us to complete the transfer of one m and to fax the bank slips to Amman. | He was referring to the transfer of US\$1 million. |

I reiterate that Faek was primarily and solely instrumental in establishing the entire series of oil transactions and that all allocations, vessel nominations, meetings and negotiations, amounts to be paid and to whom, were undertaken by Faek in conjunction with SOMO. All payments were made on the instructions of Faek and were to either Faek or to beneficiaries nominated by Faek.

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Document No. 19 from Faek highlights the extremely close proximity and dealings between him and those at the Top and a Mr. U.

By his own admission, in Documents 19 and 21, he refers to the system as having been created by him, that it was under his supervision and control, and that he was responsible for it.

I would urge you to rethink and reconsider the wording of the relevant paragraph to reflect the true situation; viz. that Faek was the person responsible for the entire system, including causing the payments to be made to the Iraqi authorities. Read together, the documents clearly demonstrate, support and reinforce that view.

The wording I had suggested is repeated here:

“During the Programme, Faek Ahmad Shareef, caused to be paid.....”.

In fact the breadth and depth of responsibility and involvement of Faek was such that to suggest that even Mastek was responsible would be inaccurate.

Yours truly,

(signed)
JAYA SUDHIR

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HUMANITARIAN GOODS TRANSACTIONS AND ILLICIT PAYMENTS

I. INTRODUCTION AND SUMMARY

Iraq's largest source of illicit income in relation to the Programme came from "kickbacks" paid by companies that it selected to receive contracts for humanitarian goods. These payments to the Iraqi regime were disguised by various subterfuges and were not reported to the United Nations by Iraq or the participating contractors—let alone approved by the United Nations as permissible payments from the escrow account. As set forth in the Committee's recent Programme Management Report, available evidence indicates that Iraq derived more than \$1.5 billion in income from these kickbacks.³⁸⁷

As with its selection of oil purchasers, political considerations influenced Iraq's selection of humanitarian vendors. For the first several years of the Programme's operation, however, Iraq did not have in place a formal kickback policy. The kickback policy emerged only over time as the Programme extended for a longer period and involved larger amounts than anticipated. The kickback policy developed in mid-1999 from Iraq's effort to recoup purported costs it incurred to transport goods to inland destinations after their arrival by sea at the Persian Gulf port of Umm Qasr. Rather than seeking approval from the United Nations for compensation of such costs from the Programme's escrow account, Iraq simply required humanitarian contractors to make such payments directly to Iraqi-controlled bank accounts or to front companies outside Iraq that in turn forwarded the payments to the Government of Iraq. Not only were these side payments unauthorized, but it was an easy matter for Iraq to impose "inland transportation" fees that far exceeded its actual transportation costs.

By mid-2000, Iraq instituted a broader policy to impose generally a ten percent kickback requirement on all humanitarian contractors—including contractors shipping goods by land as well as contractors shipping to Umm Qasr. This broader policy was in addition to the requirement that contractors pay inland transportation fees. Iraq dubbed its more general kickback requirement as an "after-sales-service" fee. After-sales-service provisions often were incorporated into contracts as a way to inflate prices and permit contractors to recover from the United Nations escrow account amounts they had paid secretly to Iraq in the form of kickbacks. Contractors paid these kickbacks before their goods were permitted to enter Iraq. For ease of reference, this form of kickback is referred to throughout as an after-sales-service fee—even though Iraq often collected a ten percent fee without labeling it an "after-sales-service" fee or without inserting an after-sales-service provision in the applicable contract.

³⁸⁷ "Programme Management Report," vol. I, pp. 30, 38; *ibid.*, vol. II, pp. 35-38. The term "kickback" is used to denote an illicit payment to Iraq by a company contractor made in connection with Iraq's selection of a company to receive a contract to provide humanitarian goods under the Programme. The term "humanitarian contract" includes contracts for all goods imported into Iraq under the Programme, and the term "humanitarian kickback" is used as a shorthand reference to kickbacks made in connection with humanitarian contracts. It is unnecessary to determine whether the illicit payments described in this Chapter were true "kickbacks" in the strict legal sense that this term may be used in criminal corruption laws.

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Many companies freely went along with Iraq's demands. Others made payments to third parties or agents while disregarding the likely purpose of these payments, or perhaps unwittingly. Indeed, the Committee calculates that more than 2,200 companies worldwide paid kickbacks to Iraq in the form of inland transportation fees, after-sales-service fees, or both. Tables of all companies for which there is evidence that kickbacks were paid in connection with their contracts have been separately published by the Committee today.

In addition to this listing of companies, this Chapter provides case studies of twenty-three companies (or related company groups) that participated in the payment of kickbacks on humanitarian contracts. The companies fall into four groups: (1) Iraqi *front companies* (i.e., companies that were controlled covertly or owned in part by the Government of Iraq); (2) *major foodstuff providers* that ranked at the top of the list in terms of the total value of contracts obtained under the Programme; (3) *major trading companies* that specialized in obtaining contracts from Iraq to sell goods that they acquired from other companies and countries; and (4) *major industrial and manufacturing companies*—mostly from Europe and North America—that did not necessarily have large numbers of contracts, but that apparently paid kickbacks and did so despite organizational resources that might have been expected to safeguard against such practices.

The sample of companies discussed in this Chapter accounted for approximately twenty-three percent of Iraq's purchases under the Programme (\$7.9 billion). Half of these companies did not sell any goods under the Programme until after the introduction of the illicit kickback scheme during Phase VI. The Committee estimates that these companies collectively made more than \$518 million in illicit payments to the Iraqi regime, accounting for approximately one-third of the illicit payments made to the regime in connection with purchases under the Programme.

Moreover, several of these companies also bought oil from Iraq and paid illegal surcharges in response to Iraq's demands.³⁸⁸

As will be discussed in the context of the company examples, the responses of goods suppliers confronted with the Committee's specific evidence of illicit payments generally followed one of four variations. First, some suppliers asserted that they had been unaware of any side payments to the Iraqi regime in connection with their Programme contracts and that such payments were made by employees or agents acting without authorization. Suppliers that employed agents often stated that they paid agents for their services and had no involvement with any agent's decision to redirect proceeds to the Iraqi regime. Second, some suppliers indicated that it was their understanding that inland transportation and after-sales-service fees involved legitimate expenses, and that such payments were permissible under the sanctions regime and sometimes even appeared explicitly in the contracts approved by the United Nations. Third, some suppliers denied making any such payments and questioned the authenticity or reliability of the

³⁸⁸ TaR (Apr. 1997 to May 2005). TaR is an analytical database maintained by the Committee that contains information gathered in the course of its investigation, including data from the United Nations Treasury database of payments, the Office of the Iraq Programme ("OIP") database of contracts, correspondence and data from Iraqi files, data from third-party sources such as Dun & Bradstreet and Platts, correspondence and records from certain companies involved in the Programme, and records from selected banks.

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Committee's evidence. Fourth, some suppliers acknowledged making these illicit payments to the Iraqi regime, characterizing them as the cost of doing business with Iraq and noting that all companies had to pay these fees in order to obtain goods contracts from Iraq.

Part II of this Chapter reviews the background rules and trends governing Iraq's purchases of humanitarian goods under the Programme. Part III discusses the onset of Iraq's kickback policy through the imposition of fees for inland transportation. Part IV discusses the broadening of Iraq's kickback scheme with the general requirement that contractors pay a ten percent after-sales-service fee. Part V briefly addresses other means by which Iraq manipulated humanitarian contract transactions, including the diversion of goods within Iraq (from their stated uses and recipients), the resale of goods outside of Iraq, and the provision in some cases of substandard goods. Parts VI through IX review specific company examples for each of the major company groups described above.

In addition, there are three tables appended to this Report that summarize the Committee's data and calculations regarding Iraq's purchases and related collection of illicit income under the Programme. For each company that supplied Iraq with goods under the Programme, Table 6 (entitled "Humanitarian Goods Purchased by the Government of Iraq by Supplier") includes the supplier's mission country, category of goods provided, numbers of contracts, total value and disbursements on contracts, and whether the Committee has evidence of illicit payments. Table 7 (entitled "Actual and Projected Illicit Payments on Contracts for Humanitarian Goods Summary by Supplier") includes the same categories of information as Table 6, but only for those contracts on which suppliers paid after-sales-service or inland transportation fees. For each company listed, Table 7 specifies also total levied and paid after-sales-service fees, total inland transportation fees, and whether the company responded to the Committee's inquiry. Table 8 (entitled "Actual and Projected Illicit Payments on Contracts for Humanitarian Goods by Supplier and Contract") includes the same information as Table 7, but details the projected and actual illicit payments by contract number and also notes the source of the Committee's particular data and calculations.³⁸⁹

³⁸⁹ Throughout this Report, Table 6 is referenced as "Committee humanitarian contractor table," Table 7 is referenced as "Committee humanitarian summary kickback table," and Table 8 is referenced as "Committee humanitarian kickback table." This Report generally references Table 6 when identifying a company's total sales under the Programme, and it references Table 8 when identifying a company's illicit payments to the Iraqi regime.

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II. IRAQI PURCHASES OF HUMANITARIAN GOODS AND OIL SPARE PARTS UNDER THE PROGRAMME

A. THE EVOLUTION OF IRAQ'S PURCHASES

Security Council Resolution 986 directed the Secretary-General to establish an escrow account to receive the proceeds of Iraqi oil sales under the Programme and, in substantial part, to fund the purchase of goods to benefit the Iraqi people. Pursuant to a distribution plan proposed by the Government of Iraq and approved by the Secretary-General, approximately two-thirds of escrow account funds were allocated for purchasing medicine, health supplies, foodstuffs, and essential civilian needs. Thirteen percent of escrow funds were allocated for the three governorates in northern Iraq, and fifty-three percent for central and southern Iraq, an allocation that the Security Council increased to fifty-nine percent in 2000.³⁹⁰

The first shipment of humanitarian goods arrived in Iraq in March 1997. As the Security Council increased the amount of oil it permitted Iraq to sell, the range of goods that Iraq could purchase similarly expanded. In early 1998, the Secretary-General noted that “the deterioration of basic infrastructure in other sectors [was] undermining the value of humanitarian inputs.” Consequently, in May 1998, the Secretary-General authorized the “Enhanced Distribution Plan,” which more than doubled the value of goods authorized to enter Iraq and expanded the Programme to include funding for civilian infrastructural support. Throughout the Programme, the Secretary-General continued to add new sectors, including resettlement, de-mining, culture, and religious affairs. By 2003, the Programme encompassed twenty-four sectors, far beyond the basics of food and medicine ordinarily associated with a humanitarian relief operation.³⁹¹

At the Programme’s outset, the United Nations declined Iraq’s request to use escrow account funds for the purchase of parts and equipment to maintain its oil industry infrastructure. But, in June 1998, the Security Council authorized a limited “oil spare parts” program, allowing Iraq to import up to \$300 million of parts and equipment for maintaining and improving its oil production and transport facilities. In March 2000, the Security Council doubled the oil spare parts exemption to \$600 million per phase.³⁹²

From 1997 to 2003, approximately \$37 billion was spent from the escrow account on food, medicine, equipment, and other civilian goods for Iraq. The Government of Iraq expended about \$34.5 billion: \$32 billion for central and southern Iraq and another \$2.5 billion on bulk goods and

³⁹⁰ “Programme Management Report,” vol. II, p. 12; S/RES/986, paras. 7-8 (Apr. 14, 1995); “Interim Report of the Secretary-General on the implementation of Security Council Resolution 986 (1995),” S/1996/978, para. 34 (Nov. 25, 1996); S/RES/1330, para. 12 (Dec. 5, 2000); “Report of the Secretary-General pursuant to paragraph 5 of resolution 1330 (2000),” S/2001/186, para. 27 (Mar. 2, 2001).

³⁹¹ “Programme Management Report,” vol. II, pp. 13-14.

³⁹² Ibid., p. 14.

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oil spare parts for the three northern governorates. The UN-related Agencies spent another \$2.2 billion for the three northern governorates. Over the course of the Programme, these funds were used to purchase goods and supplies from more than 4,500 companies.³⁹³

B. RULES GOVERNING TRANSACTIONS WITH IRAQ

1. Goods Transactions

A company selling humanitarian or other civilian goods under the Programme contracted with a ministry of the Government of Iraq or, for goods intended to be distributed in northern Iraq (other than bulk purchases and oil spare parts), with one of the UN-related Agencies. The goods were required to have been identified in advance on the distribution plan approved by the Secretary-General for each phase. The contract was forwarded through the company's home country mission to OIP's Contracts Processing and Monitoring Division, where it was subject to review for the details of pricing and value. If the contract's paperwork was in order, the contract was then subject to the 661 Committee's review and approval under a "no objection" procedure (i.e., the contract was deemed approved if no member of the 661 Committee lodged an objection within a prescribed time period). As discussed in the Programme Management Report, member states reviewed these contract applications to varying degrees, and, over time, the Security Council authorized OIP to approve an increasing percentage of these applications, specifically those involving humanitarian goods unlikely to trigger any dual-use concerns.³⁹⁴

Upon approval of a goods contract, the goods could be transported into Iraq. The goods were required to be certified by UN-retained border inspectors (Lloyd's from 1997 to January 1999 and Cotecna from February 1999 to 2003) at one of four main border inspection points: (1) Zakho on the border of Turkey; (2) Trebil on the border of Jordan; (3) Al-Waleed on the border of Syria; or (4) the port of Umm Qasr on the Persian Gulf.³⁹⁵

³⁹³ Ibid., p. 15; TaR (Apr. 1997 to May 2005).

³⁹⁴ "Programme Management Report," vol. II, pp. 28, 152-56. For a more detailed summary of the respective roles of the Security Council and its 661 Committee, the Secretariat, and the UN-related Agencies, see *ibid.*, pp. 19-26. Many of the contracts executed under the Programme were negotiated by, or with the assistance of, sales agents in Jordan and other countries neighboring Iraq. Many companies also engaged local staff to assist with the fulfillment of contracts in Iraq. However, agents interviewed stated that because contractual terms were decided by the principal company, Iraq generally insisted on reaching agreement directly with the contracting company rather than with the agent. Saud Ayyash interview (Sept. 28, 2005) (regarding involvement as a sales agent under the Programme with Carmel Air-Conditioning); Mazin Lawrence interview (Sept. 27, 2005) (same with Comet); Rita Mina interview (Sept. 29, 2005) (same with TradeLinks Ltd.); Joseph Salem interview (Sept. 23, 2005) (same with Techno Middle East).

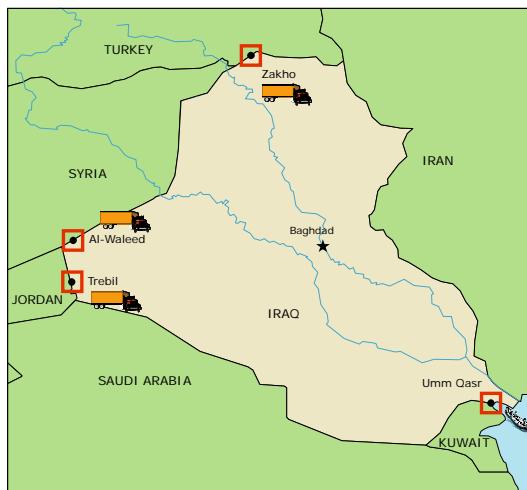
³⁹⁵ "Programme Management Report," vol. II, p. 28. Part of one shipment entered through Iraq's border with Saudi Arabia via Ar'Ar. TaR, COMM no. 1300041; Programme shipment request or notice form, COMM no. 1300041 (Jan. 22, 2003). Darko Mocibob of OIP explained that the Ar'Ar entry point opened shortly before the war in Iraq. Darko Mocibob interview (July 6, 2004).

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Chart A – Four Main Border Inspection Points under the Programme



Once the goods were certified, the escrow bank (BNP) paid the goods supplier from the escrow account.³⁹⁶

2. Financial Transactions

The rules and procedures governing goods transactions under the Programme are best understood in the light of sanctions previously imposed on Iraq. In August 1990, the Security Council adopted Resolution 661, requiring member states to prevent both the import of goods from Iraq and the export of goods to Iraq, except for humanitarian supplies. This prohibition included “[a]ny activities . . . which would promote or are calculated to promote the export or trans-shipment of any commodities or products from Iraq.” In addition, paragraph four of Resolution 661 barred financial transactions with “persons or bodies within Iraq . . . except payments exclusively for strictly medical or humanitarian purposes and, in humanitarian circumstances, foodstuffs.”³⁹⁷ In short, Resolution 661 prohibited almost all direct financial transactions with the Government of Iraq.

Pursuant to Security Council Resolution 986 and the Iraq-UN MOU, the Programme represented a limited exception to the sanctions regime. As noted above, Resolution 986 (subject to various

³⁹⁶ “Programme Management Report,” vol. II, p. 28. BNP’s issuance of letters of credit for Iraq’s humanitarian purchases is discussed at greater length in Chapter 4 of this Report. Performance of the goods inspectors and their role in certifying Iraq’s imports under the Programme is discussed in Chapter 5 of this Report.

³⁹⁷ S/RES/661, paras. 3-4 (Aug. 6, 1990); see also S/RES/687, para. 20 (Apr. 3, 1991) (providing that the humanitarian goods exception in Resolution 661 required notification to the 661 Committee and its approval “under the simplified and accelerated ‘no objection’ procedure”).

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constraints) permitted member states to allow the import of Iraqi oil and, in turn, permitted the Government of Iraq to use the oil proceeds to purchase humanitarian supplies. However, Resolution 986 and the Iraq-UN MOU explicitly required that all oil proceeds be deposited into the escrow account and that, similarly, payments for the humanitarian supplies come exclusively from the escrow account.³⁹⁸ Direct financial transactions with Iraq were not authorized under the Programme.

Notwithstanding these restrictions, questions arose at the United Nations regarding whether companies could pay Iraq or Iraqi entities for port charges (i.e., fees for the use of Iraqi ports or navigational services). These questions resulted in an opinion of the United Nations Office of Legal Affairs (“OLA”), issued in November 1997, advising the 661 Committee that the payment of port charges to Iraq was permissible in connection with lawful shipping activity—so long as the “fees and charges do not exceed what is customary in such circumstances” and the arrangements otherwise “exclude economic or financial benefits in favour of Iraqi agencies or companies.”³⁹⁹

In June 1998, OLA extended its earlier opinion on port charges to encompass the payment of inland transportation fees to Iraq (i.e., fees for transporting goods from their points of entry into Iraq to their ultimate destinations within Iraq). OLA concluded that payments of such fees would not violate the sanctions regime so long as they complied with two restrictions. First, the payments should not “exceed what is customary and reasonable in the circumstances” and therefore “represent a source of income to Iraq.” Rather, they should “be limited to charges for transportation, such as road tolls, levied on a non-discriminatory basis, and to charges which are commensurate with whatever administrative expenses might reasonably be entailed by the occurrence of the transit.” Second, OLA specified that “[a]ny charges should also be payable in Iraqi dinars only.”⁴⁰⁰

As discussed in the Committee’s Programme Management Report, OLA’s requirement that payments to Iraq be made only in dinars essentially required companies that were assessed port charges either to violate sanctions or decline to trade with Iraq. Because the Iraqi dinar was a nonconvertible currency (i.e., not openly traded), the only way to obtain substantial dinars was through a financial transaction with “persons or bodies within Iraq,” which Resolution 661

³⁹⁸ S/RES/986, paras. 1, 8 (Apr. 14, 1995); Iraq-UN MOU, paras. 12, 22, 24, and Annex II, paras. 1-3.

³⁹⁹ OLA letter to 661 Committee Chairman (Nov. 6, 1997) (responding to an inquiry regarding the permissibility of operating a passenger shipping service and concluding that such a service need not run afoul of paragraph four of Resolution 661).

⁴⁰⁰ OLA letter to 661 Committee Chairman (June 12, 1998); see also OLA memorandum to OIP (Nov. 9, 1998) (advising that, inasmuch as goods suppliers must pay fees to the Government of Iraq for goods and services that Iraq provides, “[i]n no event should such payments be made in foreign currency”). The OLA opinion of June 1998 did not arise in the context of a contractor under the Programme inquiring about the permissibility of paying inland transportation fees. Rather, it arose in response to a query from the 661 Committee regarding a company desiring to ship goods across Iraq from Jordan to Syria. OLA letter to 661 Committee Chairman (June 12, 1998).

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expressly precluded. Although the 661 Committee discussed this dilemma created by OLA’s advice, it ultimately acquiesced to these illegal transactions.⁴⁰¹

In a memorandum to one of the oil overseers in June 2000, OLA reiterated its view that exporters may pay port fees to Iraq “so long as the charges . . . do not exceed whatever might . . . be customary and reasonable and so long as they are paid in Iraqi dinars.” Significantly, however, this OLA memorandum advised also that it would be impermissible for goods suppliers to pay port charges to a Jordanian company alleged to be furnishing port services, Alia for Transportation and General Trade (“Alia”), assuming—as it appeared—that Alia was acting pursuant to an agreement with Iraq to provide such services. OLA clarified that any payment to Alia without the 661 Committee’s approval would violate the sanctions regime, which otherwise barred services “calculated to promote the import from or export to Iraq of products and commodities.” OLA underscored that it was unaware of the Government of Iraq or Alia having sought approval—let alone the 661 Committee ever having approved such an arrangement.⁴⁰²

These restrictions were communicated by the United Nations to the Government of Iraq. In a letter dated June 27, 2000, Benon Sevan informed the Government of Iraq that payments of port fees to Iraq must be customary and reasonable in amount and made only in Iraqi dinars. In addition, Mr. Sevan explained that payments to Alia required 661 Committee approval if, as it appeared, the Government of Iraq had engaged Alia to provide services in relation to the Programme.⁴⁰³

OLA also concluded that the sanctions regime did not bar including after-sales services in Programme contracts—subject to certain limitations as well as the 661 Committee’s or OIP’s approval. Although both Resolution 986 and the Iraq-UN MOU explicitly permitted Iraq to import only “goods,” OLA reasoned that this framework included “the provision of services which are *ancillary* to the supply of those goods.” Specifically, OLA advised OIP that services qualified as sufficiently “ancillary” if “considered to form part of the supply of an operational and operable product and so be instrumental to the provision, or even to be a constituent element, of the goods which are being supplied.” In OLA’s view, this encompassed services such as “assembly, installation and commissioning,” but not services for which the goods supplied were merely incidental. OLA further advised that no supplier should be paid for after-sales services until the independent inspection agents provided authenticated confirmation that the relevant services were rendered, and this requirement should be included in Iraq’s contracts with goods

⁴⁰¹ “Programme Management Report,” pp. 126-28; S/RES/661, para. 4 (Aug. 6, 1990).

⁴⁰² OLA memorandum to Alexandre Kramar (June 13, 2000); see also S/RES/661, para. 3(b) (Aug. 6, 1990) (requiring states to prohibit activities by their nationals that “would promote or are calculated to promote the export or trans-shipment of any commodities or products from Iraq”). As discussed in Section VII.A of this Report, Alia was one of the front companies used by the Government of Iraq to collect illicit revenues.

⁴⁰³ Benon Sevan letter to Iraq Permanent Representative (June 27, 2000).

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suppliers.⁴⁰⁴ OLA never concluded that suppliers could make direct payments to the Iraqi regime in lieu of the suppliers providing the after-sales-services contained in approved Programme contracts.

In the final analysis, even though instructive to consider OLA’s legal opinions, it is unnecessary to rely upon them in understanding why direct payments to the Government of Iraq—not approved by the United Nations—violated the sanctions regime. First and foremost, the relevant resolutions and procedures adopted for the Programme never envisioned direct payments to Iraq or any Iraqi-controlled entity, whether termed “inland transportation” or “after-sales-service” fees. Neither the Security Council nor its 661 Committee ever approved such payments outside the escrow account. Second, even accepting OLA’s view that it was permissible to pay certain fees to Iraq, OLA required such payments to be reasonable and only in Iraqi dinars. As will be discussed later, the inland transportation fees were not reasonable, particularly in the later phases of the Programme, when they increased beyond any true costs for transportation, and these fees were paid in USD, euros, and other foreign currency; similarly, after-sales-service fees were paid without any justification in terms of corresponding costs incurred by Iraq and were paid in USD, euros, and other foreign currency. In any event, as noted above, it would have been impossible for companies to pay Iraq in dinars without first violating the sanctions regime. Third, no company has suggested that it relied upon OLA’s advice that certain payments were permissible under the sanctions regime and the Programme’s rules. Fourth, with regard to payments made by suppliers to companies such as Alia, the Government of Iraq never sought the 661 Committee’s approval, even after receiving OIP’s letter of June 27, 2000. Accordingly, the types of financial transactions to be discussed in this Chapter involving inland transportation and after-sales-service fees were impermissible under the rules governing the Programme.

C. COORDINATION OF IRAQ’S PURCHASES

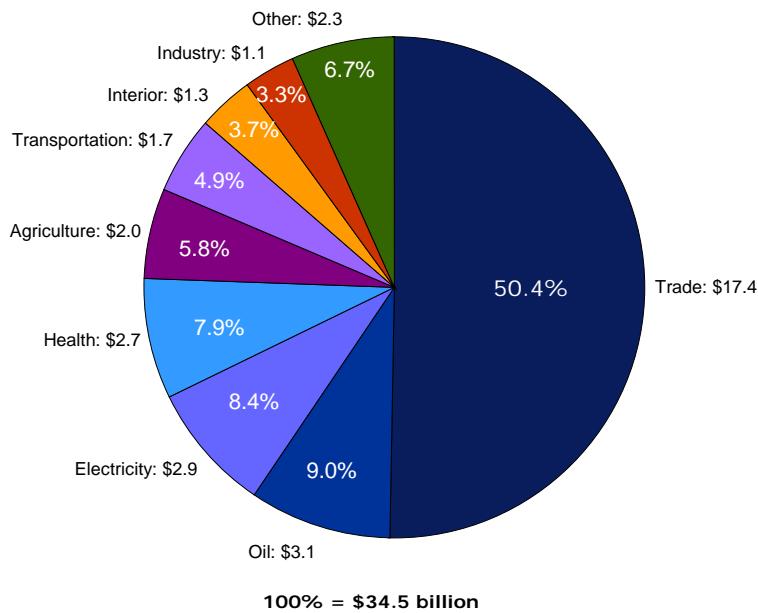
As many as sixteen Iraqi ministries procured goods through the Programme, totaling \$34.5 billion in purchases. The chart below illustrates that eight of these ministries expended more than \$1 billion on goods purchases. In particular, four ministries—Trade, Oil, Electricity, and Health—accounted for more than three-quarters of Iraq’s goods purchases under the Programme. The Ministry of Trade alone accounted for just more than half of Iraq’s purchases.

⁴⁰⁴ OLA memorandum to OIP, paras. 5-6, 9, 13, 20, 22-26, 30 (Nov. 9, 1998) (emphasis added); S/RES/986, para. 8 (Apr. 14, 1995); Iraq-UN MOU, para. 22.

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Chart B – Purchases of Iraqi Ministries under the Programme (in USD billions)⁴⁰⁵

To coordinate its participation in the Programme, the Government of Iraq established a variety of committees, including the Supreme Command Council, Leading Committee, Import Committee, Technical Committee, and Economic Affairs Committee. The roles and composition of these entities are described below and then summarized in the accompanying chart.

Among other Programme responsibilities, the Supreme Command Council oversaw Iraq's purchases of humanitarian goods and oil spare parts. Vice President Taha Yassin Ramadan headed this high-level body, which included key government officials: President Saddam Hussein, Deputy Prime Minister Tariq Aziz, Finance Minister and Deputy Prime Minister Hikmat Al-Azzawi, and Minister of Oil Amer Rashid. Through memoranda circulated by Vice President Ramadan, the Supreme Command Council broadly instructed other supervisory bodies and the various ministries participating in the Programme.⁴⁰⁶

⁴⁰⁵ TaR (Apr. 1997 to May 2005).

⁴⁰⁶ Ministry of Oil record, Taha Yassin Ramadan memorandum to Iraqi Ministries (Aug. 3, 2000) (translated from Arabic) (noting the Supreme Command Council's role); Ministry of Oil record, Shamkhi H. Faraj report to Minister of Oil, "Report on Crude Oil Sales under the Former Regime" (Feb. 19, 2004) (translated from Arabic) (describing the Supreme Command Council's composition) (hereinafter "SOMO

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A subsidiary of the Command Council, sometimes referred to as the Leading Committee, oversaw the allocation of Programme funds to the Iraqi ministries, including those (such as the Ministry of Defense) that could not purchase goods under the Programme. Vice President Ramadan headed the Leading Committee. Its members included Deputy Prime Minister and Minister of Military Industrialization Abd-al Tawab Abdullah Al-Mullah Al-Huwaysh, Head of the Presidential Diwan Ahmed Hussein Al-Samarrai, and a number of other ministers, including those of Trade, Health, and Agriculture. For each phase, the Leading Committee issued a list of priority countries—*influenced by political considerations*—that should receive favorable treatment in the award of goods contracts.⁴⁰⁷

Other committees beneath the Command Council and Leading Committee also played important roles in coordinating the Government of Iraq’s involvement in the Programme. Prominent among these bodies was the Import Committee, coordinated by the Ministry of Trade, which supervised ministry expenditures, tracked the execution of contracts, and accounted for after-sales-service fees. Also of importance was the Technical Committee, administered by the Ministries of Foreign Affairs, Health, and Trade, which prepared the distribution plan for each phase and reviewed the technical specifications of individual contracts.⁴⁰⁸

Another influential entity overseeing Iraq’s commerce under the Programme was the Economic Affairs Committee, a subsidiary body of the Iraqi Council of Ministers chaired by Deputy Prime Minister Al-Azzawi. The Economic Affairs Committee helped formulate the Iraqi regime’s methods and rates of collecting kickbacks. In particular, it determined a large component of the fees levied on goods imported via the Port of Umm Qasr.⁴⁰⁹

Summary Report”); see also “First Interim Report,” p. 125 (reviewing the Supreme Command Council’s role in assigning oil allocations).

⁴⁰⁷ Iraq official interview; Hikmat Al-Azzawi interview (Nov. 18, 2004); Ministry of Transportation record, Mohammed Mehdi Saleh memorandum to Iraqi Ministries (Dec. 10, 2002) (translated from Arabic) (noting the existence of the Leading Committee). Mr. Saleh was Minister of Trade. Ibid.

⁴⁰⁸ Ministry of Oil record, Taha Yassin Ramadan memorandum to Iraqi Ministries (Oct. 18, 2000) (translated from Arabic) (describing the composition of the “Import Board”); Ministry of Transportation record, Mohammed Mehdi Saleh memorandum to Iraqi Ministries (Dec. 10, 2002) (translated from Arabic) (noting the existence of “Central Import Committee Secretariat”); Raheef Ghanem Hanam letter to Al-Riyadh Flower Company (Oct. 12, 2002) (noting a resolution of the “Central Import Committee”); Mohammed Mehdi Saleh interview (Aug. 10, 2004) (discussing the Ministry of Trade’s role as the repository of information relating to Iraq’s humanitarian purchases under the Programme); Iraq official interview; Iraq official interview (discussing the Technical Committee); Hans Ulrich Koehler and Wolfgang Paul interview (Aug. 5, 2005) (same). Mr. Koehler and Dr. Paul are respectively Managing Director and Technical & Sales Director of Ruhrpumpen, a company that sold goods to Iraq through the Programme. Ibid.

⁴⁰⁹ Iraq officials interviews; see, e.g., Iraqi State Company for Water Transport (“ISCWT”) record, Hikmat Al-Azzawi memorandum to Iraqi Ministries (Aug. 6, 2000) (translated from Arabic); Ministry of Transportation record, Hikmat Al-Azzawi memorandum to Ministry of Transportation (Apr. 26, 2001) (translated from Arabic).

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Funds allocated to the ministries by the Import Committee were distributed to State Owned Enterprises (“SOEs”) that the internal ministerial committees supervised. These SOEs, such as the State Trading Company for Construction Materials, the North Oil Company, and the Iraqi Grain Board (“IGB”), purchased goods for their respective ministries. This involved coordinating tenders, negotiating with suppliers, and signing contracts later submitted to the United Nations for approval.⁴¹⁰

Chart C – Entities Coordinating the Government of Iraq’s Purchases in the Programme

| | | |
|---|--|---|
| Supreme Command Council | | |
| Role: | oversaw Iraq's purchases of humanitarian goods and oil spare parts | |
| Head: | Vice President Taha Yassin Ramadan | |
| Members: | President Saddam Hussein, Deputy Prime Minister Tariq Aziz, Finance Minister and Deputy Prime Minister Hikmat Al-Azzawi, and Minister of Oil Amer Rashid | |
| Leading Committee | | |
| Role: | oversaw allocation of Programme funds to Iraqi ministries | |
| Head: | Vice President Ramadan | |
| Members: | Deputy Prime Minister and Minister of Military Industrialization Abdullah Al-Hullah Huwaysh, Head of the Presidential Diwan Ahmed Hussein Al-Samarrai, and a number of other ministers | |
| Import Committee | Technical Committee | Economic Affairs Committee |
| Role: | supervised ministry expenditures, tracked the execution of contracts, and accounted for after-sales-service fees | Role: As a subsidiary of the Iraqi Council of Ministers, helped formulate the Iraqi regime's methods and rates of collecting kickbacks |
| Head: | Ministry of Trade | Head: Deputy Prime Minister Al-Azzawi |
| Role: | prepared the distribution plan for each phase and reviewed the technical specifications of individual contracts | |
| Heads: | Ministries of Foreign Affairs, Health, and Trade | |
| State Owned Enterprises (“SOEs”) | | |
| Examples: | State Trading Company for Construction Materials, North Oil Company, and Iraqi Grain Board (“IGB”) | |
| Role: | purchased goods for their respective ministries, coordinating tenders, negotiating with suppliers, and signing contracts submitted to the United Nations | |

Contracting under the Programme worked in the following matter: At the beginning of each phase, SOEs would advertise tenders for contracts consistent with the specifications of the distribution plan. Once bids had been received, they were assessed and forwarded to ministerial committees for further evaluation. Selected applicants were then invited to negotiate in Baghdad. Following approval by Iraqi authorities, the Central Bank of Iraq (“CBI”) would request that BNP New York issue a letter of credit in favor of the supplier.⁴¹¹

⁴¹⁰ Iraq officials interviews; Phiet Luong The interview (July 19, 2005).

⁴¹¹ Iraq officials interviews; Mohammad Mehdi Saleh interview (Aug. 10, 2004); Reza Maktabi interview (July 22, 2005); Chee Ah What and Hazmat Khan interview (July 25, 2005). Mr. Maktabi was Managing Director of Phoenix Investment International (a Jordanian company), and Mr. Chee and Mr. Khan are General Manager and Executive Director, respectively, of Jawala Corporation (a Malaysian company).

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D. CONCENTRATION OF GOODS SUPPLIERS

According to Iraqi officials, at the beginning of each phase, the Leading Committee issued a list of “priority countries” that directed ministries to prioritize applications from countries that were viewed as key actors or allies in Iraq’s bid to lift sanctions. Regime officials viewed countries with permanent seats on the Security Council as particularly influential. Accordingly, Russian and French companies together accounted for nearly one-fifth of Iraq’s imports (about \$6.8 billion); China, another permanent member, accounted for an additional five percent of Iraq’s imports (over \$1.7 billion). Iraq’s neighboring states (other than Iran) also received significant portions of Iraq’s commerce under the Programme: Jordan, Turkey, Lebanon, Syria, and Saudi Arabia collectively furnished more than one-fifth of Iraq’s imports (over \$7.1 billion). Firms from the United Arab Emirates and Egypt, both Arab states with easy access to Iraq’s borders and ports, represented approximately fifteen percent of Iraq’s purchases (more than \$5.2 billion).⁴¹²

As illustrated in the left portion of the chart below, companies submitting through ten missions—Russia, Egypt, France, Jordan, Australia, United Arab Emirates, Vietnam, China, Turkey, and Syria—together accounted for about sixty-nine percent of Iraq’s purchases under the Programme (about \$23.8 billion). The right portion of this chart demonstrates how these purchases divided across the top ten submitting missions during: Phases I to V (before the official introduction of the regime’s kickback policies); Phases VI to VII (with the introduction of illicit inland transportation fees); and Phases VIII to XIII (with the broadening of the kickback scheme). Interestingly, there were some significant variations among phases. For example, France was the top submitting mission in Phases I to VII, but dropped to ninth in Phases VIII to XIII, finishing as the third largest submitting mission.⁴¹³

Both companies supplied goods to Iraq under the Programme. Chee Ah What and Hazmat Khan interview (July 25, 2005).

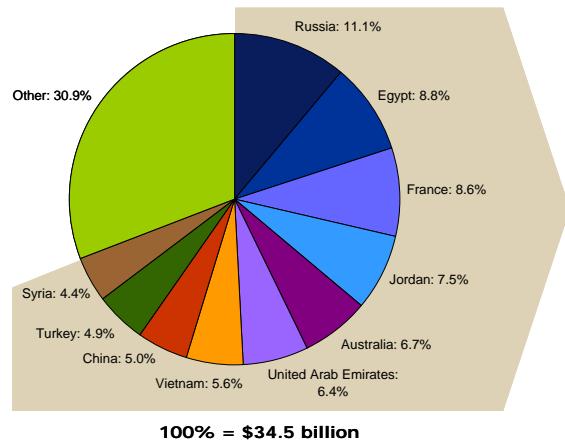
⁴¹² Iraq officials interview; Ahmed Murtada Ahmed Al-Khalil interview (Nov. 5, 2004); TaR (Apr. 1997 to May 2005). A company’s submission through a particular country’s mission did not necessarily mean that the company was based primarily in that country. For example, at a 661 Committee meeting in May 2001, France communicated its concern that “[c]ontracts submitted to the French mission . . . were often formulated by economic entities that were not French and whose goods and merchandise were not produced in France and had not even transited through France.” Accordingly, France notified the 661 Committee that it had adopted a new procedure to “verify that applications submitted to it involved French or partly French interests before submitting them to [OIP].” Provisional record of 661 Committee meeting, S/AC.25/SR.219, p. 5 (May 3, 2001); see also France official #2 interview (Dec. 3, 2004) (echoing similar concerns and adding that goods applications were coming from companies based in states that could not apply through their own missions for political reasons).

⁴¹³ TaR (Apr. 1997 to May 2005).

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Chart D – Iraqi Purchases by Top Ten Submitting Missions⁴¹⁴

| Country | Phases I – V | Phases VI – VII | Phases VIII – XIII | Total |
|----------------------|--------------|-----------------|--------------------|----------|
| Russia | \$968 | \$736 | \$2,128 | \$3,833 |
| Egypt | \$439 | \$648 | \$1,962 | \$3,049 |
| France | \$1,218 | \$972 | \$772 | \$2,961 |
| Jordan | \$522 | \$582 | \$1,467 | \$2,571 |
| Australia | \$597 | \$298 | \$1,430 | \$2,325 |
| United Arab Emirates | \$124 | \$451 | \$1,624 | \$2,200 |
| Vietnam | \$372 | \$387 | \$1,185 | \$1,945 |
| P.R. Of China | \$473 | \$608 | \$632 | \$1,713 |
| Turkey | \$295 | \$387 | \$1,006 | \$1,688 |
| Syria | \$139 | \$146 | \$1,228 | \$1,512 |
| Other | \$2,339 | \$2,942 | \$5,382 | \$10,663 |

In addition, Iraq also awarded contracts to certain preferred suppliers that appeared on lists circulated by Vice President Ramadan to the Iraqi ministries. In addition, Iraq had longstanding relations with many of its largest foodstuff suppliers under the Programme. Prominent among these was AWB Ltd. (“AWB”), an Australian wheat exporter and the largest supplier to Iraq under the Programme (\$2.3 billion). The Committee has estimated that AWB accounted for more than fourteen percent of the illicit payments made to Iraq in connection with humanitarian purchases under the Programme. In addition, Iraq purchased large volumes of grain and dairy products from Vietnam Northern Food Corporation (“Vinafood”) and Vietnam Dairy Joint Stock Company (“Vinamilk”), two state-controlled Vietnamese companies, as well as Chaiyaporn Rice Company Limited (“Chaiyaporn”), a Thai rice producer. Collectively, these three Asian suppliers constituted approximately \$2.1 billion of Iraq’s Programme imports.⁴¹⁵

E. TRANSPORT OF GOODS AND HANDLING OF CARGOES AT UMM QASR

As noted above, goods procured by Iraq under the Programme could enter Iraq either at the port of Umm Qasr or at one of three specified locations along Iraq’s borders: (1) Trebil, Jordan; (2) Al

⁴¹⁴ TaR (Apr. 1997 to May 2005). The numbers in this chart do not add because of rounding.

⁴¹⁵ Iraq official interview; TaR (Apr. 1997 to May 2005); see, e.g., Andrew Lindberg interview (Feb. 28, 2005) (noting that AWB has been selling wheat to Iraq for at least fifty-five years); Long The Phiet interview (July 19, 2005) (noting that Vinafood’s relations with Iraq began in the early 1990s); Phaiboon Kuonsongtum, Prasert Krits-Aramruang, and Sermsak Kuonsongtum interview (July 27, 2005) (hereinafter “Chaiyaporn interview”) (noting that Chaiyaporn has sold rice to Iraq since 1978). Phaiboon Kuonsongtum is Chaiyaporn’s Managing Director, Mr. Krits-Aramruang is a manager, Sermsak Kuonsongtum is an assistant manager. Ibid.

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Waleed, Syria; or (3) Zakho, Turkey. Goods imported via Umm Qasr were all transported by vessel and subsequently trucked inland. Goods imported via the other three entry points were transported to the entry point and then, almost exclusively by the same trucks, to Baghdad or Iraqi warehouses elsewhere. Over fifty percent of goods contracts under the Programme provided for Trebil to serve as the point of entry into Iraq, and approximately one-third specified Umm Qasr. However, goods imported via Umm Qasr accounted for nearly half of the total value of procured goods, and those imported via Trebil exceeded one-third of total sales value. Cargoes imported through Al Waleed and Zakho accounted for roughly one-fifth of total contract values.⁴¹⁶

Table 1 – Distribution of Contracts Across Points of Entry (in USD billions)⁴¹⁷

| Point of Entry | Number of Contracts | Percentage of Total Contracts | Value | Percentage of Total Value |
|-----------------------|---------------------|-------------------------------|---------------|---------------------------|
| Umm Qasr | 5,912 | 32.0% | \$15.6 | 45.4% |
| Trebil ⁴¹⁸ | 9,497 | 51.5% | \$11.8 | 34.4% |
| Al-Waleed | 1,443 | 7.8% | \$4.2 | 12.2% |
| Zakho | 1,606 | 8.7% | \$2.8 | 8.1% |
| Total | 18,458 | 100.0% | \$34.5 | 100.0% |

In most contracts for the provision of goods, the unit price negotiated between the supplier and Iraq encompassed the cost of the procured commodity and also specified transportation expenses and related insurance fees. This combination of cost, insurance, and freight was denoted by the standard trade acronym: “CIF.” Thus, a contract for the supply of 60,000 metric tons of rice to Iraq at a rate of “CIF \$310.00 per metric ton” reflected not just the value of the rice itself, but also the cost of transporting that rice to a destination mutually agreeable to Iraq and the supplier. The exact values of these inland transportation costs were added to bids submitted by prospective suppliers to Iraqi contracting bodies, but were not quantified explicitly in the contracts submitted to the United Nations.⁴¹⁹

⁴¹⁶ TaR (Apr. 1997 to May 2005); Ahmed Murtada Ahmed Al-Khalil interview (Nov. 5, 2004) (discussing inland shipping from Umm Qasr); Hussein Al-Khawam interview (May 24, 2005) (discussing inland shipping from other entry points into Iraq, as understood through involvement with Alia); Osama Azer interview (Sept. 27, 2005) (same through involvement with Orient Transport); Remon Sulaiman interview (Sept. 27, 2005) (same through involvement with T. Gargour & Fils).

⁴¹⁷ The numbers in this chart do not add because of rounding.

⁴¹⁸ As noted above, one Programme contract was shipped partially through Ar’Ar. For purposes of this chart, that contract has been attributed fully to Trebil.

⁴¹⁹ See, e.g., Programme contract, COMM no. 3023 (Jan. 25, 1998) (involving Vinafood’s provision to IGB of 60,000 metric tons of Vietnamese white rice at a price of “\$313.00 CIF” per metric ton).

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Vessels berthing at Umm Qasr required the approval of the Iraqi State Company for Water Transport (“ISCWT”) before being permitted to discharge. ISCTW was one of over a dozen SOEs overseen by the Ministry of Transportation and Communication (“Ministry of Transportation”). Under Iraqi law, ISCTW had exclusive authority for all activity at Iraqi ports.⁴²⁰ Its official function was to arrange and authorize the unloading of cargo and to act as a marine agent for ships carrying procured goods. In addition, it represented to the United Nations that it coordinated transport to internal warehouses and informed Iraqi end-users of inbound goods. However, ISCTW employees did not themselves actually participate in the discharge and handling of cargoes. The Iraqi State Company for Ports, another SOE within the Ministry of Transportation, assumed that responsibility.⁴²¹

⁴²⁰ Iraq Ministry of Transportation record, “The Structural System of the Ministry of Transportation” (undated) (reflecting sixteen state-owned enterprises, including ISCTW, under the authority of the Ministry of Transportation); Iraq official interview.

⁴²¹ Ahmed Murtada Ahmed Al-Khalil interview (Nov. 5, 2004); Ahmad H. Abbas letter to 661 Committee Chairman (July 2001). OIP appears to have accepted ISCTW’s representations. In July 2001, for example, Tun Myat, the Humanitarian Coordinator of UNOHC in Iraq, described ISCTW as “the marine agent for all ships arriving with MOU goods.” In August 2003, Mr. Sevan noted in a memorandum to heads of the UN-related Agencies that ISCTW was “formerly responsible for the delivery of goods from Umm-Qasr to the end-user.” Tun Myat letter to Benon Sevan (July 24, 2001); Benon Sevan memorandum to Laurent Thomas (Aug. 26, 2003).

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III. INITIAL IMPOSITION OF FEES ON HUMANITARIAN CONTRACTS: PHASES VI THROUGH VIII

Beginning in Phase VI (May to December 1999), the Government of Iraq systematically attempted to obtain funds—outside the escrow account—in relation to humanitarian contracts under the Programme. Initially, the Iraqi regime characterized this scheme as a means of covering the cost of transporting goods from Iraqi ports and borders to warehouses inside Iraq. Payments by goods suppliers to ISCTW, which oversaw Iraqi ports and coordinated the collection of these funds, occurred in a variety of ways. But the vast majority of these kickbacks were made through front companies that posed as legitimate providers of trucking services. These early efforts by the regime to manipulate the Programme to its own advantage laid the groundwork for the broader and more lucrative kickback policy introduced in Phase VIII (June to December 2000).

A. ASSIGNMENT OF RESPONSIBILITIES FOR INLAND TRANSPORTATION

Neither the Iraq-UN MOU, Resolution 986, nor any subsequent Security Council resolutions specified how goods procured by Iraq were to be transported beyond the designated entry points. Starting in Phase VI, however, Iraq frequently asked suppliers shipping to Umm Qasr to bear responsibility for internal transportation.

According to Iraqi officials interviewed by the Committee, Iraqi authorities ordinarily permitted trucks carrying goods across land borders to continue to Baghdad or to the requested drop-site. By contrast, private entities—apart from a small number of local Iraqi firms—were not allowed to transport goods discharged at Umm Qasr to locations inside Iraq. Through subsidiary SOEs, either the Ministry of Transportation or the Ministry of Trade administered the trucking of these cargoes to internal warehouses. Two Ministry of Transportation SOEs were involved directly in inland transportation: ISCTW and the Iraqi State Company for Land Transportation (“Land Transport”). The majority of transportation provided by the Ministry of Trade was executed by IGB, an SOE responsible for purchasing wheat, rice, and other essential foodstuffs. No other bodies of the Government of Iraq had trucking fleets capable of providing services of this nature.⁴²²

Contracts for humanitarian goods signed during Phases I through V of the Programme reflect the division of transportation responsibilities between goods suppliers and the Government of Iraq. Those contracts specifying Trebil, Al Waleed, or Zakho as designated points of entry typically

⁴²² Ahmed Murtada Ahmed Al-Khalil interview (Nov. 5, 2004); Iraq officials interviews; Hussain Al-Khawam interview (May 24, 2005).

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provided for “CIF to Baghdad,” obligating suppliers to transport cargoes inside Iraqi borders.⁴²³ By contrast, contracts specifying the delivery of goods to Umm Qasr included unit prices with the designations “CIF Free out Umm Qasr,” “CIF Free on board,” or “CIF Free on truck.” Under these provisions, the supplier was required to finance directly and arrange sea freight to Iraq, but was not responsible for internal transportation. In such cases, Iraq itself bore the costs of inland transportation.⁴²⁴

B. INTRODUCTION OF MANDATORY TRANSPORTATION CHARGES

On June 10, 1999 (Phase VI), the Iraqi Economic Affairs Committee issued a directive ordering ministries to impose non-negotiable “transportation fees” on all goods requiring inland delivery by Iraqi trucks. This tariff was levied on all cargoes delivered to Umm Qasr and sometimes on cargoes shipped overland to Iraq.⁴²⁵ The Economic Affairs Committee set these fees depending on the kind of goods being transported, the form of packaging, the point of entry into Iraq, and the phase in which the contract was signed. The fees were payable to designated Iraqi entities and regime-controlled front companies. Although the Ministry of Transportation oversaw the collection of these funds, a fee schedule was circulated to all Iraqi ministries at the beginning of each phase.⁴²⁶

⁴²³ See, e.g., Programme contract, COMM nos. 1114 (Sept. 8, 1997) (involving the Aous Group of Industries’s provision to the Iraqi State Company for Foodstuffs Trading of 800 tons of detergent powder to the designated entry point of Trebil and specifying a price of “USD 720 per ton net cost insurance and freight Baghdad”), 4077 (June 27, 1998) (involving Sovtur’s provision to the Ministry of Trade and IGB of 4.5 million polypropylene bags to the designated entry point of Zakho and specifying a price of \$12.52 per hundred bags and CIF Mosul via Zakho), 50540 (Feb. 24, 1999) (involving the provision by Liebherr France, S.A to the Ministry of Irrigation of sixty hydraulic excavators with spare parts to the designated entry point of Al-Waleed and specifying \$10,800 of freight charges and CIF Baghdad); Iraq official interview (noting that most of the contracts for goods imported overland were CIF to warehouses or Iraqi end-users).

⁴²⁴ See, e.g., Programme contract, COMM no. 1032 (Sept. 9, 1997) (involving AWB’s provision to IGB of 300,000 tons of Australian wheat and reflecting the “[b]uyers guarantee that vessel with draft not exceeding 11.0 meters salt water on arrival at one safe Berth at Umm Qasr is acceptable” at the price of “USD 195.00 pmt CIF free out Umm Qasr”); Iraq official interview; see also EXPORT911, “International Commercial Terms,” <http://www.export911.com/e911/export/comTerm.htm> (defining key international trade terms such as CIF and free on board).

⁴²⁵ Ahmed Murtada Ahmed Al-Khalil interview (Nov. 5, 2004); Iraq officials interviews; Ahmed Murtada Ahmed Al-Khalil letter to Hikmat Al-Azzawi (Mar. 11, 2003) (translated from Arabic) (noting a letter dated June 10, 1999 ordering the imposition of transportation fees from Umm Qasr); Hussein Al-Khawam interview (May 24, 2005) (discussing Iraq’s collection of inland transportation fees on goods transported from Aqaba to destinations within Iraq); Osama Azer interview (Sept. 27, 2005) (same); Remon Sulaiman interview (Sept. 27, 2005) (same).

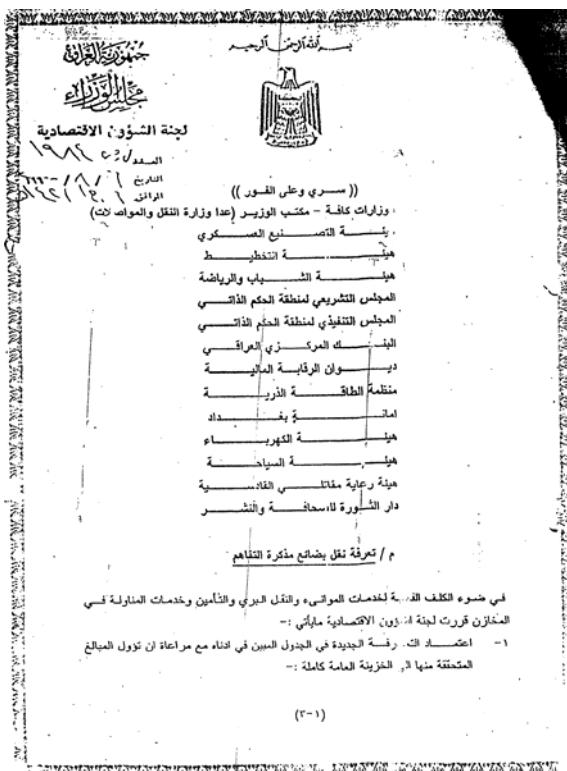
⁴²⁶ Ahmed Murtada Ahmed Al-Khalil interview (Nov. 5, 2004); Iraq officials interviews.

REPORT ON PROGRAMME MANIPULATION

CHAPTER THREE

HUMANITARIAN GOODS TRANSACTIONS AND ILLICIT PAYMENTS

A memorandum circulated by Deputy Prime Minister Al-Azzawi in August 2000 on behalf of the Economic Affairs Committee contains one of the earliest examples of such a fee schedule. This memorandum is representative of the categories of transportation fees imposed by Iraq on goods discharged at Umm Qasr. As indicated below in this memorandum, different rates applied for sized goods, packed goods, goods shipped in bulks, and goods shipped in containers. Vehicles were divided into three different categories based on their size and weight. Fees on goods that did not fall within the categories included in the table were determined by “special agreement” between the supplier and the designated transport agent inside Iraq. These new rates were to be imposed immediately on all contracts that had not yet been submitted to the 661 Committee for approval.⁴²⁷



[Translation from Arabic-page 1 of 2]

Republic of Iraq
Council of Ministers
Economic Affairs Committee
No: L.S 1984
Date: 6 / 8 / 2000

Confidential and Urgent

To: All Ministries - Minister's office (except Transport & Communication Ministry)

Military Industry Commission
Planning Commission
Youth & Sport Commission
Legislative Council of Self-Governing Region
Executive Council of Self-Governing Region
Central Bank of Iraq
Board of Supreme Audit
Atomic Energy Organization
Baghdad Municipality
Electricity Commission
Tourism Commission
Al-Qadisia Warriors Sponsorship Commission
Al-Thawra House for Press and Publishing

Subject: Tariff for transporting MOU goods

Based on port services, land transport, insurance, and handling services in warehouses, the Economic Affairs Committee decided the following:-

1. Approving the new tariff in the below table and making sure that all generated revenues go to the general treasury in full:-

⁴²⁷ ISCWT record, Hikmat Al-Azzawi memorandum to Iraqi Ministries (Aug. 6, 2000) (translated from Arabic).

REPORT ON PROGRAMME MANIPULATION

CHAPTER THREE

HUMANITARIAN GOODS TRANSACTIONS AND ILLICIT PAYMENTS

[Translation from Arabic-page 2 of 2]

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CHAPTER THREE

HUMANITARIAN GOODS TRANSACTIONS AND ILLICIT PAYMENTS

Significantly, Iraq did not request that suppliers pay this tariff at their own expense. Rather, Iraq incorporated the cost of paying transportation fees into the contracts it signed with suppliers, which were funded from the escrow account. According to suppliers and Iraqi officials interviewed by the Committee, contract negotiations after the imposition of transportation fees normally followed the following sequence: As an initial matter, the purchasing body of the Government of Iraq and the supplier negotiated a unit price, inclusive of insurance and transportation to Iraq, for the commodity being procured. Once a mutually acceptable price had been reached, the purchasing body informed the supplier of the internal transportation fees it would be required to “pay” directly to Iraq in connection with the contract. If the supplier agreed to these terms, the previously negotiated unit price was increased in accordance with the rates dictated by the Economic Affairs Committee. This revised unit price was included in the final version of the contract signed between the purchasing body and the supplier and submitted to the United Nations for approval and funding from the escrow account.⁴²⁹

Following contract approval, an Iraqi entity responsible for the collection of payments contacted the supplier and informed it of the exact amount owed and the designated payment mechanism. Once this entity had confirmed that the supplier had paid, the supplier’s goods were permitted to enter Iraq. In this manner, through contractors under the Programme, Iraq illicitly obtained escrow funds, which it could use for its own purposes. The only disadvantage to suppliers under this scheme lay in the timing of contract execution: Because funds were not released from the escrow account until after an inspection agent had authenticated the arrival of goods at the Iraqi border, suppliers typically were obligated to remit transportation fees in advance of their payment by the United Nations.⁴³⁰

Over the course of the Programme, contracts signed between Iraq and suppliers increasingly reflected this scheme by specifying the final destination of “CIF all Iraqi Governorates” or “CIF Baghdad.”⁴³¹ This imposed an obligation on the seller to pay for transportation services inside Iraq after its goods had been discharged at Umm Qasr. The specific means by which this internal transportation would be effected were only rarely included in United Nations contracts and, despite occasional discussions and inquiries regarding inland transportation payments, neither the

⁴²⁹ Ahmed Murtada Ahmed Al-Khalil interview (Nov. 5, 2004); Iraq officials interview; Mai Hoai Anh interview (July 22, 2005); Chee Ah What and Hazmat Khan interview (July 25, 2005); Chaiyaporn interview.

⁴³⁰ Iraq officials interviews; Otham Al-Absi interview (May 21, 2005); Confidential witness interview (May 20, 2005); Chee Ah What and Hazmat Khan interview (July 25, 2005); Chaiyaporn interview; Ahmed R. Habboush, Dawood A. Mohammed, and Ra’ed Abu-Rumman interviews (May 2 and 4, 2005). In some cases, the mechanism and amount of payment was provided in advance of the signing of the contract. In addition, some suppliers were permitted to pay their transport costs after the release of funds from the escrow account. Iraq officials interviews.

⁴³¹ Iraq officials interviews; Confidential witness interview (noting that the use of the phrase “CIF Baghdad” was used as a justification to charge inland transportation costs). This is consistent with a sampling of Programme contracts from different phases of the Programme.

REPORT ON PROGRAMME MANIPULATION

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Secretariat nor the 661 Committee ever considered closely whether current arrangements violated the sanctions regime—even as interpreted by OLA.⁴³²

Sales agents interviewed by the Committee stated that they were aware of the requirement to pay inland transportation fees to Iraqi government agencies.⁴³³

C. PAYMENT MECHANISMS FOR INTERNAL TRANSPORTATION FEES

As noted above, when introducing inland transportation fees, the Economic Affairs Committee charged ISCWT with collecting funds derived from this tariff. In practice, fees could be paid in four ways: (1) in cash to an ISCWT representative at Umm Qasr or in Baghdad; (2) in cash to the Rashid Bank or Rafidain Bank in Baghdad; (3) by bank transfer to the ISCWT account at the Amman Branch of Rafidain Bank; or (4) by bank transfer to accounts held by front companies in Jordan or the United Arab Emirates. The Iraqi regime did not favor one particular mechanism. However, because large volumes of cash were difficult and dangerous to transport and suppliers were hesitant to make bank transfers directly to Iraqi authorities, payments through front companies became the preferred method of many suppliers. In some instances, private agents (rather than front companies) facilitated payments to ISCWT's account.⁴³⁴

Normally, either the purchasing body of the Government of Iraq or ISCWT informed the supplier which front company to use in connection with a particular contract. When the Iraqi regime introduced the illicit inland transportation scheme, Alia and Amman Shipping, both based in Amman, Jordan, were two of the most frequently used front companies. These companies posed as legitimate providers of transportation services from the port of Umm Qasr, but in practice provided only limited services at port and otherwise functioned as little more than conduits for

⁴³² See, e.g., “Programme Management Report,” vol. III, pp. 73-75, 107-08 (regarding several limited efforts by OIP involving inland transportation fees); OIP notes of informal 661 Committee meeting, p. 2 (Feb. 1, 2001) (responding to inquiries about inland transportation fees, OIP indicated that it was awaiting guidance from OLA); OIP notes of informal 661 Committee meeting, p. 2 (Apr. 11, 2001) (noting, by an OIP representative, that most Programme contracts by then included the cost of inland transportation and that, if the 661 Committee precluded the circulation of such contracts, key humanitarian sectors “might well come to a halt”).

⁴³³ Saud Ayyash interview (Sept. 28, 2005) (regarding involvement as a sales agent under the Programme with Carmel Air-Conditioning); Ghazi Ibrahim interview (Sept. 26, 2005) (same with International Industrial Development); Joseph Salem interview (Sept. 23, 2005) (same with Techno Middle East).

⁴³⁴ Iraq officials interviews; Ahmed Murtada Ahmed Al-Khalil interview (Nov. 5, 2004); Mai Hoai Anh interview (July 22, 2005) (noting that shipmasters were highly fearful that transporting and delivering cash to ISCWT would lead to them “getting killed”); Chee Ah What and Hazmat Khan interview (July 25, 2005) (noting the use of an agent).

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CHAPTER THREE

HUMANITARIAN GOODS TRANSACTIONS AND ILLICIT PAYMENTS

the payment of transportation fees to ISCWT. In exchange, the companies received a small percentage of the fees they channeled to the regime.⁴³⁵

This relationship was delineated in a letter from Minister of Trade Mohammad Mehdi Saleh to ISCWT (with copies to Rafidain Bank in Baghdad and the Ministry of Finance). The letter included the following directive from the Economic Affairs Committee:

The State Company for Water Transport, through its representative in Amman, regularly follows up on transfers of money received from MOU suppliers through Umm Qasr by Jordanian front companies within two business bank days after deducting the commission percentage of 0.25% to the account of the State Company for Water Transport at Rafidain [Bank] Amman no. (8229) to guarantee that the money is under the control of the Iraqi government, bearing in mind to immediately pay off amounts received from suppliers into the company's account at Amman bank (whenever this is possible).⁴³⁶

All money paid by front companies or suppliers into ISCWT's account at the Amman branch of Rafidain Bank was transferred promptly into the company's account at the Baghdad branch of the same bank. Upon receipt of these funds, Rafidain Bank Baghdad would notify ISCWT. In addition, the front companies themselves would inform ISCWT that a supplier had fulfilled its obligations.⁴³⁷

⁴³⁵ Iraq officials interviews; Otham Al-Absi interview (noting that Alia provided no transportation services and channeled funds to ISCWT in exchange for a commission); Hussein Al-Khawam interview (May 24, 2005) (noting that Alia acted as a front company for ISCWT in exchange for a commission); Confidential witness interviews (noting the use of Alia and Amman Shipping to channel funds to ISCWT); Chaiyaporn interview (noting that IGB instructed Chaiyaporn to make inland transportation payments through Alia and Amman Shipping); Mai Hoai Anh interview (July 22, 2005) (noting that the Iraqi Ministry of Trade informed Vinamilk that the Government of Iraq had "changed methods" and all transportation charges were to be paid to Alia in the future); Chee Ah What and Hazmat Khan interview (July 25, 2005) (noting that ISCWT told Jawala Corporation to pay inland transportation fees to Alia).

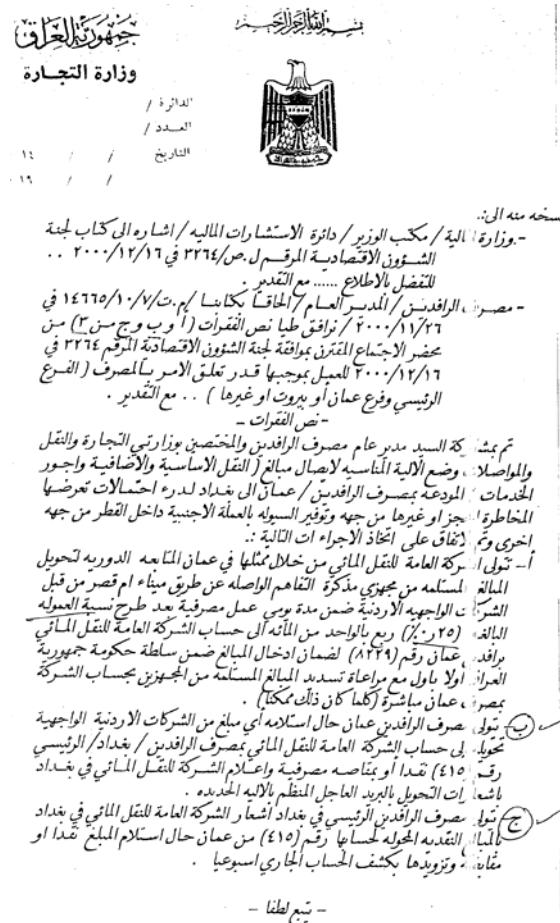
⁴³⁶ Ministry of Transportation record, Mohammad Mehdi Saleh memorandum to ISCWT (Dec. 21, 2000) (translated from Arabic).

⁴³⁷ Ibid.; see also Iraq official interview.

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HUMANITARIAN GOODS TRANSACTIONS AND ILLICIT PAYMENTS



[Translation from Arabic-page 6 of 6]

Republic of Iraq
Ministry of Trade

Department:
No:
Date:

A copy to:

- Ministry of Finance / Minister's office/ Finance Consultations Department/ Ref. to Economic Affairs Committee letter no. L.S 3264 dated 16/12/2000 ..for your review..regards.
- Al- Rafidain Bank/ General Manager/ following up on our letter /M.T/ 7/10/14665 dated 26/11/2000/ we attach paragraphs (A, B, C from 3) of the meeting report together with the Economic Affairs Committee's approval no. 3264 dated 16/12/2000 and to work accordingly as this matter relates to the bank (Main branch, as well as the Amman or Beirut or others).. Regards.

- Paragraphs-

An appropriate mechanism has been put in place by the General Manager of Al- Rafidain Bank and designated individuals in both the Trade and Transport & Communication Ministries to deliver main and extra transport fees as well as serviced fees deposited into Al-Rafidain Bank/ Amman to Baghdad to prevent risk of money blockage and provides cash in foreign currency inside the country. The following procedures were agreed upon:

- A. The State Company for Water Transport, through its representative in Amman, regularly follows up on the transfer of money received from MOU suppliers through Umm Qasr by Jordanian front companies within two business days after deducting the commission percentage of 0.25% to the account of the State Company for Water Transport at Rafidain-Amman no. (8229) to guarantee that the money is under the control of the Iraqi government, bearing in mind to immediately pay off amounts received from suppliers into the company's account at Amman bank (whenever this is possible)
- B. As soon as Al-Rafidain Bank in Amman receives any amount from Jordanian front companies, they are responsible for transferring it to the account of the State Company for Water Transport at the main branch of Al-Rafidain Bank-Baghdad no. 415 in cash or bank clearance and inform the State Company for Water Transport in Baghdad of bank note transfers by express mail of the new mechanism.
- C. The main branch of Al-Rafidain Bank-Baghdad is responsible for informing the State Company for Water Transport in Baghdad of cash transfers to their account no. (415) from Amman as soon as they receive the money whether in cash or via clearance and to provide them with a weekly bank statement.

- To be followed-

Figure: Mohammed Mehdi Saleh memorandum to ISCWT (translated from Arabic) (excerpt).

If ISCWT had not received confirmation of a supplier having paid into an Iraqi-controlled bank account, it generally would not permit discharge of the supplier's cargoes. In such circumstances, the supplier or vessel chartering company incurred demurrage of thousands of dollars a day. One supplier interviewed by the Committee recalled that a supplier's failure to pay fees, even on just one contract, resulted in large demurrage and prevented the vessel's entire contents from being offloaded.⁴³⁸

⁴³⁸ Iraq officials interviews; Ahmed Murtada Ahmed Al-Khalil interview (Nov. 5, 2004) (noting that demurrage resulted from ships sitting idle in port); Chee Ah What and Hazmat Khan interview (July 25, 2005).

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D. DISTRIBUTION AND USE OF INTERNAL TRANSPORTATION FEES

As noted above, Iraqi representatives initially presented inland transportation fees to suppliers as necessary to fund actual costs. However, this is belied by recent admissions of Iraqi officials familiar with the inland transportation scheme as well as by documentary evidence obtained in this investigation. When interviewed, officials explained that the transportation fees were unusually high and included a generous margin of profit that was transferred to accounts held by the Iraqi Ministry of Finance or CBI. In particular, former Minister of Oil Rashid noted that the inland transportation fees were introduced to generate supplemental cash and did not relate to internal costs. Beyond these Iraqi witnesses, an individual closely involved with a Middle Eastern company in the channeling of revenues to the regime noted that the Government of Iraq paid its drivers “peanuts” and retained a large portion of the inland transportation fees as a de facto kickback. Similarly, a senior officer of Alia stated the actual inland transportation costs were minimal and that the fee essentially “was a payment to the Government of Iraq.”⁴³⁹

The claim that the revenues generated from the inland transportation scheme were used exclusively to cover inland transportation costs is also inconsistent with the Government of Iraq’s internal accounting. Internal Iraqi documents note that, with each successive phase of the Programme, the Iraq regime successfully diverted additional funds accrued from inland transportation charges to Iraqi ministries and government organs unconnected to transportation services. This practice is illustrated by a table that the Ministry of Transportation prepared in 2000 (“ISCWT Table”), noting inland transportation fees on goods delivered from Umm Qasr. The ISCWT Table reflects the fees charged on commodities shipped by vessel to Iraq between Phases VI and VIII and indicates how the proceeds were distributed to Iraqi entities.⁴⁴⁰

⁴³⁹ Iraq officials interviews; Amer Rashid interview (Oct. 29, 2004); Confidential witness interview; Othman Al-Absi interview (May 21, 2005). Mr. Al-Absi was General Manager of Alia. Ibid.

⁴⁴⁰ Ministry of Transportation record, “MOU Transport Tariff” (2000) (translated from Arabic) (hereinafter “ISCWT Table”) (noting the allocations of internal transportation fees and corresponding disbursements); see also Iraq official interview (reviewing detailed Iraqi records of illicit payments); Ministry of Transportation record, Form for transferring MOU goods, COMM no. 1100013 (June 12, 2002) (translated from Arabic) (providing an example, which is discussed in greater detail below, of how illicit revenues were divided among Iraqi entities).

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| MOU Transport Tariff | | | | | | | | | | Notes |
|--|--------------|------------------------------------|--------------------------------|------------------|-----------------------|------------------------------|---------------------------|------------------------------|-----------------------------------|--|
| Fees | Phase | Land | Ports | Water | Grains Trade | Types of Trade | Finance | Insurance | The rest of the ministries | |
| 1- Transportation fees for unpacked goods (Wheat) | | | | | | | | | | |
| \$12 | sixth | 9 | 3 | 5% | Silo/Platforms 1 or 2 | | | | | 0.25% Water commision |
| \$14 | seventh | 9 | Silo/Platforms 1 or 2 | 5% | Silo/Platforms 2 or 1 | 1.5 | | 0.5 | | |
| \$25 | eighth | 9 | 1-2-3 | 5% | Silo/Platforms 2 or 1 | 1.5 | 11 services extra 10 or 7 | 0.5 | | Service and additional transportation fees are determined by the beneficiary |
| | | Ninth | | | | | | | | |
| 2- Transportation fees for packed goods and illegible | | | | | | | | | | |
| \$13 | sixth | 9 | 4 | 5% | | | | | | 0.25% Water commision |
| \$15 | seventh | 9 | 4 | 5% | | 1.5 | | 0.5 | | |
| \$25 \$10 additional | eighth | 9 | 4 | 5% | 1.5 | | | 0.5 | | Service fees are determined by importer |
| | | Ninth | | | | | | | | |
| 3- Container transportation fees | | | | | | | | | | |
| 20 - 40 466 - 531 | sixth | 336 | 20 feet - 40 feet 130 - 195 | 5% , 10% | | | Extra 10 | | | 0.25% Water commision |
| 20 feet - 40 feet 380 - 600 | seventh | 20 - 40 205 - 335 | 130 - 195 | 10 | | 20 feet - 40 feet 25 - 45 | Extra 10 | 20 feet - 40 feet 10 - 15 | 20 - 40 25 - 45 | |
| 600 - 900 | eighth | 205 - 335 | 130 - 195 | 10 | | 25 - 45 | 20 - 40 220 - 300 | 10-15 | 25 - 45 | Service fees are determined by importer |
| | | Ninth | | | | | | | | |
| 4- Transportation fees for heavy loads | | | | | | | | | | |
| 364 | sixth | 252 | 112 | 5% | | | | | | 0.25% Water commision |
| 420 | seventh | 252 | 112 | 5% | | 42 | | 14 | | |
| 900 | eighth | 390 | 200 | 20 | | | 290 | | | |
| | | Ninth | | | | | | | | |
| 5- Driving transportation fees | | | | | | | | | | |
| one car 100 | sixth | 70 | 25 | 5 | | | | | | 0.25% Water commision |
| 100 | seventh | 70 | 25 | 5 | | | | | | |
| 500 big 400 medium 300 small | eighth | 150 big 125 medium 105 small | 135 110 80 | 15 | | | 200 150 100 | | | |
| | | Ninth | | | | | | | | |
| 6- Transportation fees for carried cars | | | | | | | | | | |
| | sixth | | | | | | | | | |
| | seventh | | | | | | | | | |
| 900 big 450 medium 300 small | eighth | 390 195 130 | 200 100 66.66 | 20 10 6.67 | | | 290 145 96.67 | | | |
| | | Ninth | | | | | | | | |

Figure: “MOU Transport Tariff” (2000) (translated from Arabic).

Although fees increased slightly between Phases VI and VII and substantially between Phases VII and VIII, the funds earmarked to entities involved in port and transportation services remained constant. For example, in Phases VI through VIII, Land Transport (noted as “Land”) was consistently allocated \$9 out of the total fees levied on each metric ton, while the State Company for Ports (noted as “Ports”) received between \$1 and \$3. The set schedule provided for other ministries, companies, and departments, such as IGB, Ministry of Trade, and National Insurance Company (noted as “Grains Trade,” “Trade Formation,” and “Insurance,” respectively) to receive only small percentages of total revenues.⁴⁴¹

⁴⁴¹ “ISCWT Table”; Iraq officials interviews. Funds were distributed by means of transfers out of ISCWT’s account at Rafidain Bank in Baghdad to accounts controlled by Iraqi entities at CBI. The prices noted for Phase VIII are consistent with those listed in the Economic Affairs Committee’s memorandum of August 6, 2000. Ministry of Transportation record, Hikmat Al-Azzawi memorandum to Iraqi Ministries (Aug. 6, 2000) (translated from Arabic).

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This table notes that only one entity's share of inland transportation fees significantly increased between phases: the Ministry of Finance. This ministry did not receive any portion of fees collected on bulk goods in Phases VI and VII, but was afforded as much as \$10 per metric ton ("pmt")—higher than any other beneficiary—in Phase VIII. Likewise, it received only \$10 per container during the first two phases of the transportation fee scheme, but was awarded \$300 per container in Phase VIII. Moreover, these remittances to the Ministry of Finance did not reflect any assistance by the ministry in the handling or transport of goods and, in fact, as discussed below, may have included a portion of the after-sales-service fees. Rather, they denoted a cash surplus that would be retained at CBI and spent at the Iraqi regime's discretion.⁴⁴²

⁴⁴² "ISCWT Table"; Iraq officials interviews.

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IV. THE BROADENING OF THE KICKBACK SCHEME

Approximately one year after the Iraqi regime began requiring certain contractors to pay transportation fees to ministerial entities and front companies, it expanded its kickback program to include a mandatory “after-sales-service fee.” This new tariff, which in most instances was eventually equal to ten percent of the original contract value, applied to all goods purchased by each ministry, regardless of point of entry into Iraq or means of transportation. This obligation was enforced through the final phase of the Programme, often in conjunction with other fees, and had earned the regime more than \$1 billion by spring of 2003.

A. INTRODUCTION OF AFTER-SALES-SERVICE FEES

On August 3, 2000, two months after the start of Phase VIII, Vice President Ramadan circulated a memorandum to all Iraqi ministries that described a recent meeting of the Command Council. The memorandum stated that the Command Council had discussed the issue of “making additional revenues for commercial contracts” and had decided on the following directives:

1. Gather all commercial contracts titled ((After Sales Services or any other suitable version that achieves the purpose of the contract and is based on the nature of that contract)).
2. The allocated percentages for bullet (1) above will be as follows:
 - a. From 2-5% for food and medication (excluding medical tools and equipment)
 - b. From 5-10% for everything but food and medication.
3. The delegated minister and the head of the entity not related to a ministry are authorized to determine the rate amount in bullet (2) above, based on the nature of the materials that are under contract and at the highest rate whenever possible.⁴⁴³

These instructions signaled the imposition of after-sales-service fees, a mandatory kickback to be paid by all suppliers to Iraq. Unlike transportation fees, which were levied based on the weight or size of the procured commodity, after-sales-service fees constituted a fixed percentage of the monetary value of the goods under purchase. This percentage, which was initially suggested at two to five percent for food and medicine and five to ten percent for all other items, could be raised or lowered at the discretion of the minister overseeing the contract in question. In October 2000, the Command Council raised the minimum percentage to ten percent, noting that any after-sales-service fees above this threshold would be viewed as “commendable.” From this point

⁴⁴³ Ministry of Oil record, Taha Yassin Ramadan memorandum to Iraqi Ministries (Aug. 3, 2000) (translated from Arabic) (double parentheses in original).

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forward, ten percent was the standard amount levied, but in some instances fees could be as high as thirty percent.⁴⁴⁴

No Iraqi officials interviewed by the Committee have expressed awareness of guidelines stipulating when the standard ten percent fee should be raised or lowered. One official noted that some ministers applied higher percentages to contracts for goods that required assembly inside Iraq and lower rates to commodities that arrived ready to operate. This official also stated that contracts for the provision of services (e.g., repair or installation) tended to incur higher than average fees because the item under contract was not as easily quantified and therefore easier to inflate. For example, a service project executed in three stages easily could be noted as a more costly four-stage project without detection by United Nations inspectors or contract processors. Another Iraqi official noted that the Ministry of Trade was inclined to impose high percentages, but that the Ministry of Oil was not because Oil Minister Rashid feared corruption among his employees. In addition, the Ministry of Oil was concerned that substandard oil spare parts would have constrained Iraq's oil production and therefore would have decreased the regime's illicit revenue.⁴⁴⁵

As had been the case with transportation fees, Iraq incorporated after-sales-service fees into the contract value that was paid to the supplier out of the escrow account. Accordingly, contract negotiation after the imposition of after-sales-service fees operated in much the same way it had during the period when only transportation fees applied. Iraqi officials across a number of ministries have explained that suppliers were informed or reminded of their obligation to pay the additional percentage after they had participated in a tender process and been selected by a purchasing body to contract under the Programme. If a supplier agreed to these terms, its contract value would be inflated by the percentage demanded by the contracting ministry. Often this upward revision was accomplished by increasing the unit price, but in many instances an explicit after-sales-service fee equal to the levied amount was inserted in the contract. In other instances, the fee was disguised as a performance bond or a maintenance or training expense.⁴⁴⁶

Suppliers initially could pay after-sales-service fees in one lump sum or in installments corresponding with individual shipments or deliveries of goods. In most cases, these payments had to be executed before the goods in question reached the Iraqi border. Otherwise, ISCWT (for deliveries to Umm Qasr) or ministry officials (for land deliveries) would not permit the goods to

⁴⁴⁴ Ibid.; Ministry of Oil record, Khalil Yassin Al-Ma'mouri memorandum to Iraqi Ministries (Oct. 25, 2000) (translated from Arabic) (raising the minimum after-sales-service fee threshold to ten percent); Mohammad Mehdi Saleh interviews (Aug. 10 and Nov. 18, 2004); Amer Rashid interview (Oct. 29, 2004); Isam Rashid Al-Huwaysh interview (Oct. 22, 2004); Ahmed Murtada Ahmed Al-Khalil (Nov. 5, 2004); Iraq officials interviews.

⁴⁴⁵ Mohammad Mehdi Saleh interview (Aug. 10, 2004); Iraq officials interviews.

⁴⁴⁶ Iraq officials interviews; Confidential witness interviews (regarding maintenance expenses); see, e.g., Bassam Deek interview (Aug. 12, 2005) (noting that the Iraqi Ministry of Oil requested that Flowserv (then known as Ingersoll-Dresser Pumps), for which Mr. Deek serves as an Area Manager, pay an after-sales-service fee in lieu of directly providing maintenance services).

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be discharged at port or unloaded at warehouses. Certain contractors that Iraqi authorities viewed as reliable were permitted to make payments after goods had arrived in Iraq and funds had been released from the escrow account.⁴⁴⁷

After August 2000, many purchasing bodies began demanding that suppliers sign auxiliary contracts guaranteeing payment of after-sales-service fees. A memorandum circulated by the Ministry of Trade in October 2000 stipulated that these agreements had to be drafted in such a way that “the supplier commits to paying off the amount of the After Sales Services as one lump sum, or in installments . . . such that the payment is made before the goods are received.” Side agreements ranged in format, content, and level of detail. Some specified payment mechanisms and bank details while others included only a pledge from the supplier to execute a funds transfer.⁴⁴⁸

⁴⁴⁷ Ministry of Oil record, Mohammed Mehdi Saleh memorandum to Taha Yassin Ramadan (Oct. 27, 2000) (noting that Iraqi purchasing bodies could exercise discretion when choosing which suppliers would be obligated to provide bank guarantees in advance of contract execution); Ministry of Agriculture letter to Trading Division (Oct. 23, 2001) (permitting supplier Belhsa Motors to discharge its cargoes in advance of paying after-sales-service fees); Ahmed Murtada Ahmed Al-Khalil interview (Nov. 5, 2004); Ministry of Oil record, Taha Yassin Ramadan memorandum to Iraqi Ministries (Nov. 22, 2000) (translated from Arabic); Iraq officials interviews.

⁴⁴⁸ Ministry of Oil record, Mohammed Mehdi Saleh memorandum to Taha Yassin Ramadan (Oct. 27, 2000) (translated from Arabic); Ahmed Murtada Ahmed Al-Khalil interview (Nov. 5, 2004); Iraq officials interviews.

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| | | | |
|-------|-----------------------------|-------|----------------------------|
| TO: | NORTH OIL COMPANY | FROM: | CPTDC IRAQ OFFICE |
| FAX: | 050-255800 | TEL: | in Baghdad: 55568115551405 |
| ATTN: | Mr. Ali Naeem Mohamed Saleh | FAX: | in Baghdad: 5554392 |
| DATE: | | CC: | Our ref |

SIDE AGREEMENT BETWEEN:

NORTH OIL COMPANY (NOC) & CHINA PETROLEUM TECHNOLOGY & DEVELOPMENT CORPORATION (CPTDC), CHINA
IRAQ

CONTRACT NO. NOC/12/3

1. WE HEREBY UNDERTAKE TO PAY TO NORTH OIL COMPANY (NOC), WITHOUT ANY CONDITIONS, REASONS, CIRCUMSTANCES, OR EXCUSES, THE AMOUNT OF EURO 16500 (SIXTEEN THOUSAND FIVE HUNDRED EURO). THE AMOUNT WILL BE PAID, NET, EXCLUDING ALL BANK FEES, INTEREST...ETC., IN A CURRENCY TO BE ADVISED BY NORTH OIL COMPANY TO A BANK ACCOUNT TO BE NOMINATED, OR APPROVED BY NORTH OIL COMPANY.
2. WE SHALL SUBMIT AN EFFECTIVE BANK GUARANTEE IN FAVOR OF NORTH OIL COMPANY IN THE SAME AMOUNT STATED IN PARA. (1) ABOVE, ISSUED BY A BANK ACCEPTABLE TO NORTH OIL COMPANY AND IN THE FORM APPROVED BY NORTH OIL COMPANY.
3. THIS BANK GUARANTEE SHALL BE ISSUED WITHIN TWO WEEKS OF CONTRACT APPROVAL, EFFECTIVE ON L/C OPENING AND VALID UNTIL END USER RECEIVED HIS DUES.
4. THE PAYMENT CAN BE EFFECTED IN ONE LOT (FOR COMPLETE SHIPMENTS) OR IN PARTS CORRESPONDING TO PARTIAL SHIPMENT PRIOR TO EACH SHIPMENT & IN THE SAME PROPORTION. IN EITHER CASE, THE ACTUAL PAYMENT MUST BE EFFECTED WITHIN (2-3) WEEKS OF RECEIPT BY THE CONTRACTOR OF HIS DUES UNDER THE ABOVE CONTRACT FOR EACH SHIPMENT.
5. THIS PAYMENT WILL BE EFFECTED EITHER IN CASH OR THROUGH A MECHANISM, WHICH IS TO BE AGREED UPON BETWEEN THE TWO SIDES.



IN ACCORDANCE WITH THE CONTRACT

NO. (12 - CO - 00182 / TEAK PLYWOOD)
DATE : 14 / 1 / 2003

FOR SUPPLYING (11500 SHEETS TEAK PLYWOOD)

TO THE STATE TRADING COMPANY FOR CONSTRUCTION MATERIALS, BAGHDAD - IRAQ

WE UNDERTAKE TO PAY THE FOLLOWING AMOUNTS TO THE MINISTRY OF TRANSPORT & COMMUNICATION / RAQI STATE CO. FOR WATER TRANSPORT

1) A - US.D. 50.00 (FIFTY DOLLARS OR ITS EQUIVALENT IN EURO) PER EACH BUNDLE PLUS 0.50 CENTS (FIFTY CENTS PER TON OR US.D. 910 OR ITS EQUIVALENT IN EURO) PER TRUCK OR ITS EQUIVALENT IN EURO)
B-OR US.D. 610 (OR ITS EQUIVALENT IN EURO) PER CONTAINER OF 20FT LONG
C-OR US.D. 910 (OR ITS EQUIVALENT IN EURO) PER CONTAINER OF 40FT LONG

FOR INTERNAL TRANSPORTATION

2) (10%) OF THE PRICE (CIF) FOR SIZE 4FTX 6FTX 4MM EURO (0.840) ONLY PER SHEET

3) (10%) OF THE PRICE (CIF) FOR SIZE 3FT X 7FT X 4MM EURO (0.617) ONLY PER SHEET

4) (10%) OF THE PRICE (CIF) FOR SIZE 4FT X 8FT X 4MM EURO (0.817) ONLY PER SHEET

AS AFTER SALES SERVICE

5) THE ABOVE AMOUNTS TO BE PAID FOR EACH SHIPMENT BEFORE UNLOADING THE VESSEL

6) AS TENDER CHARGES TOTAL AMOUNT EURO (2705) TO BE PAID BY CASH TO THE BUYER BEFORE OPENING THE LETTER OF CREDIT .



Figure: Company side agreements, COMM nos. 1230790 (Jan. 18, 2002), 1201773 (Jan. 14, 2003).

Shipping agents interviewed by the Committee stated that after-sales-service fees were mandatory on all goods entering Iraq after Phase VIII. None of them were aware of any goods being allowed into Iraq on a Phase VIII or later contract, for which the ten percent fee had not been paid. In fact, to avoid incurring additional costs if goods were refused at the border, shipping companies explained that they routinely confirmed payment of all fees prior to transporting goods to Iraq.⁴⁴⁹ Similarly, sales agents interviewed by the Committee stated that they were aware of the requirement to pay after-sales-service fees from Phase VIII onwards.⁴⁵⁰

⁴⁴⁹ Elias Atallah and Reem Andoni interview (May 18, 2005) (discussing after-sales-service fees as understood through involvement with Amin Kawar & Sons); Fathi Khalil interview (Sept. 23, 2005) (same through involvement with Al-Ghaith Shipping); Emad Abdelhadi interview (Sept. 27, 2005) (same through involvement with Barwil Shipping); Renmon Sulaiman interview (Sept. 27, 2005) (same through involvement with T. Gargour & Fils); Osama Azer interview (Sept. 27, 2005) (same through involvement with Orient Transport); M. G. Maghami and K. Divakaran interview (Sept. 24, 2005) (same through involvement with Simatech Shipping); Walid Dawood interview (Sept. 25, 2005) (same through involvement with United Arab Shipping Company); see also Ismael Theeb and Khaled Al-Shareef interview (May 23, 2005) (same through experience of driving truckloads of goods under the Programme).

⁴⁵⁰ Saud Ayyash interview (Sept. 28, 2005) (regarding involvement as a sales agent under the Programme with Carmel Air-Conditioning); Mazin Lawrence interview (Sept. 27, 2005) (same with Comet); Ghazi

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B. EXPANSION OF THE TRANSPORTATION FEE SCHEME

In the same August 2000 memorandum that announced the inauguration of after-sales-service fees, Vice President Ramadan imparted new instructions to the Ministry of Transportation regarding transportation fees. Three days after this announcement, the Economic Affairs Committee circulated a new schedule of transportation fees, raising fees on all goods imported via Umm Qasr for the remainder of Phase VIII. Rates remained at or slightly above these levels for the Programme's duration. As noted above, most of the additional revenues afforded by this augmented tariff were transferred to the Ministry of Finance's account at CBI following collection by ISCWT.⁴⁵¹

Five months later, Deputy Prime Minister Al-Azzawi distributed a memorandum informing all Iraqi ministries about the mechanisms for paying after-sales-service fees. This memorandum specified that ISCWT was “in charge of receiving the revenues from after sales services . . . in addition to additional and original transportation fees for goods imported via Umm Qasr port” The memorandum specified also that ISCWT must “transfer the revenues from the after-sales services arriving in its account to the accounts of Ministries and departments not affiliated with a Ministry”⁴⁵²

Taken together, these directives reflect the expansion of the inland transportation scheme in the months following the imposition of after-sales-service fees. According to Iraqi officials, in addition to receiving inland transportation fees, ISCWT was also responsible for ensuring the collection of after-sales-service fees levied on goods delivered to Umm Qasr port. These two fees were often collapsed into one very high transportation fee and paid by the same methods that had

Ibrahim interview (Sept. 26, 2005) (same with International Industrial Development); Rita Mina interview (Sept. 29, 2005) (same with TradeLinks Ltd.); Joseph Salem interview (Sept. 23, 2005) (same with Techno Middle East); Atlas's sales agent interview (Sept. 29, 2005). All but one of these agents stated that these fees were mandatory and that goods were not allowed into Iraq without prior payment of all levied fees. In addition, these agents asserted that there were no exceptions to this requirement and that they were unaware of any shipments entering Iraq for which fees had not been paid to the relevant Iraqi ministry. Saud Ayyash interview (Sept. 28, 2005); Mazin Lawrence interview (Sept. 27, 2005); Ghazi Ibrahim interview (Sept. 26, 2005); Rita Mina interview (Sept. 29, 2005); Joseph Salem interview (Sept. 23, 2005). One agent stated that exemptions were possible, but only in exceptional circumstances and with the Iraqi Deputy Prime Minister's personal approval. Atlas's sales agent interview (Sept. 29, 2005).

⁴⁵¹ Ministry of Oil record, Taha Yassin Ramadan memorandum to Iraqi Ministries (Aug. 3, 2000) (translated from Arabic); Ministry of Transportation record, Hikmat Al-Azzawi memorandum to Iraqi Ministries (Aug. 6, 2000) (translated from Arabic); see also Ministry of Transportation letter to State Company for Ports, Land Transport, and ISCWT (Aug. 19, 2001) (translated from Arabic) (reflecting the distribution of transportation fee revenues between the Ministry of Finance and the subsidiary SOEs of the Ministry of Transportation); Iraq officials interviews.

⁴⁵² Ministry of Oil record, Hikmat Al-Azzawi memorandum to Iraqi Ministries (Nov. 6, 2000) (translated from Arabic).

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been used in Phases VI and VII.⁴⁵³ As a result, payments to ISCWT and to companies such as Alia and Amman Shipping increased dramatically between 2000 and 2002. For example, an officer of the Vietnam North Food Corporation (“Vinafood”), the largest supplier of rice to Iraq under the Programme, informed the Committee that, approximately one year after his company began paying Alia, the Government of Iraq raised inland transportation charges by 250 percent. This trend is reflected in transportation invoices, reprinted below, that Alia submitted to Vinafood: An invoice from August 2001 reflects fees of \$25 pmt for transporting rice; a second invoice, from May 2002, reflects fees of over €65 pmt (or approximately \$59 pmt) for transporting rice.⁴⁵⁴



MESSRS : VIETNAM NORTHER FOOD CORPORATION (VINA FOOD)

INVOICE NO. : 18/VINAF/2002

DATE : MAY 15, 2002

MESSRS: Vietnam Nother Food Corporation Vina Food

Subject : INVOICE OF RICE SHIPMENT

INLAND TRANSPORT CHARG PH (10)

Subject : INVOICE OF RICE SHIPMENT INLAND TRANSPORT CHARG PH9

| Vessel Name | DESCRIPTION | ETA | NET W/M | BERTON | TOTAL |
|-------------|--------------|-----------------|-----------|--------|-----------|
| THOR SUN | RICE IN BAGS | 25 AUGUST ,2001 | 7850 TONE | 25 \$ | 196250 \$ |

| Vessel Name | Description | ETA | NET W/M | BERTON | TOTAL |
|-------------|--------------|-------------|----------|------------|--------------|
| MADRE | RICE IN BAGS | MAY 30,2002 | 18000 MT | 65 25 EURO | 1174500 Euro |

With best regards,



With Best Regards,



Account Dept. شركه عاليه للنقل والخدمات العامة
Alia for Transportation & General Trade Co.

ACCOUNT DEPT. شركه عاليه للنقل والخدمات العامة
Account Dept. Alia for Transportation & General Trade Co.

Figure: Alia invoices to Vinafood, 7/2001/VINA and 18/VINAF/2002 (Aug. 16, 2001 and May 15, 2002).

⁴⁵³ Iraq officials interviews; Ahmed Murtada Ahmed Al-Khalil interview (Nov. 5, 2004); see also Ministry of Transportation record, Hikmat Al-Azzawi memorandum to Iraq Ministry of Transportation (Apr. 26, 2001) (translated from Arabic) (noting that “the State Company for Water Transport should inform the companies they deal with to receive transport and services fees in the currency of the approved contract or any other major currency determined in coordination with Al-Rafidain Bank-Amman”). When interviewed, one supplier explained that it paid after-sales-service fees in cash to Rafidain Bank and transportation fees in Iraqi dinars to Rashid Bank. Amhed Habbous, Dawood A. Mohammed, and Ra’ed Abu-Rumman interviews (May 2 and 4, 2005). This is the only occasion in which the Committee has identified payments of this nature.

⁴⁵⁴ Phiet Luong The interview (July 19, 2005); see also Chaiyaporn interview (noting the increase in fees paid to Alia over time); Alia record, Alia invoices to Vinafood (Aug. 16, 2001 and May 15, 2002); OANDA, “Currency Converter,” <http://www.oanda.com> (converting euros to USD as of May 15, 2002).

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As noted in Deputy Prime Minister Al-Azzawi's memorandum of November 6, 2000, ISCTW was responsible for distributing after-sales-service revenues to the Iraqi bodies on whose behalf it had collected the fees. ISCTW accomplished this task by transferring portions of these revenues to the Ministry of Finance and to other ministries and entities. The funds received from transportation fees, meanwhile, were distributed in a manner generally consistent with the framework for Phase VIII set out in the ISCTW Table. In the case of bulk goods, for example, this amounted to approximately \$9 pmt to Land Transport, \$10 pmt or more to the Ministry of Finance as a cash reserve, and \$0.25 pmt to \$3 pmt for other entities that provided port services.⁴⁵⁵

One illustration of this practice is an ISCTW record of June 2002 setting out the dissemination of revenues collected by Alia in connection with a contract signed between IGB and AWB of Australia.⁴⁵⁶

⁴⁵⁵ Ministry of Oil record, Hikmat Al-Azzawi memorandum to Iraqi Ministries (Nov. 6, 2000) (translated from Arabic); Iraq official interview; Othman Al-Absi interview (May 21, 2005); Confidential witness interview.

⁴⁵⁶ Ministry of Transportation record, Form for transferring MOU goods, COMM no. 1100013 (June 1, 2002) (translated from Arabic). The form erroneously identifies the relevant contract number as 110013. The correct COMM no. is 1100013, which is the one associated with the indicated BNP-issued letter of credit (no. 733475).

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| | | | |
|---|-----------------------------|--|-------------------------------------|
| Ministry of Transport State company for transport Accounts of the MOU [Hand written] departed | | T / 10 Date: 1/6/2002 | |
| MOU goods transport form | | | |
| Phase: 11 No. of Covering UN (110013) OC Credit No. (BNP): (733475) LC/NO | | | |
| Ship name | BEI HAI | Anchorage Date | 4/5/2002 |
| Nationality | Panama | Departure Date | 26/5/2002 |
| Supplier | Australian Wheat Board | Unloading location | Umm Qasr |
| Beneficiary | State Co. for Grain Trading | Type of load | wheat |
| Transporter | BEIHAI SHIPPING | Ship Load | 42000- 241,360 = 41,758.610 Tons |
| Total Collected | | 2,247,211.26 USD | |
| No. and Date of Transfer | | Based on the Fax from Alia Co. No.F/8/1020 on 1/5/2001 | |
| The receiving party | | Alia Co | |
| Beneficiary of amount | | Land/ Ports/ Water/ Additional/Services/Insurance | |
| Amount paid to ports | 90,455.16 | Amount paid to grains Co. | 71,411.97 |
| Amount paid to water | 26,250.01 | Services and Correspondences | 47,607.98 |
| Amount paid to water: 25% marine agencies | 5,492.42 24,001.60 | Shortage amount / Packaged | |
| Amount paid to land | 407,048.22 | Amount paid to the Ministry of Finance - additional | 526,715.01 |
| Amount paid to railroad | | Amount paid to the Ministry of Finance - service | 976,816.93 |
| <i>Illegible</i> | 47,607.87 | Amount paid to al-wataniya insurance | 23,803.99 |
| Comments : (1) Transport fees: the total amount: €2,320,976 on 3/6 = \$2,251,346 19666/8/33 (2) Service fees: from the shortage \$4 113.39 10/120 | | | |

Figure: Form for transferring MOU goods, COMM no. 1100013 (June 1, 2002) (translated from Arabic).

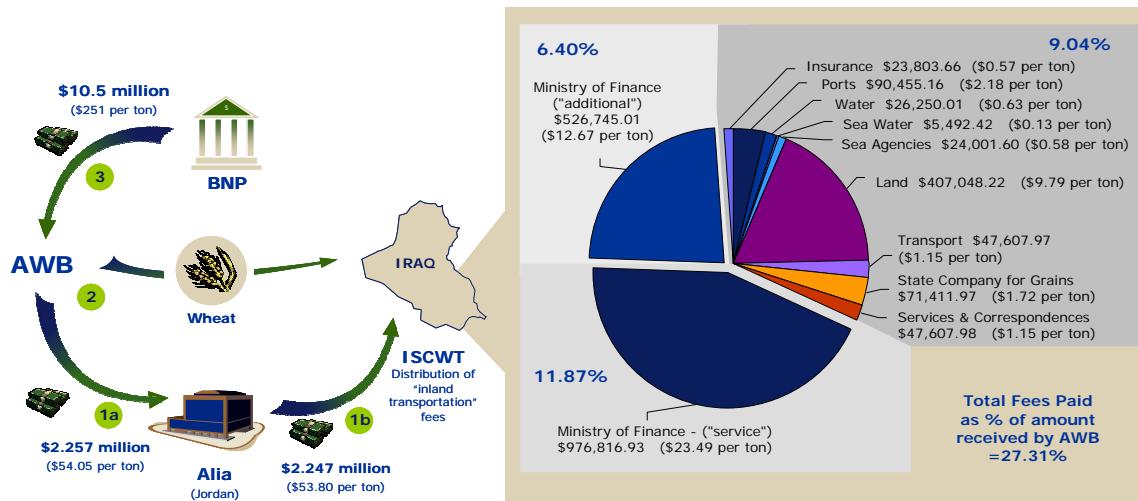
The record indicates that AWB paid approximately \$2.3 million in nominal transportation fees for the trucking of 41,759 metric tons of bulk wheat shipped on the vessel *Bei Hai*—a rate of approximately \$54 pmt. Of these funds, ISCWT earmarked \$0.98 million for the Ministry of Finance as an after-sales-service fee. This sum equates to a markup of approximately ten percent of the value of the wheat (inclusive of transportation charges) discharged from the *Bei Hai*. The remaining \$1.3 million in transportation fee revenues were disseminated as follows: (1) \$0.53 million, or \$12.61 pmt, for the Ministry of Finance (termed as “additional”); (2) \$0.41 million, or \$9.75 pmt, for Land Transport; (3) \$0.09 million, or \$2.17 pmt for ports; and (4) between \$0.01 and \$0.07 million, or roughly \$0.13 pmt to \$1.71 pmt, for other service-providers such as ISCWT and National Insurance Company.⁴⁵⁷

⁴⁵⁷ Ibid. AWB was paid €11.09 million for the wheat shipped on the *Bei Hai*. Applying the conversion rate used by ISCTW (€0.97 = \$1) to calculate the transportation fee results in a USD equivalent of \$10.76 million. This sum, less the \$0.98 million recorded by ISCTW as a service fee, is \$9.78 million—approximately ten times the value of the \$0.98 million denoted by ISCTW as the after-sales-service fee. This Chapter later addresses in greater depth AWB’s payments of substantial inland transportation fees.

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Chart E – Sample Distribution of AWB “Inland Transportation” Fees⁴⁵⁸

ISCWT applied this distribution framework to all of the funds it received from contractors after Phase VIII. According to an analysis provided by Rafidain Bank to ISCWWT in 2005, between February and June 2003, ISCWWT transferred approximately \$666 million out of its account at Rafidain Bank to CBI accounts of twenty-eight other Iraqi bodies. Over half of these funds, or \$373 million, was remitted to the Ministry of Finance. Of this \$373 million, \$283 million was reflected as having been raised through after-sales-service fees and \$90 million through transportation fees. The majority of the remaining \$293 million was transferred to Land Transport, the State Company for Ports, ISCWWT, and the Ministry of Trade.⁴⁵⁹

When interviewed, shipping companies involved in transporting Programme goods to Iraq expressed the common opinion that suppliers must have known that inland transportation fees were being paid to the Government of Iraq. First, these shippers noted, as indicated above, that goods suppliers assumed contractual responsibility for inland transportation. Second, invoices from shippers to suppliers often reflected these costs. Third, it was necessary for suppliers of goods needing specialized unloading and transportation equipment to inquire about specific shipping arrangements. Fourth, the only transportation within Iraq was controlled and supplied

⁴⁵⁸ In Chart E (above), the transaction marked as “1a” represents AWB’s payment of €0.327 million to Alia for the *Bei Hai* shipment. Applying the conversion rate used by ISCWWT (€0.97 to \$1), €0.327 million equals about \$2.257 million (\$54.05 pmt based on the total shipment quantity of 41,759 tons). Transaction marked as “1b” shows that Alia in turn paid ISCWWT \$2.251 million, which was \$5,650 less than the amount paid by AWB to Alia. This discrepancy represents the one-quarter percent fee retained by Alia. Deducting service fees left \$2.247 million to be distributed among the various Iraqi state companies (\$53.8 pmt based on the total shipment quantity). The transaction marked as “3” shows BNP’s payment of \$10.5 million to AWB for the *Bei Hai* shipment (\$251 pmt).

⁴⁵⁹ Rafidain Bank letter to ISCWWT (Apr. 26, 2005) (translated from Arabic); Iraq official interview.

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by the Government of Iraq. Last, the shippers were unaware of any goods entering Iraq through Umm Qasr after Phase VIII for which inland transportation fees were not paid.⁴⁶⁰

C. PAYMENT MECHANISMS FOR AFTER-SALES-SERVICE FEES AND THE USE OF BANK GUARANTEES

Suppliers delivering goods to Iraq through Trebil, Al Waleed, and Zakho did not interact with ISCTW and sometimes were exempted from paying transportation fees. In addition, some suppliers shipping cargoes to Umm Qasr preferred to pay after-sales-service fees separately from transportation charges. In such cases, the suppliers and contracting Iraqi ministries arranged for the payment of fees on an individual basis. The Ministry of Finance initially was responsible for establishing payment mechanisms and monitoring the collection of funds. This eventually proved too complicated for the ministry, and, in May 2001, responsibility was transferred to CBI.⁴⁶¹

Fees could be paid by several methods: (1) cash payments (in Baghdad or at embassies in foreign capitals); (2) bank transfers; and (3) front companies. There were no set guidelines specifying when a particular payment mechanism was to be employed. In practice, this choice appears to have been at the discretion of the purchasing body or the supplier. Because some companies complained about having to pay illicit fees before receiving funds from the escrow account, the Government of Iraq permitted certain suppliers to obtain bank guarantees instead and then pay their kickbacks after obtaining payment for the goods sold to Iraq.⁴⁶²

⁴⁶⁰ Emad Abdelhadi interview (Sept. 27, 2005) (discussing inland transportation fees as understood through involvement with Barwil Shipping); Elias Atallah and Reem Andoni interviews (May 18 and 21, 2005) (same through involvement with Amin Kawar & Sons); Osama Azer interview (Sept. 27, 2005) (same through involvement with Orient Trading); Walid Dawood interview (Sept. 25, 2005) (same through involvement with United Arab Shipping Company); Fathi Khalil interview (Sept. 23, 2005) (same through involvement with Al-Ghaith Shipping); M. G. Maghami and K. Divakaran interview (Sept. 24, 2005) (same through involvement with Simatech Shipping); Renmon Sulaiman interview (Sept. 27, 2005) (same through involvement with T. Gargour & Fils); see also Ismael Theeb and Khaled Al-Shareef interview (May 23, 2005) (same through experience driving truckloads of goods under the Programme).

⁴⁶¹ Ministry of Oil record, Mohammed Mehdi Saleh memorandum to Taha Yassin Ramadan (Oct. 27, 2000) (translated from Arabic); Ministry of Oil record, Hikmat Al-Azzawi memorandum to Iraqi Ministries (Nov. 6, 2000) (translated from Arabic); Isam Rashid Al-Huwaysh interviews (Oct. 22, 2004 and Feb. 21, 2005); Iraq officials interviews; Elias Atallah and Reem Andoni interviews (May 19 and 21, 2005); Remon Sulaiman interview (Sept. 27, 2005); Hussain Al-Khawam interview (May 24, 2005).

⁴⁶² Ministry of Oil record, Mohammed Mehdi Saleh memorandum to Taha Yassin Ramadan (Oct. 27, 2000) (translated from Arabic); Ministry of Oil record, Hikmat Al-Azzawi memorandum to Iraqi Ministries (Nov. 6, 2000) (translated from Arabic); Ministry of Oil record, Hikmat Al-Azzawi memoranda to Iraqi Ministries (Apr. 2 and 26, 2001) (translated from Arabic); Iraq officials interviews; Confidential witness interview.

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1. Cash Payments

In his memorandum of August 3, 2000, Vice President Ramadan identified various options for paying after-sales-service fees, including cash payments in Iraq. Funds received in cash were deposited into accounts at Rafidain Bank and transferred to CBI. In certain instances, cash payments were transferred to Iraqi embassies in Jordan and the United Arab Emirates and then transferred as quickly as possible to Rafidain Bank branches in Amman and Baghdad. Although no Iraqi official interviewed by the Committee identified which suppliers preferred cash transfers, one individual who acted as an agent to suppliers during the Programme noted that Chinese and Indian firms frequently paid in this manner. In addition, one Iraqi official noted that cash payments sometimes were undertaken by Iraqi agents working on behalf of suppliers rather than by suppliers themselves.⁴⁶³

2. Bank Transfers

At the outset of the after-sales-service scheme, Rafidain Bank and the Ministry of Finance were tasked with establishing accounts at banks in Amman and Beirut that would facilitate the collection of fees levied by Iraqi ministries and state companies. Initially, all fees were paid to the Ministry of Finance's account at Rafidain Bank. This arrangement proved cumbersome and inadequate, however, because the Ministry of Finance did not have the resources to link each of the many deposits into this account to a specific supplier or contract.⁴⁶⁴

⁴⁶³ Ministry of Oil record, Taha Yassin Ramadan memorandum to Iraqi Ministries (Aug. 3, 2000) (translated from Arabic) (stating that “[i]ncome generated from after sales services are to be handed over in cash inside Iraq, or to a banking entity determined by the Iraqi side according to pre-determined banking arrangements, in the case that handing over the money in cash inside Iraq fails”); Ministry of Oil record, Hikmat Al-Azzawi memorandum to Iraqi Ministries (Nov. 6, 2000) (translated from Arabic) (stating that “[t]he Ministry . . . receives the revenues from after sales services . . . on goods arriving to the country from other points of entry besides Umm Qasr, in cash in foreign currency inside Iraq and if that doesn’t work, then it is received based on the following [methods]”); Ministry of Oil record, Hikmat Al-Azzawi memorandum to Iraqi Ministries (Apr. 2, 2001) (translated from Arabic); Iraq officials interviews; Confidential witness interview. In Deputy Prime Minister Al-Azzawi’s memorandum of November 6, 2000, he proposed the use of bank transfers only when cash payments inside Iraq were not feasible. Ministry of Oil record, Hikmat Al-Azzawi memorandum to Iraqi Ministries (Nov. 6, 2000) (translated from Arabic).

⁴⁶⁴ Ministry of Oil record, Mohammed Mehdi Saleh memorandum to Taha Yassin Ramadan (Oct. 27, 2000) (translated from Arabic); Ministry of Oil record, Hikmat Al-Azzawi memorandum to Iraqi Ministries (Nov. 6, 2000) (translated from Arabic); Ministry of Transportation record, Hikmat Al-Azzawi memorandum to Ministry of Transportation (Apr. 26, 2001) (translated from Arabic); Isam Rashid Al-Huwaysh interviews (Oct. 22, 2004 and Feb. 21, 2005); Iraq officials interviews. When interviewed, one goods supplier noted that it was instructed to pay to ISCWTS account at Rafidain Bank if the purchasing body to which it was selling goods did not have its own account. Amhed Habbous, Dawood A. Mohammed, and Ra’ed Abu-Rumman interviews (May 2 and 4, 2005).

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As a result of these difficulties, in spring 2001, the Iraqi leadership nominated CBI to manage and monitor kickback accounts in non-Iraqi banks. Shortly after assuming this responsibility, CBI created dozens of clearing accounts—also known as “bridge accounts”—for all Iraqi ministries authorized to contract under the Programme. These bridge accounts, which were designed to receive but not retain kickback revenues, were disguised in numerous ways. In Amman, the accounts were registered under the names of Iraqi officials (sometimes with first and last names transposed); in Beirut, these were unnamed “numbered” accounts. Every twenty-four hours, under terms of signed agreements between the banks and CBI, balances of these “bridge accounts” were transferred automatically to other secret CBI-controlled accounts at the same institution. This distanced by one degree the accounts storing Iraq’s illicit revenues from the accounts into which suppliers or front companies deposited fees. Such layering also protected Iraq against a possible freezing of its assets and allayed the concerns of suppliers hesitant to pay directly to an Iraqi entity.⁴⁶⁵

On a daily basis, the banks holding bridge accounts transmitted advices to CBI, indicating the amounts paid by suppliers and the corresponding contract numbers. Following receipt of this information, CBI informed the relevant Iraqi ministries which suppliers had fulfilled their after-sales-service obligations. Once notified, the ministries requested that BNP New York issue letters of credit in favor of the suppliers or, if letters of credit already had issued, permit goods to enter Iraq and be discharged at warehouses. In addition to individual notifications, CBI prepared monthly fee reports that it circulated to all ministries and the Presidential Diwan.⁴⁶⁶

⁴⁶⁵ Ministry of Oil record, Mohammed Mehdi Saleh memorandum to Taha Yassin Ramadan (Oct. 27, 2000) (translated from Arabic); Ministry of Oil record, Hikmat Al-Azzawi memorandum to Iraqi Ministries (Nov. 6, 2000) (translated from Arabic); Ministry of Transportation record, Hikmat Al-Azzawi memorandum to Ministry of Transportation (Apr. 26, 2001) (translated from Arabic); Isam Rashid Al-Huwaysh interviews (Oct. 22, 2004 and Feb. 21, 2005); Iraq officials interviews.

⁴⁶⁶ Iraq officials interview.

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Table 2 – Banks Holding CBI-Maintained Bridge Accounts⁴⁶⁷

| Jordan | Lebanon |
|---|---------------------------------------|
| Housing Bank of Trade and Finance (Amman) | Banque Saradar (Beirut) |
| Bank of Jordan (Amman) | Fransabank (Beirut) |
| Jordan National Bank (Amman) | Bank of Beirut and the Arab Countries |
| Rafidain Bank (Amman) | Al-Mawarid Bank (Beirut) |
| | Rafidain Bank (Beirut) |
| | Bank of Beirut |
| | Byblos Bank (Beirut) |

Bridge accounts facilitated a large percentage of after-sales-service payments effected by bank transfer. However, other options existed for suppliers from specific regions. For example, suppliers based in or near Jordan sometimes paid cash directly to a CBI account at the Amman branch of Rafidain Bank. Syrian firms could pay into an account held by the Iraqi Interests Section at one of the branches of the Syrian Commercial Bank in Damascus. Outside the Middle East, CBI also maintained three accounts at the Minsk branch of Infobank, a Belarusian bank, which were used to collect fees levied on contracts with Belarusian firms.⁴⁶⁸

Revenues derived from after-sales-service fees were withdrawn routinely in cash and transported to CBI in Baghdad, often via diplomatic pouch. By March 2003, for example, Iraqi authorities had withdrawn \$1.5 billion in kickback revenues from the bridge accounts at these Jordanian and Lebanese banks.⁴⁶⁹

3. Front Companies

Firms desiring to avoid paying to bridge accounts or other CBI-controlled accounts could deposit after-sales-service fees into accounts held by front companies located in Egypt, Lebanon, and the United Arab Emirates. Funds paid to front companies were transferred to bridge accounts in Lebanon and Jordan and then to CBI accounts at Rafidain Bank in Amman. Some of these front companies were owned partially by the Government of Iraq, whereas others had no relation to it.

⁴⁶⁷ Ibid.

⁴⁶⁸ Ministry of Transportation record, Hikmat Al-Azzawi memorandum to Iraqi Ministries (Apr. 26, 2001) (translated from Arabic) (ordering that “Ministries . . . should inform the MOU suppliers to pay the after sale services in the same currency in which the contract was approved . . . in cash in Baghdad or Al-Rafidain Bank in Amman or in its other Branches were it is permissible to conduct business with or in the Iraqi Commercial Center in Damascus”); Iraq officials interviews.

⁴⁶⁹ Iraq official interview; Isam Rashid Al-Huwaysh interview (Oct. 22, 2004).

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In exchange for their services, front companies received a small commission on the illicit revenues they collected from suppliers. The most significant of the front companies was Al Wasel & Babel, a Dubai-based firm expressly established for the collection of after-sales-service fees.⁴⁷⁰

In addition to collecting fees, some front companies also participated in the Programme. In fact, former Vice President Ramadan stated that he signed an order giving preference to these companies, because Iraq increased its revenue by dealing with its own companies. These front companies were not exempted from paying kickbacks, but often were permitted to pay after-sales-service fees following the release of escrow funds. Furthermore, the front companies were expected to offer competitive prices, and Iraq sometimes would advise them if their prices were too high so that they could adjust their bids to obtain the contracts.⁴⁷¹

4. Bank Guarantees

Suppliers complained to the Government of Iraq about its expectation that after-sales-service fees be paid before the release of funds from the escrow account. In particular, suppliers expressed concerns about having to pay kickbacks in connection with contracts that OIP or the 661 Committee had not yet approved. These concerns were not unfounded. For example, one Syrian firm informed the Committee that it had paid kickbacks on contracts that were never executed by the United Nations.⁴⁷²

⁴⁷⁰ Ministry of Oil record, Mohammad Mehdi Saleh memorandum to Taha Yassin Ramadan (Oct. 27, 2000) (translated from Arabic); Ministry of Oil record, Hikmat Al-Azzawi memorandum to Iraqi Ministries (Nov. 6, 2000) (translated from Arabic); Hikmat Al-Azzawi interviews (Nov. 18, 2004 and Aug. 21, 2005); Iraq officials interviews. Al Wasel & Babel is discussed in more detail in Section VII.C.

⁴⁷¹ Taha Yassin Ramadan interview (Aug. 17, 2005); Iraq official interview; see, e.g., Programme contract, COMM nos. 1030210 (Nov. 10, 2001) (contracting with Al Wasel & Babel), 1000151 (July 23, 2001); Riyadh Al-Khawam interview (Mar. 29 and May 12, 2005) (noting that Al-Hoda International Trading Co. was obligated to pay a ten-percent kickback on each contract); Ibrahim Lootah interview (May 3, 2005) (noting that Al Wasel & Babel was obligated to pay a ten-percent kickback and transportation fees on each contract); Iraq officials interviews.

⁴⁷² Ministry of Health record, Omid Midhat Moubarak memorandum to Ministry of Commerce and Import Committee (Nov. 25, 2000) (noting that goods suppliers, particularly those with large contracts, objected to advance payment of after-sales-service fees, but that prior arrangement of bank guarantees was acceptable); Iraq official interview; Reza Maktabi interview (Sept. 25, 2005) (explaining that Phoenix Investment International, for which he served as Managing Director, received the Government of Iraq's authorization to delay paying after-sales-service fees until after receiving payment from the escrow account because the company lacked the financial resources to pay in advance); Ziad Halal and Salpy Yousef interview (July 5, 2005) (noting that Altoun Trading Corporation ("Altoun") paid kickbacks even on non-executed contracts). Mr. Halal and Ms. Yousef serve respectively as Managing Director and File-keeper at Altoun, a consortium of fifty-nine Syrian-based companies. Ibid. Mr. Moubarak served as Minister of Health. Ministry of Health record, Omid Midhat Moubarak memorandum to Ministry of Commerce and Import Committee (Nov. 25, 2000).

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As a result of these complaints, Vice President Ramadan's office proposed that suppliers not amenable to paying in advance be obligated, before letters of credit were issued, to obtain bank guarantees in favor of regime-controlled accounts. These bank guarantees were to correspond to the amounts levied by the ministries and would be released once CBI had confirmed that suppliers had paid the requisite fees. One Iraqi witness who acted as an agent to foreign suppliers seeking business under the Programme reported to the Committee that some suppliers sought to layer their bank guarantees by issuing backstop guarantees or letters of credit to banks in Lebanon or Jordan, which in turn issued guarantees in the same amounts in favor of Iraqi accounts.⁴⁷³

The bank guarantee requirement often was included in the side letters signed by suppliers in advance of contract execution. According to memoranda circulated by the high-level Iraqi committees that oversaw the collection of kickbacks, the Iraqi purchasing bodies could exercise discretion when choosing which suppliers needed to provide bank guarantees and which could be trusted to make payments after contracts were approved or funds disbursed from the escrow account. In a memorandum to the Command Council, for example, Trade Minister Saleh recommended:

[T]he request for a guarantee depends on the extent of trust the Iraqis have with companies with whom they contract, thus a bank guarantee is required from companies that are not very well known to the Iraqi importers and with whom they are required to deal with to ensure payment of the additional amount, whereas in the case where companies are very well known and trusted, the guarantee requirement is assessed by the Iraqi importing entities.⁴⁷⁴

This protocol was later articulated by Vice President Ramadan in a November 2000 memorandum to all Iraqi ministries. According to one Iraqi official familiar with the practices of the Ministry of Oil, most suppliers were willing to obtain bank guarantees if requested.⁴⁷⁵

D. OTHER FEES

The Committee's analysis of nearly one thousand side agreements retrieved from the Ministries of Trade and Oil revealed that Iraqi purchasing bodies frequently levied a variety of small charges in addition to transportation and after-sales-service fees. By far the most common of these were "tender charges" (i.e., fees required as a condition for participation in a tender). Many of these side letters noted that tender charges did not need to be paid any earlier than the issuing of a letter of credit. One supplier that signed such side letters, however, stated that it had been obligated to

⁴⁷³ Ministry of Oil record, Mohammad Mehdi Saleh memorandum to Taha Yassin Ramadan (Oct. 27, 2000) (translated from Arabic); Iraq officials interviews; Iraq witness interview; Confidential witness interview.

⁴⁷⁴ Ministry of Oil record, Mohammad Mehdi Saleh memorandum to Taha Yassin Ramadan (Oct. 27, 2000) (translated from Arabic).

⁴⁷⁵ Ministry of Oil record, Taha Yassin Ramadan memorandum to Iraqi Ministries (Nov. 22, 2000) (translated from Arabic); Iraq official interview.

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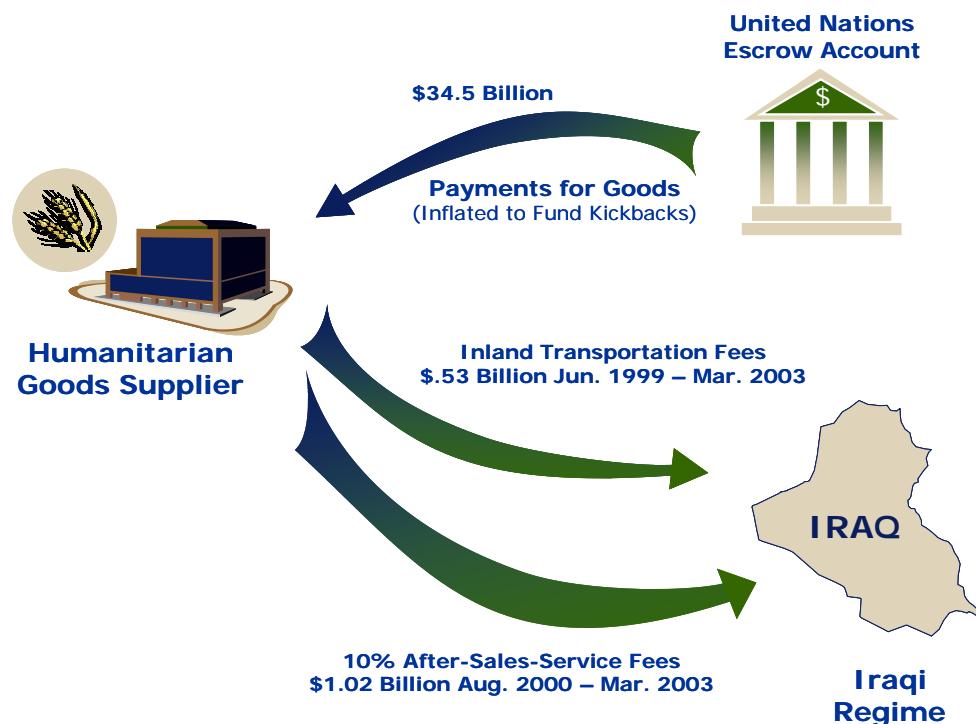
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pay tender charges before bidding on a contract. The majority of tender charges ranged from \$1,000 to over \$20,000 per contract and often correlated with the tonnage or volume of the contract under bid. An Iraqi witness familiar with the contract negotiation process stated that tender charges were levied with particular frequency on Russian firms, which—because of political considerations—were virtually guaranteed to win a large number of tenders.⁴⁷⁶

E. COLLECTION AND USE OF ILLICIT FUNDS

By March 2003, the after-sales-service fees had generated more than \$1 billion for the Iraqi regime. Inland transportation fees provided additional revenue of at least \$527 million. In total, from these kickback schemes, Iraq diverted more than \$1.5 billion in cash from the Programme's escrow account.⁴⁷⁷

Chart F – Humanitarian Contract Kickbacks – Flow of Funds⁴⁷⁸



⁴⁷⁶ Chee Ah What and Hazmat Khan interview (July 25, 2005); Iraq witness interview; TaR, Company side agreements. This analysis of side agreements is based on each individual fee contained in the one thousand side letters obtained from the Iraqi Ministries of Trade and Oil.

⁴⁷⁷ Committee humanitarian kickback table.

⁴⁷⁸ Ibid.

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The Government of Iraq maintained a portion of its kickback revenues in cash at CBI and the balance in accounts in Lebanon and Jordan. Iraqi witnesses have provided differing accounts of how Iraq used these funds. Although some officials, including former Trade Minister Saleh, have stated that after-sales-service revenues were intended to provide a substitute “cash component” and cover internal administrative costs, none has claimed that the money in fact was spent in this manner. Isam Rashid Al-Huwaysh, former Governor of CBI, stated that all but \$10 to \$15 million of the after-sales-service revenues were maintained as a cash reserve. Oil Minister Rashid stated that after-sales-service fees had nothing to do with services or internal costs. Other Iraqi officials, including former Deputy Prime Minister and Finance Minister Al-Azzawi, asserted that money held by CBI was routinely allocated to other entities and ministries at the request of the Presidential Diwan or the ministries themselves. These officials also noted that some of the largest recipients of these funds were Iraqi bodies that could not participate in the Programme, such as the Ministries of Defense and Military Industrialization, the *Mukhabarat* (Iraqi intelligence), and the Diwan itself. In addition, the officials reported that some funds were transferred to Iraqi embassies to finance scholarships for Iraqi nationals studying abroad.⁴⁷⁹

Mr. Al-Huwaysh and another official familiar with CBI’s activities also recounted that, shortly after the outbreak of hostilities in Iraq in March 2003, Saddam Hussein’s son, Qusay, arrived at CBI with a note signed by his father ordering the withdrawal of close to \$1 billion in cash. CBI officers complied with this request and loaded the money in over two hundred boxes. Mr. Al-Huwaysh and this other Iraqi official did not indicate what percentage, if any, of the funds withdrawn by Qusay constituted kickback-related revenues.⁴⁸⁰

⁴⁷⁹ Isam Rashid Al-Huwaysh interviews (Oct. 22, 2004 and Feb. 21, 2005); Mohammed Mehdi Saleh interviews (Aug. 10 and Nov. 18, 2004); Hikmat Al-Azzawi interview (Nov. 18, 2004); Iraq officials interviews; Amer Rashid interview (Oct. 29, 2004); Ahmed Murtada Ahmed Al-Khalil (Nov. 5, 2004) (noting that after-sales-service revenues were not used for actual expenses involved in installation or delivery of contracted goods).

⁴⁸⁰ Isam Rashid Al-Huwaysh interviews (Oct. 22, 2004 and Feb. 21, 2005); Iraq official interview.

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V. OTHER MANIPULATIONS OF THE PROGRAMME

A. DIVERSION OF GOODS WITHIN IRAQI MINISTRIES

Resolution 986 and the Iraq-UN MOU specified that escrow funds accumulated for goods purchases were intended for the humanitarian needs of the Iraqi population.⁴⁸¹ Despite this restriction, the Government of Iraq routinely sought to use the Programme to purchase goods on behalf of Iraqi bodies that had little involvement in humanitarian relief.

According to Iraqi officials, certain Iraqi ministries were allocated funds beyond their specified budgets in order to purchase goods on behalf of Iraqi bodies that could not contract under the Programme. These bodies included the Ministry of Defense, the Ministry of Military Industrialization, the General Security Directorate, and the Presidential Diwan. In some instances, the final recipient of the procured goods, rather than the purchasing ministry, issued tenders, negotiated directly with the supplier, and reviewed technical specifications of the commodities being procured. In other cases, the purchasing ministry assumed these contracting responsibilities. Orders to divert goods were issued to the ministries by the Leading Committee, the Office of Vice President Ramadan, the Presidential Diwan, and the Presidential Office.⁴⁸²

Iraqi officials from the Ministries of Agriculture, Electricity, and Transportation and Communication all have stated that, on occasion, they were requested to purchase goods for other governmental entities. For example, the Ministry of Agriculture routinely fronted for the Ministry of Defense. Officials also noted that Belhsa Motors and Al-Qasit, firms of the United Arab Emirates, were respectively the primary suppliers to the Ministry of Defense and the intelligence services. Commonly diverted items included trucks (in particular, a model used for pulling artillery), tires, batteries, forklifts, and even date palm excavators, which were used to uproot palm trees and transport them to Presidential Palaces.⁴⁸³

⁴⁸¹ S/RES/986, para. 8 (Apr. 14, 1995) (“[T]he funds in the escrow account shall be used to meet the humanitarian needs of the Iraqi population and for the following purposes . . .”); Iraq-UN MOU, para. 5 (“The Government of Iraq undertakes to effectively guarantee equitable distribution to the Iraqi population throughout the country of medicine, health supplies, foodstuff and materials and supplies for essential civilian needs . . .”). In addition, Resolution 986 authorized Iraq’s import of oil spare parts that “are essential for the safe operation of the Kirkuk-Yumurtalik pipeline system in Iraq.” S/RES/986, para. 9 (Apr. 14, 1995); see also “First Interim Report,” p. 57 (discussing the Security Council’s decision to set aside escrow funds during each phase for oil spare parts, initially \$300 million (in 1998) and then \$600 million (in 2000)).

⁴⁸² Ministry of Transportation record, Mohammad Mehdi Saleh memorandum to Iraqi Ministries (Dec. 10, 2002) (translated from Arabic) (describing different contracting procedures for diverted goods); Taha Yassin Ramadan interview (Aug. 17, 2005) (acknowledging the ease with which some goods procured under the Programme were redirected to the Iraqi army and intelligence service); Iraq officials interview.

⁴⁸³ Iraq officials interview.

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When interviewed, Ahmed Murtada Ahmed Al-Khalil, the former Iraqi Minister of Transportation, indicated that ministries commonly transferred goods purchased through the Programme to other ministries. In fact, internal data indicates that \$1.9 billion of Iraq's purchases under the Programme was diverted to other Iraqi entities ineligible to participate in the Programme. This included \$1.4 billion to the Ministry of Defense, \$29 million to the Offices of the President and Vice President, \$19 million to the Ministry of Military Industrialization, and \$44 million to the Ministry of Industry. These diversions involved a large number of vehicles and vehicle spare parts as well as hydraulic excavators, forklifts, propellers, and other heavy machinery.⁴⁸⁴

Ministry of Agriculture officials stated that the ministry's staff members initially were very concerned that they would be caught diverting goods, but soon realized that the United Nations was unaware of this subterfuge and therefore would not be taking any corrective action. As noted in the Committee's earlier Programme Management Report, the United Nations' observation mechanism suffered critical management failures that reduced the effectiveness of its monitoring capability. One Ministry of Transportation official stated that if inspectors ever asked about goods that had been diverted to the Ministry of Defense, they were told that the items had been lent to another ministry for a few days and would be returned. Similarly, Minister of Transportation Al-Khalil stated that, if United Nations inspectors wanted to inspect a vehicle transferred to another ministry, the purchasing ministry would make a delaying excuse and then "borrow" the vehicle back long enough for the inspectors to check, after which time the vehicle would be returned.⁴⁸⁵

B. RESALE OF PROGRAMME GOODS OUTSIDE IRAQ

In addition to diverting goods to other ministries during the Programme, and despite the sanctions regime, United Nations trade data suggests that Iraq also resold goods purchased through the Programme to other nations. This represented another source of illicit income for the Iraqi regime. Specifically, the United Nations Commodity Trade Statistics Database ("Comtrade"), which includes import/export data voluntarily provided by approximately 110 member states, indicates an aggregate of approximately \$286 million in imports from Iraq (excluding oil) between 1996 and 2002. The United Nations relies on the veracity of the information provided by members and does not verify the information contained in Comtrade; similarly, the Committee has not verified this data. The Committee also been unable to determine if the goods traded by Iraq were goods furnished to it under the Programme; however, at least some of the items identified as having been sold by Iraq, such as cotton yarn, are not known to be produced within Iraq.⁴⁸⁶

⁴⁸⁴ Ahmed Murtada Ahmed Al-Khalil interview (Nov. 5, 2004); TaR (Apr. 1997 to May 2005).

⁴⁸⁵ Iraq officials interview; "Programme Management Report," vol. III, p. 58-65; Ahmed Murtada Ahmed Al-Khalil interview (Nov. 5, 2004).

⁴⁸⁶ United Nations, "Commodity Trade Statistics Database," <http://unstats.un.org/unsd/comtrade> (including reported data on goods exported from other countries, including from Iraq during the Programme's

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Former Vice President Ramadan asserted that there was no official government practice of reselling Programme goods outside Iraq. However, he stated that there was a possibility that particular individuals stole or otherwise obtained Programme goods that they resold on the black market or outside the country. Another Iraqi official stated that the goods sold outside Iraq were mostly Iraqi-produced goods that the Government of Iraq purchased locally and then resold for a profit—though some Programme goods also were resold outside Iraq.⁴⁸⁷

C. SUBSTANDARD GOODS

When interviewed, numerous former Iraqi officials stated that the Government of Iraq often procured substandard goods under the Programme. These individuals provided examples spanning the Programme, including animal feed, cars and other vehicles, wheat, medicine, generators, batteries, and chemicals. There were instances in which spoilage occurred and Iraq received out-of-date goods. In July 1999, upon returning from a mission in Iraq, Mr. Sevan, Executive Director of OIP, informed the Security Council that “[a] major problem being faced by the Government of Iraq is regarding supplies and equipment which on arrival are found to be defective or do not meet quality control standards.” Notwithstanding Iraq’s persistent problems with substandard goods, former Vice President Ramadan stated that the Government of Iraq did not have a policy of importing poor quality goods.⁴⁸⁸

duration); Ronald Jansen interview (Sept. 21, 2005) (explaining Comtrade in his capacity as Chief of the United Nations Commodity Trade Statistics Section); see, e.g., Comtrade record, Humanitarian imports from Iraq (1996-2002) (indicating, for example, that Iraq exported cotton yarn during the Programme); Statistical, Economic and Social Research and Training Centre for Islamic Countries (“SESRTCIC”), “SESRTCIC STATISTICAL DATABASE (BASEIND),” <http://www.sesrtcic.org/statistics/bycountry.php> (providing a searchable statistical database reflecting that Iraq did not produce any cotton yarn during the Programme’s duration). Also known as the Ankara Centre, SESRTCIC is a subsidiary organ of the Organisation of the Islamic Conference (“OIC”). Among other responsibilities, SESRTCIC “collate[s], process[es] and disseminate[s] socio-economic statistics and information on and for the utilisation of the member countries.” SESRTCIC, “About Us,” <http://www.sesrtcic.org/aboutus.shtml>. Iraq became a member of OIC in 1976. SESRTCIC, “Accession Dates of OIC Member Countries,” <http://www.sesrtcic.org/oic/oicaccd.a.shtml>.

⁴⁸⁷ Taha Yassin Ramadan interview (Aug. 17, 2005); Iraq officials interviews.

⁴⁸⁸ Mohammed Mehdi Saleh interview (Nov. 18, 2004); Iraq officials interviews; Mohammad Khoshnaw interview (Dec. 18, 2004); Frances Kinnon interview (Dec. 15, 2004); Benon Sevan briefing at informal Security Council consultations (July 22, 1999); Taha Yassin Ramadan interview (Aug. 17, 2005). Mr. Khoshnaw served as the Health Minister, and Ms. Kinnon served as a Political Analyst within OIP. Mohammad Khoshnaw interview (Dec. 18, 2004); Frances Kinnon interview (Dec. 15, 2004). One witness stated that companies routinely substituted lower quality goods for those specified in the contracts and that shipping documents, on their face, often reflected different goods than those listed on the relevant contracts. Despite these deviations, such goods cleared inspection. Confidential witness interviews. Similarly, another witness stated that a company with which he is familiar contracted to provide Iraq with goods from a particular country, but instead provided goods from a different country. Furthermore, the witness indicated that the company submitted falsified documents in order to facilitate the acceptance of

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A significant factor contributing to Iraq's procurement of lower quality goods was its official policy of benefiting particular suppliers as well as suppliers from favored countries. For example, former Minister Al-Khalil explained that the Ministry of Transportation sometimes had to purchase lower quality goods—such as Russian instead of German cars—to comply with the requirement that it buy from priority countries. Similarly, other officials stated that Iraq continued purchasing substandard goods from particular suppliers—notwithstanding previous shipments of low quality goods—in order to satisfy the political considerations of buying from particular countries (as directed by senior members of the Iraqi regime). One official noted that the Ministry of Agriculture was compelled to buy poor quality vehicles from particular countries and that these lower quality vehicles did not cost much less than vehicles from reputable companies. On the other hand, a review of Iraq's humanitarian vendors indicates that Iraq purchased some of its goods from very well known companies with established reputations for producing quality goods, such as Mercedes, Volvo, Siemens, and General Electric.⁴⁸⁹

Other factors also contributed to Iraq's procurement of lower quality goods. As noted by one Ministry of Trade official, the standard practice was not to seek goods of the highest quality, but rather to accept the lowest bidder so long as goods met basic specifications. Another factor, as noted by Mr. Sevan in an informal briefing to the Security Council, was that Iraq shifted toward “procur[ing] through less reliable brokers,” which “further reduce[d] the likelihood of compensation when sub-standard supplies and equipment [were] received.”⁴⁹⁰

Throughout the Programme, a recurring debate at the United Nations and with Iraq involved commercial protection and specifically the sufficiency of Iraq's recourse when receiving substandard goods. Felicity Johnston, Chief Customs Expert within OIP, explained that Iraq routinely wrote to OIP and reported to the Security Council regarding its concerns about the quality of goods obtained under the Programme. When interviewed, Iraqi officials noted that, because Iraq was not permitted to require goods suppliers to obtain performance bonds, it was unable to punish suppliers that provided substandard goods, except by denying the companies future contracts. Iraq expressed its concerns regarding this to the 661 Committee, but the 661 Committee disagreed on the appropriateness of various protection mechanisms and ultimately did not reach the consensus necessary to redress this concern. In addition, Iraqi officials complained that Cotecna stamped goods received (and hence payments were processed) before Iraq could conduct quality inspections. Ms. Johnston suggested that disputes between the Government of

these alternative goods. Confidential witness interview; Confidential witness letter to the Committee (May 24, 2005).

⁴⁸⁹ Ibid.; Iraq officials interviews; Tun Myat interviews (July 26-27 and Aug. 10, 2005); TaR (Apr. 1997 to May 2005).

⁴⁹⁰ Iraq official interview; Benon Sevan statement at informal Security Council consultations (Nov. 19, 2002) (suggesting that reliance on these brokers resulted from “lengthy delays in contracting and approval” and also that “[i]t is essential to find ways and means to ensure that supplies and equipment provided by contractors are in compliance with their contractual commitments, e.g. performance bonds etc.”); see also Ahmed Murtada Ahmed Al-Khalil interview (Nov. 5, 2004) (stating that lower quality goods still had to meet the basic specifications and were priced lower than better quality goods).

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Iraq and suppliers should have been resolved under normal commercial dispute practices: Iraq could have returned goods, sought repayment to the escrow account, or sought replacement goods.⁴⁹¹

Last, there is some limited anecdotal evidence suggesting that the Iraqi regime derived illicit revenues by procuring substandard goods. Two former officials of an Iraqi SOE told the Committee that certain companies deliberately supplied poor quality goods in order to raise their profits and that some of these companies in turn could be persuaded to compensate the Iraqi regime. Supplying lower quality goods at the prices of normal quality goods logically would have afforded suppliers greater margins from which to channel illicit payments to the Iraqi regime. However, as noted in the Programme Management Report, the Committee has not obtained sufficient evidence to confirm the existence of any widespread Iraqi scheme to obtain pecuniary benefits from procuring substandard goods.⁴⁹²

D. ABOVE-MARKET PRICING OF GOODS

In its Programme Management Report, the Committee noted that—over the course of the Programme—the difference between the prices at which the Government of Iraq would have been expected to purchase goods (based on available market data) and the prices that Iraq actually paid

⁴⁹¹ Felicity Johnston interview (May 26, 2005); Iraq officials interviews; Provisional record of 661 Committee meeting, S/AC.25/SR.189, pp. 4-7 (Aug. 24, 1999) (discussing the permissibility of possible means of commercial protection for Iraq, including performance bonds, retention clauses, and automatic deferred payments); Provisional record of 661 Committee meeting, S/AC.25/SR.212, pp. 7-8 (Jan. 18, 2001) (continuing the 661 Committee's debate on commercial protection, during which time the French representative "expressed consternation at the nearly two-year deadlock in the matter"); Provisional record of 661 Committee meeting, S/AC.25/SR.220, pp. 4-5 (June 14, 2001) (noting the Government of Iraq's letter about Programme goods not meeting contractual specifications, which prompted the Chairman to recommend "approv[ing] the inclusion in contracts . . . provisions to safeguard Iraq's commercial rights"); Darko Mocibob interview (July 6, 2004) (noting that OIP raised problems of commercial protection with the 661 Committee from 1999 through the Programme's end, but that the Committee never reached consensus on implementing any changes); Benon Sevan statement at informal Security Council consultations (Nov. 19, 2002) ("I feel duty bound to reiterate yet again that it is essential to provide commercial protection for the Iraqi buyers, the absence of which has long plagued the implementation of the humanitarian programme . . ."). However, sometimes Iraq was able to refuse shipments on account of quality issues or instead required suppliers to decontaminate or disinfect shipments before Iraq would accept them. Mohammed Mehdi Saleh interview (Nov. 18, 2004); Taha Yassin Ramadan interview (Aug. 17, 2005). With regard to the timing of payments, Ms. Johnston noted that OIP feared that permitting Iraq to inspect goods before authentication by the independent inspection agents would have provided additional leverage to demand kickbacks. Felicity Johnston interview (May 26, 2005).

⁴⁹² "Programme Management Report," vol. I, pp. 93-94; Iraq officials interviews. In addition, at least one Iraqi official has denied the existence of any such scheme. Iraq official interviews. The Committee on Governmental Affairs of the United States Senate Permanent Subcommittee on Investigations estimated that the Iraqi regime obtained \$2.1 billion in illicit income by procuring substandard goods. "First Interim Report," pp. 41-42. However, as reiterated above, the Committee does not possess sufficient information to estimate how much, if any, illicit income the Iraqi regime derived from procuring substandard goods.

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substantially increased. Initially, the gap between expected and actual prices was relatively small and likely explained by the uncertain and risky operating environment in Iraq. Later in the Programme, this price gap widened. In part, as discussed above, goods prices were increased to include after-sales-service and inland transportation fees, essentially permitting the suppliers to be reimbursed from the escrow account to cover these illicit payments to the Iraqi regime. However, based on preliminary analysis, the Committee previously suggested that the sheer size of the price differential appeared to exceed the magnitude of these illicit fees.⁴⁹³

Indeed, since the last Report, the Committee has conducted additional analysis of contracts under the Programme, which strongly indicates that the pricing premiums paid by the Government of Iraq to suppliers were even higher and more widespread than initially indicated. As part of its recent review, the Committee compared the pricing of goods included in more than 1,600 humanitarian contracts to available market indices and other data. This subset of contracts represented about one-third of the total value of goods that Iraq procured under the Programme. Even adjusting generously for the suppliers' obligation to assume the cost of transporting goods to Iraq, the prices that the Government of Iraq paid for goods markedly exceeded best estimates of adjusted market prices, a condition that persisted throughout the Programme and deepened as the Programme progressed.

The trends identified in the Committee's more expanded pricing review underscore its earlier findings and also are consistent with analysis contained in a report released in September 2003 by the United States Defense Contract Audit Agency and Defense Contract Management Agency ("DCAA Report"). In order to formulate recommendations for prioritizing and renegotiating of contracts during the Programme's transition to CPA, the DCAA Report analyzed the pricing of 759 already approved and funded contracts, finding potential overpricing in about half of the contracts—totaling approximately \$656 million in potential overpricing on contracts valued in total at \$3.1 billion. The DCAA Report concluded that the most consistent overpricing involved food commodity contracts, where almost nine out of ten contracts examined were determined to be potentially overpriced at an average of twenty-two percent of contract value.⁴⁹⁴

Although highlighting the extreme above-market pricing of humanitarian goods under the Programme, the Committee recognizes the difficulty and inherent complexities in determining appropriate market baselines, especially given the risks and uncertainties that suppliers faced in contracting with Iraq under the Programme. Furthermore, prices were increased to accommodate illicit payments to the Iraqi regime, and margins likely were heightened to attract suppliers, to accommodate middlemen and Iraqi front companies supplying goods, and to reward companies based in countries viewed as supportive of Iraq. For some goods, a wide disparity existed between the highest and lowest prices paid even during a particular phase, further suggesting preferential pricing for particular suppliers. In the last analysis, the reasons for the persistent high

⁴⁹³ "Programme Management Report," vol. I, pp. 101-02.

⁴⁹⁴ United States Joint Defense Contract Audit Agency and Defense Contract Management Agency OFF Pricing Evaluation Team, "Report of the Pricing Evaluation of Contracts Awarded under the Iraq Oil for Food Program," pp. 3-4, 11 (Sept. 12, 2003); "Programme Management Report," vol. II, pp. 183-84.

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premiums over and above market prices are not entirely clear, but this matter likely warrants further investigation and review.

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VI. COMPANY EXAMPLES – OVERVIEW

The remainder of this Chapter reviews the participation of twenty-three companies (or related-company groups) that supplied humanitarian goods (including oil spare parts) to Iraq under the Programme. This discussion of specific companies' conduct contextualizes the operation of the Iraqi regime's kickback scheme, illustrating the manner in which Iraq's demands yielded payments from particular companies and the degree to which many companies were aware of the illicit nature of these payments.

The twenty-three companies in this Chapter's narrative discussion were selected on the basis of several criteria, including: (1) evidence that the company acted as a "front company" for the Iraqi regime (i.e., that it secretly was owned or controlled in part by the Government of Iraq); (2) the size of Programme participation and amount of kickbacks paid; (3) the strength of evidence that kickbacks were paid in connection with the company's contracts; and (4) the degree to which the company's size and reputation suggested that it should have had internal controls to inhibit illicit payments to Iraq.

The Committee stresses, however, that the fact that a particular company has been selected for narrative discussion in this Chapter does not necessarily mean that it is more or less culpable than other companies that paid kickbacks but whose conduct is not discussed in this Chapter. Attached to this Report is a table of *all* companies—more than 2,200 in number—for which the Committee has evidence that kickbacks were paid in connection with Programme contracts.

The twenty-three companies discussed below fall into four general groups:

- *Major Iraqi front companies:* These companies were registered outside Iraq but partly owned by the Government of Iraq, and they facilitated the kickback scheme by serving as collection agents for payments to the Iraqi regime from other contractors and, in some instances, by participating as favored contractors under the Programme;
- *Major food suppliers:* These companies include grain and dairy producers from Australia, Thailand, Egypt, and Vietnam, which generally obtained the largest humanitarian contracts under the Programme and paid large amounts of fees allegedly for "inland transportation" in connection with their shipments by sea to the port of Umm Qasr;
- *Major trading companies:* These companies include several of the major general trading companies that played large roles in furnishing a wide array of general merchandise and paid large amounts of kickbacks in return for Programme contracts; and
- *Major industrial companies of Europe and North America:* These companies generally paid kickbacks on a much smaller scale than larger Programme participants, but did so despite organizational resources that ordinarily would safeguard against the making of such illicit payments.

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Each of the companies discussed below was furnished with prior notice of the Committee's intent to include a description of the company's activity in connection with the Programme and provided with an opportunity to respond. Not all companies responded to this notice. In cases in which a company responded with information relevant to the narrative set forth below, the discussion references the company's response, and a copy has been included at the end of this Chapter if requested by the company.

The Committee further notes that many of the companies discussed below agreed to meet with the Committee's investigators and also to furnish documents and other information to the Committee. The Committee expresses its appreciation to those companies that offered their cooperation. By contrast, where noted below, some companies refused cooperation or furnished very limited cooperation. In such instances, a company's refusal to cooperate suggested a greater likelihood of the company's knowledge of illicit conduct.

The Committee does not have evidence that companies paid humanitarian kickbacks in connection with goods applications submitted through the following permanent missions: (1) Afghanistan; (2) Bosnia and Herzegovina; (3) Cuba; (4) Czech Republic; (5) Former Yugoslav Republic of Macedonia; (6) Ghana; (7) Kazakhstan; (8) Kenya; (9) Malta; (10) Mauritania; (11) Mexico; (12) Monaco; (13) Norway; (14) Philippines; (15) Poland; (16) Republic of Korea; (17) Slovenia; or (18) United States. However, this does not exclude the possibility that companies headquartered, located, or supplying goods from these countries paid or were aware of kickbacks paid through their affiliates or agents located in other countries in connection with contracts submitted through missions other than those listed above.

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VII. IRAQI FRONT COMPANIES

Three of the major Iraqi front companies were: (1) Alia for Transportation and General Trade (“Alia”) of Jordan; (2) Al-Hoda International Trading Co. (“Al-Hoda”) of the United Arab Emirates; and (3) Al Wasel & Babel General Trading LLC (“Al Wasel & Babel”) of the United Arab Emirates.⁴⁹⁵ Each of these companies is discussed in turn.

A. ALIA FOR TRANSPORTATION AND GENERAL TRADE

Alia was established in August 1994 as a joint venture between Hussain Al-Khawam, an Iraqi businessman, and the Iraqi Ministry of Transportation. This arrangement developed from a proposal by Mr. Al-Khawam to refurbish Iraqi vessels stranded off the coast of Jordan and to use them for commercial shipping. At the time of Alia’s registration, Jordanian law required that at least one owner of a Jordan-registered company be a Jordanian national. As a result, Mr. Al-Khawam nominated a close associate, Mo’tasset Fawzy Qatishat, to hold fifty-one percent of the company’s shares on Mr. Al-Khawam’s behalf. The Iraqi Ministry of Transportation assigned two of its employees to hold Alia’s remaining shares.⁴⁹⁶

⁴⁹⁵ The term “front company” is used to describe a company that the Government of Iraq secretly owned in part. The term does not connote that the company had no genuine business operations or that the full scope of its operations was carried on in a fraudulent manner.

⁴⁹⁶ Hussain Al-Khawam interviews (Feb. 23 and 26 and May 24, 2005); Othman Al-Absi interview (May 21, 2005); see also Iraq official interview (noting that Alia was jointly owned by Mr. Khawam and the Ministry of Transportation); Jordanian Ministry of Energy and Trade record, Company registration document, issue no. 3650 (Aug. 21, 1994); Alia record, Contract between ISCWT and Alia (undated). Mr. Al-Khawam was the beneficial majority owner of Alia, and Mr. Al-Absi was Alia’s General Manager. Hussain Al-Khawam interview (Feb. 23, 2005); Othman Al-Absi interview (May 21, 2005). As reflected in the registration document appearing in the text below, by November 10, 2004, the Ministry of Transportation’s nominee shareholders were replaced by the ministry itself. Alia registration (Nov. 10, 2004).

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The Hashemite Kingdom of Jordan
Ministry of Industry and Trade
Companies Control Department



[Handwritten: 16933] [Translation from Arabic-1 page]

| Ref No: | الرقم ش: | 3650/2/ | | | | | | | | | | | | |
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| Date: | الموافق: | 2004/11/10 | | | | | | | | | | | | |
| لمن يهمه الامر | | | | | | | | | | | | | | |
| <p>السادة المسؤولون في وزارة الصناعة والتجارة الذين (عليه التكليل والتجارة) مسجلة لدينا في سجل الشركات ذات المسؤولية المحدودة تحت الرقم (3650) تاريخ (21/08/1994) برأس ملا (820,000) دينار لدائن.</p> <p>و ان الشركاء فيها و مقدار حصة كل منهم كما يلى:</p> <table border="1" style="margin-left: auto; margin-right: auto;"> <thead> <tr> <th>نسبة الشركة بالدولار</th> <th>الجنسية</th> <th>اسم الشركاء المؤسسين</th> <th>الرقم</th> </tr> </thead> <tbody> <tr> <td>420,000,000</td> <td>لبناني</td> <td>مختص فوزي فخريش</td> <td>.1</td> </tr> <tr> <td>400,000,000</td> <td>عربي</td> <td>وزارة قطاع مرافق</td> <td>.2</td> </tr> </tbody> </table> <p>التغييرات:</p> <ul style="list-style-type: none"> - تاريخ 2004/11/10 ثُبّرت الشركة التغيير التالي: * تم إضمام الشركة: أ. لـ: وزارة قطاع مرافق بـ: وزارة قطاع مرافق * تم سحب الشركاء: أ. شاكر عبد العزيز عبد الله بـ: فوزي عبد الجبار نعسان <p>وإن الشركة لا زالت قائمة حسب سجلتنا حتى تاريخه أعطيت هذه الشهادة بناءً على طلب الشركة</p> <p style="text-align: right;">أ.د. التوكيد</p> <p style="text-align: right;">Signed General Companies Controller Abdel-Kareem Al-Ghoraiyah</p> <p style="text-align: center;">*M/ Responsibility</p> <p style="text-align: center;">The following partners were withdrawn: Shaker Abdel-Aziz Abdullah Fawzia Abdel-Majeed No'man</p> <p style="text-align: center;">To date, the company is still in operation according to our files This certificate was provided based on the company's request</p> <p style="text-align: center;">5684979 - 5604691 - 5602121 - 5607191 - 5684692 - 5602121 - 5604691 - 5602121 - 5684979 ص.ب. 21163 مطر جابر (2019) عمان - الأردن - تلفون: 011181 - فاكس: 011181 - 5684979 Tel. 5607191 - 5602121 - Fax. 5684692 - 5604691 - 5684979 p.o box (2019) 11181 Amman - Jordan Telex: 21163 Mintt JO - 21278 Minsup Jo email: info@mit.gov.jo - Web Site: www.mit.gov.jo</p> | | | نسبة الشركة بالدولار | الجنسية | اسم الشركاء المؤسسين | الرقم | 420,000,000 | لبناني | مختص فوزي فخريش | .1 | 400,000,000 | عربي | وزارة قطاع مرافق | .2 |
| نسبة الشركة بالدولار | الجنسية | اسم الشركاء المؤسسين | الرقم | | | | | | | | | | | |
| 420,000,000 | لبناني | مختص فوزي فخريش | .1 | | | | | | | | | | | |
| 400,000,000 | عربي | وزارة قطاع مرافق | .2 | | | | | | | | | | | |

Figure: Alia registration (Nov. 10, 2004).

In 1999, the Ministry of Transportation arranged with Alia to have it act as ISCWT's collection agent for suppliers' payments for the inland transportation of goods arriving at the port of Umm Qasr. As collection agent, Alia received a small commission on the funds it channeled from suppliers to ISCWT. According to bank records, Alia began receiving fees from suppliers as early as March 2000.⁴⁹⁷

⁴⁹⁷ Hussain Al-Khawam interview (May 24, 2005); Othman Al-Absi interview (May 21, 2005); Alia record, Alia agency agreement with ISCWT (Nov. 1, 2001); Jordan National Bank record, Alia accounts and statements (Mar. 2000 to Mar. 2003). According to Alia, the ministry officials who proposed this arrangement to Alia falsely claimed that the United Nations had approved Iraq's transportation fees and that all revenues derived from this tariff would be spent on gasoline, tires, trucks, spare parts, and employee salaries. However, Alia never discussed this supposed approval with the United Nations, and the United Nations never contacted Alia to inquire about Alia's relationship with the Government of Iraq. Hussain Al-Khawam interview (May 24, 2005); Othman Al-Absi interview (May 21, 2005); Committee meeting with Alia (Oct. 10, 2005). Although Alia acted merely as a collection agent with respect to inland transportation services, it regularly provided limited protective agency and port services to suppliers delivering humanitarian goods to Umm Qasr and tankers lifting oil from Mina al-Bakr. These services ranged from

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The agent arrangement with Alia was useful to the Government of Iraq. As noted in Section II.B above, Alia violated and assisted in violating the United Nations sanctions regime, which prohibited any third party from engaging in financial transactions with the Government of Iraq except as permitted under the Programme or Security Council resolutions. By arranging for suppliers to make illicit payments to a Jordanian company such as Alia—instead of directly to ISCWT or another governmental entity of Iraq—the Iraqi regime disguised the illicit nature of such payments.⁴⁹⁸

In fact, all transportation services for which Alia received payment from humanitarian suppliers were provided by employees of the Government of Iraq. Transport of goods arriving at Umm Qasr was provided by trucks from the Ministry of Transportation or the Iraqi Grain Board (“IGB”). When asked how much of the fees paid by Alia to ISCWT were used for the true costs of transport, Alia’s general manager stated: “There were no actual costs. The driver got maybe \$10. This was a payment to the Government of Iraq.” Alia’s general manager was unaware whether the actual costs for transport had any bearing on the transportation fee charged and collected by Alia.⁴⁹⁹

Following the conclusion of contract negotiations between an Iraqi purchasing body and a supplier, ISCWT contacted Alia by fax, letter, or telephone and informed Alia of the amount that was to be received from the supplier. On some occasions, ISCWT contacted the supplier directly to advise the supplier that it should send payment to Alia or sent the same invoice to the supplier that it sent to Alia. On other occasions, Alia sent invoices to suppliers indicating the amounts levied by ISCWT. Representatives of ISCWT came to Alia’s office every month to inspect the company’s records, and ISCWT also sent an employee to work at Alia.⁵⁰⁰

\$3,000 to \$12,000 per vessel and involved arranging cranes, ensuring safe berthing, and paying port fees, if necessary. Alia was remunerated separately for these services and was not required to remit any revenues accrued in this manner to the Government of Iraq. Othman Al-Absi interview (May 21, 2005).

⁴⁹⁸ Also, as noted in Section II.B of this Chapter, the United Nations had received reports that suppliers were making payments to Alia, and OLA surmised that Alia had some kind of contractual relationship with the Government of Iraq. OLA issued an opinion that payments to Alia would not be permissible unless approved by the 661 Committee, and the United Nations later warned the Government of Iraq that payments to Alia would be illegal without approval. There is no indication that such warnings were communicated from the United Nation to suppliers under the Programme.

⁴⁹⁹ Hussain Al-Khawam interview (May 24, 2005); Othman Al-Absi interview (May 21, 2005); Confidential witness interview (stating that actual transportation costs were a minor part of the transportation fee).

⁵⁰⁰ Hussain Al-Khawam interview (May 24, 2005); Othman Al-Absi interview (May 21, 2005); Arvind Sarin interview (Mar. 3, 2005); Chaiyaporn interview; Chee Ah What and Hazmat Khan interview (July 25, 2005); Confidential witness interview; see also M.G. Mahgami and K. Divakran interview (Sept. 24, 2005) (disclosing correspondence of September 1, 2002 from ISCWT to a shipping company, of which Mr. Mahgami and Mr. Divakran are principals, directing the company “to arrange remittance of funds to us through Alia for Transportations [*sic*] and General Trading Co.”).

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Suppliers paid their fees in various foreign currencies (not Iraqi dinars) to Alia's accounts at Jordan National Bank and the Egyptian Arab Land Bank. Upon receipt of the funds, Alia informed ISCWT of the amount of the transfer and the corresponding supplier, contract, ship, and letter of credit. Below is one such example of a letter from Alia to ISCWT, advising of its receipt of payment on ISCWT's behalf:⁵⁰¹



Figure: Alia letter to ISCWT (Nov. 20, 2002).

Shortly after sending such communications, Alia transferred the full payment amount (less a commission between one-quarter percent and one percent) to ISCWT's account at Rafidain Bank in Amman. For these transfers, Alia used accounts in various foreign exchange currencies. In total, between March 2000 and December 2003, the payments passing through Alia's bank accounts in Jordan National Bank amounted to a USD equivalent of more than \$788 million.⁵⁰²

⁵⁰¹ Committee meeting with Alia (Oct. 10, 2005) (confirming that Alia made payments through both Jordan National Bank and Arab Land Bank); Arvind Sarin interview (Mar. 3, 2005); Wyawaddy Trading Limited letter to Iraq State Company for Food Stuff Trading (Aug. 29, 2002) (informing of a transfer of “the amount to be paid for the [land transport] charges to the account of M/S Alia for Transportation & General Trade Co.”); Jordan National Bank record, Alia accounts and statements (Mar. 2000 to Mar. 2003); Alia letter to ISCWT (Nov. 20, 2002).

⁵⁰² Hussain Al-Khawam interview (May 24, 2005); Othman Al-Absi interview (May 21, 2005); Iraq officials interview; Confidential witness interview; Committee meeting with Alia (Oct. 10, 2005) (acknowledging that Alia received commissions on payments transferred to ISCWT); Jordan National Bank record, Alia accounts and statements (Mar. 2000 to Dec. 2003) (containing payments in currencies of the United States, the United Kingdom, Japan, Germany, and Switzerland). In December 2000, Iraq reduced Alia's commission to one-quarter percent. Hussain Al-Khawam interview (May 24, 2005); Ministry of

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Apart from acting as a collection agent, Alia also engaged in five sales contracts under the Programme. During Phase VIII of the Programme, Alia contracted to supply Toyota vehicles and spare parts. For these two contracts, Alia paid a total of \$1,246,072 in after-sales-service fees (in cash and in kind) and \$90,900 in inland transportation fees, totaling \$1,336,972. With respect to one of these contracts, COMM no. 800929, Alia disputed the characterization of its payment as an “after-sales-service” fee, referring to the payment merely as an “extra fee.” Additionally, Alia advised that it inflated the price of this contract by more than \$4,000 per vehicle at the Government of Iraq’s request and then used the extra revenue to purchase fifty more vehicles that it shipped without inspection to Iraq.⁵⁰³

In summary, based on the available evidence, Alia knowingly acted as a front company, serving as a conduit for collecting hundreds of millions of dollars in illicit fees paid by suppliers to the Iraqi regime. Alia further made illicit payments totaling \$1,336,972 in connection with its own contracts under the Programme.

B. AL-HODA INTERNATIONAL TRADING CO.

Al-Hoda was an Iraqi front company formed in May 2000 in the United Arab Emirates for the purpose of entering into contracts during the Programme. It was half-owned by the Al-Khawam family, which also owned Alia (as discussed above). The remaining half was split in a sixty-forty share by Iraq’s Ministry of Finance and Ministry of Oil. The agreement creating Al-Hoda was signed on behalf of the Al-Khawam family by Ali Al-Khawam, as the Chairman of the Al-Khawam family of businesses, and Riyadh Al-Khawam, as Chairman of Al-Hoda. According to Riyadh Al-Khawam, the Al-Khawam family invested \$2 million to start the company, while the Iraqi ministries made no initial investment.⁵⁰⁴

Al-Hoda entered into fifty-five contracts from Phases VI through XI of the Programme, resulting in the sale of more than \$120.8 million of a variety of goods, including foodstuffs, construction materials, automobiles, water tankers, soap and detergent, and firefighting equipment. Al-Hoda’s customers were a broad range of Iraqi entities, including the State Trading Company for Construction Materials, the State Company for Food Stuff Trading, the General Establishment for Water and Sewerage, the Ministry of Irrigation, the State Company for Shopping Centers, the State Company for Transportation, the State Trading Company for Construction Materials, the

Transportation record, Mohammed Mehdi Saleh letter to ISCTWT (Dec. 21, 2000) (translated from Arabic). The calculation for payments transmitted through Alia’s accounts is based on all deposits into Alia’s accounts that had one or more transactions referencing a ship name, a BNP letter of credit number, or ISCTWT. The exact data on what portion of these payments was related directly to the Programme is unavailable.

⁵⁰³ Committee humanitarian contractor table and TaR, COMM nos. 600810, 600812, 800481, 800929, 1200663; Committee humanitarian kickback table, COMM nos. 800481, 800929; Committee meeting with Alia (Oct. 10, 2005). For purposes of the Committee’s calculations, the inflated cost of vehicles under COMM no. 800929 is included in calculations for the after-sales-service fees.

⁵⁰⁴ Riyadh Al-Khawam interviews (Feb. 26, Mar. 29, and May 12, 2005).

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General Company for the Ports of Iraq, the Ministry of Housing and Construction, and the Economics and Finance Department.⁵⁰⁵

When interviewed, Riyadh Al-Khawam acknowledged that Al-Hoda paid a ten percent after-sales-service fee that was added to its contracts. The kickback fee ordinarily was memorialized in a side agreement. Al-Hoda paid the kickback fee in cash to an account at the Rafidain Bank in Amman. Once the fee was paid, the bank notified the appropriate Iraqi ministry of the fact of payment, and the ministry then instructed Al-Hoda to ship the goods.⁵⁰⁶

Mr. Al-Khawam did not recall whether Al-Hoda paid inland transportation fees on any of the contracts that it executed under the Programme. Yet several of Al-Hoda's side agreements obtained by the Committee from the Government of Iraq reflect Al-Hoda's undertaking to pay inland transportation fees.⁵⁰⁷

Based on fifty-three of Al-Hoda's contracts from Phases VI through XI of the Programme, the Committee calculates that Al-Hoda paid kickbacks of approximately \$8.1 million in the form of after-sales-service fees and an undetermined amount in the form of inland transportation fees in connection with goods that it shipped through Umm Qasr.⁵⁰⁸

⁵⁰⁵ Committee humanitarian contractor table and TaR, COMM nos. 601939, 601940, 602071, 800205, 800206, 800221, 800237, 800342, 800386, 800445, 800471, 800562, 800658, 800763, 800764, 800942, 801588, 801589, 801590, 801607, 801641, 801950, 802266, 802552, 830083, 900061, 900191, 900192, 900193, 900217, 900218, 900219, 900220, 900221, 901091, 901092, 901205, 930061, 930137, 1000151, 1000391, 1000392, 1000393, 1000431, 1000432, 1001312, 1002229, 1030272, 1030467, 1100162, 1100275, 1100555, 1100750, 1100789, 1101101. Although Al-Hoda's first contracts were allocated under Phase VI of the Programme, which lasted from May to December 1999, its first contract (COMM no. 601939) was not signed until October 2000.

⁵⁰⁶ Riyadh Al-Khawam interviews (Mar. 29 and May 12, 2005). Iraqi records include eight side agreements executed by Al-Hoda in connection with funded contracts. Company side agreements, COMM nos. 601939 (Oct. 22, 2000), 601940 (Oct. 23, 2000), 800763 (Oct. 23, 2000), 800764 (Oct. 23, 2000), 801588 (undated), 801950 (Oct. 23, 2000), 901205 (undated), 1030272 (undated). Iraqi records include another six side agreements for Al-Hoda contracts that were signed, but ultimately not approved or executed. Company side agreements, COMM nos. 930136 (Mar. 29, 2001), 1101400 (June 5, 2002), 1130448 (June 25, 2002), 1130472 (undated), 1130491 (undated), 1230587 (May 18, 2002).

⁵⁰⁷ Riyadh Al-Khawam interviews (Mar. 29 and May 12, 2005); Company side agreements, COMM nos. 601939 (Oct. 22, 2000), 601940 (Oct. 23, 2000), 800763 (Oct. 23, 2000), 800764 (Oct. 23, 2000), 801950 (Oct. 23, 2000). Al-Hoda also executed a side agreement that included an undertaking to pay inland transportation fees in connection with a contract that never was executed. Company side agreement, COMM no. 1101400 (June 5, 2002).

⁵⁰⁸ Committee humanitarian kickback table, COMM nos. 601939, 601940, 800205, 800206, 800221, 800237, 800342, 800386, 800471, 800562, 800658, 800763, 800764, 800942, 801588, 801589, 801590, 801607, 801641, 801950, 802266, 802552, 830083, 900061, 900191, 900192, 900193, 900217, 900218, 900219, 900220, 900221, 901091, 901092, 901205, 930061, 930137, 1000151, 1000391, 1000392, 1000393, 1000431, 1000432, 1001312, 1002229, 1030272, 1030467, 1100162, 1100275, 1100555, 1100750, 1100789, 1101101.

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Apart from its role as one of the largest humanitarian suppliers, Al-Hoda also purchased more than twenty-three million barrels of Iraqi oil. According to Mr. Al-Khawam, Al-Hoda agreed to pay Iraq's request for oil surcharges. SOMO records reflect payment of more than \$4.1 million in surcharges for oil purchased by Al-Hoda.⁵⁰⁹

Al-Hoda was advised of the substance of the description of its activities in this Report. In response, it advised the Committee that the Iraqi payment policies were "the standard systematic procedure which was rigidly adopted and followed by the Iraqi authorities concerned at the time and, as you are already aware, this procedure was literally implemented for compulsory compliance by all contracting companies and vendors without any exception."⁵¹⁰

In summary, based on the available evidence, Al-Hoda knowingly breached the Programme's rules and United Nations sanctions by approximately \$8.1 million in the form of after-sales-service fees and an undetermined amount in the form of inland transportation fees to the Iraqi regime. In addition, Iraqi records reflect the payment of more than \$4.1 million in surcharges for Al-Hoda's oil purchases.

C. AL WASEL & BABEL GENERAL TRADING LLC

Another front company used by Iraq to subvert the Programme was Al Wasel & Babel of the United Arab Emirates, which also was created to do business under the Programme. Ibrahim Lootah, a citizen of the United Arab Emirates, owned fifty-one percent of the company, and Iraq's Ministry of Finance owned the remaining forty-nine percent. The Iraqi regime's partial ownership of Al Wasel & Babel was hidden by listing an Iraqi citizen, Hikmat Jergi, as owner of the regime's interest in the company. Al Wasel & Babel had an office in Baghdad, and it maintained accounts at the Abu Dhabi Commercial Bank in Dubai. Mr. Lootah permitted Mr. Jergi and another Iraqi national, Tarek Al-Obeidi, to open accounts and act as signatories for transactions from these bank accounts.⁵¹¹

Al Wasel & Babel emerged as a major conduit for after-sales-service fees and oil surcharges. Contracting companies deposited fees or surcharges into an Al Wasel & Babel account at Abu

⁵⁰⁹ Committee oil company table, contract nos. M/09/15, M/10/22, M/10/106, M/11/20, M/11/40, M/11/93, M/12/36; Riyadh Al-Khawam interviews (Mar. 29 and May 12, 2005); Committee oil surcharge table, contract nos. M/09/15, M/10/22, M/10/106, M/11/20, M/11/93, M/11/40.

⁵¹⁰ Al-Hoda letter to the Committee (Sept. 29, 2005).

⁵¹¹ Ibrahim Lootah interview (May 3, 2005); Ibrahim and Abdullah Lootah interview (Dec. 18, 2004). Abdullah Lootah is the son of Ibrahim Lootah. When Abdullah Lootah was first interviewed in December 2004, he claimed that Al Wasel & Babel was not owned partly by the Government of Iraq and denied knowledge of the Iraqi regime's use of Al Wasel & Babel as a front company. Ibid.; see also Hikmat Al-Azzawi interviews (Nov. 18, 2004 and Aug. 21, 2005) (former Minister of Finance who identified Al Wasel & Babel as partly owned by Ministry of Finance and one of the front companies used by Iraq to channel payments of fees); Iraq official interviews (acknowledging the status and use of Al Wasel & Babel as a front company).

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Dhabi Commercial Bank, and Al Wasel & Babel transferred the money to a Jordanian Bank account held in the name of two individual nominees for the Central Bank of Iraq and who then re-transferred the funds to a Central Bank of Iraq account at the Rafidain Bank in Amman, Jordan. Although the Committee does not have complete records of Al Wasel & Babel's payments, it has obtained records for one account from the Jordan National Bank. These records reflect that, during 2001 and 2002, payments of approximately \$31.5 million in various currencies were made by Al Wasel & Babel to the Central Bank of Iraq's nominee account at the Jordan National Bank.⁵¹²

The transfers from Al Wasel & Babel's accounts in Dubai were made by the Iraqi representatives (Mr. Jergi and Mr. Al-Obeidi) who controlled the accounts. Al Wasel & Babel derived a commission of approximately one-quarter percent for payments processed through its account. When asked about this commission fee, Mr. Lootah replied: "Why not get easy money?"⁵¹³

Moreover, on at least one occasion, as described in Chapter 2 of this Report, Al Wasel & Babel facilitated the payment of an oil surcharge by a company that purchased oil from Iraq. In March 2001, Italtech, an Italian company that operated as a front company for the United States company Bayoil, paid at least \$6.1 million in oil surcharges through Al Wasel & Babel. These transactions were masked by fictitious, backdated contracts executed between Italtech and Al Wasel & Babel, purportedly for the sale of oil by Al Wasel & Babel to Italtech.⁵¹⁴

In addition to acting as a conduit for the transfer of illicit payments by other companies to the Iraqi regime, Al Wasel & Babel was itself a major Programme contractor, ranking seventh on the list of Iraq's largest suppliers with more than \$384 million in payments from the escrow account for Programme contracts. Beginning in Phase VI of the Programme and continuing to the Programme's end, Al Wasel & Babel executed eighty-two contracts to supply goods to at least thirteen Iraqi entities, including Ministries of Irrigation, Trade, and Education. The goods supplied varied widely and included construction materials, foodstuffs, automobiles and automobile parts and accessories, and soap and detergent.⁵¹⁵

⁵¹² Ibrahim Lootah interview (May 3, 2005) (noting Al Wasel & Babel accounts in Dubai and transfers to an Iraqi-controlled account at the Jordan National Bank); Jordan National Bank record, Iraqi-controlled account, bank statements (2001-2002) (showing incoming transfers from Al Wasel & Babel and to the Central Bank of Iraq).

⁵¹³ Ibrahim Lootah interview (May 3, 2005).

⁵¹⁴ Augusto Giangrandi interviews (Apr. 25 and 27-28, 2005); Ibrahim Lootah interview (May 3, 2005); Confidential witness interviews; Committee oil company table, contract nos. M/01/07 (contracting with Bayoil); M/07/51, M/08/116, M/08/120, M/09/07 (contracting with Italtech); Committee oil surcharge table, contract no. M/09/07 (contracting with Italtech).

⁵¹⁵ Committee humanitarian contractor table and TaR, COMM nos. 601950, 601955, 602005, 602006, 602009, 602052, 700446, 700717, 700719, 700986, 701494, 702190, 702305, 702606, 702775, 800027, 800033, 800063, 800146, 800337, 800341, 800344, 800345, 800346, 800467, 800468, 800560, 800571, 800632, 800940, 800943, 800945, 800950, 801047, 801403, 801442, 801443, 801444, 801445, 801446,

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When interviewed, both Ibrahim and Abdullah Lootah acknowledged that Al Wasel & Babel paid after-sales-service fees on its contracts with Iraq and that these payments were required in order to secure contracts. Ibrahim Lootah also acknowledged the payment of transportation fees to Iraq. Al Wasel & Babel learned of the after-sales-service policy when it received a letter from one of the Iraqi ministries announcing the ten percent policy. Consistent with the acknowledgement of Al Wasel & Babel officials, a review of Iraqi ministry files reveals that Al Wasel & Babel executed many written side agreements requiring the payment of after-sales service fees.⁵¹⁶

For Al Wasel & Babel's own contracts under the Programme, the Committee calculates that, in connection with seventy-six contracts, Al Wasel & Babel paid more than \$19.4 million in after-sales-service fees and also an undetermined amount in the form of inland transportation fees in connection with goods that were shipped through Umm Qasr.⁵¹⁷

In summary, Al Wasel & Babel knowingly breached the Programme's rules and United Nations sanctions in two ways. First, it served as a front company, collecting and forwarding illicit kickback payments from goods suppliers to the Iraqi regime. Second, in connection with the large number of contracts that it obtained under the Programme, Al Wasel & Babel paid over \$19.4 million in kickbacks.

801480, 801481, 801483, 801484, 801606, 801643, 801644, 801645, 801709, 801929, 801996, 802068, 802111, 802112, 802338, 802520, 802602, 802685, 802819, 802941, 900358, 900359, 900772, 900808, 901208, 901838, 901839, 901857, 901858, 901860, 1000099, 1000100, 1000103, 1000104, 1000395, 1000787, 1030210, 1100142, 1100552, 1100787, 1200217, 1200242.

⁵¹⁶ Ibrahim Lootah interview (May 3, 2005); Ibrahim and Abdullah Lootah interview (Dec. 18, 2004). Iraqi records include eighteen side agreements executed by Al Wasel & Babel in connection with funded contracts. Company side agreements, COMM nos. 800063 (Aug. 19, 2000), 800940 (Nov. 14, 2000), 800943 (Nov. 14, 2000), 800945 (Nov. 14, 2000), 801444 (Dec. 20, 2000), 801445 (Dec. 20, 2000), 801606 (Dec. 20, 2000), 801643 (Dec. 20, 2000), 801644 (Dec. 20, 2000), 801645 (Dec. 20, 2000), 802941 (Aug. 27, 2001), 900772 (Dec. 20, 2000), 901208 (Dec. 20, 2000), 901838 (Aug. 27, 2001), 901839 (Aug. 27, 2001), 901857 (Aug. 27, 2001), 901858 (Aug. 27, 2001), 901860 (Aug. 27, 2001). Iraqi records also include another thirteen side agreements for Al Wasel & Babel contracts that were signed but ultimately not approved or executed. Company side agreements, COMM nos. 800247 (Sept. 10, 2000), 800248 (Sept. 10, 2000), 800249 (Sept. 10, 2000), 800466 (Sept. 26, 2000), 800467 (Sept. 26, 2000), 800939 (Nov. 14, 2000), 800944 (Nov. 14, 2000), 801646 (Dec. 20, 2000), 901840 (Aug. 27, 2001), 1001698 (Dec. 11, 2001), 1001699 (Dec. 11, 2001), 1030558 (Oct. 30, 2001), 1102022 (Oct. 31, 2002).

⁵¹⁷ Committee humanitarian kickback table (based on each of the eighty-two COMM numbers cited above for Al Wasel & Babel contracts, except COMM nos. 602005, 602006, 602009, 602052, 700446, 700719, 702775, 800560, 800632, and with the addition of two unexecuted contracts, COMM nos. 801646, 1000614).

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VIII. MAJOR FOOD COMPANIES

The five largest suppliers to Iraq during the Programme were all foodstuffs companies: AWB Ltd. (“AWB”) of Australia, Chaiyaporn Rice Company Ltd. (“Chaiyaporn”) of Thailand, the Holding Company for Food Industries (“Holding Company”) of Egypt, the Vietnam Northern Food Corporation (“Vinafood”), and Vietnam Dairy Joint Stock Company (“Vinamilk”). These five companies collectively accounted for about \$5 billion in contracts—nearly one-sixth of all humanitarian payments from the United Nations escrow account.

A. AWB LTD.

AWB was established in 1939 as the Australian Wheat Board. Between its founding and 1999, the Australian Wheat Board functioned as a statutory body of the Government of Australia to control the domestic and export marketing of Australian wheat. By July 1999, Australia enacted legislation to transfer control of the Australian Wheat Board to a grower-owned corporate group of companies. In August 2001, AWB Ltd. was placed on the Australian Stock Exchange as a publicly traded company. AWB Ltd. is the exclusive manager and marketer of all Australian bulk wheat exports through a supply pooling system arrangement with Australian wheat growers.⁵¹⁸

According to AWB, it has sold wheat to Iraq continuously since 1948. It was the single largest provider of humanitarian goods to Iraq under the Programme and participated in all thirteen phases of the Programme from 1997 to 2003—selling a total of 6.8 million tons of wheat to Iraq and receiving a total of over \$2.3 billion in payments from the United Nations escrow account. During each Programme phase, AWB negotiated several contracts with IGB for up to several hundred thousand metric tons of wheat per contract; each contract ordinarily required up to ten or more individual shipments in ocean freighters from Australia to Iraq’s port of Umm Qasr.⁵¹⁹

For the first five phases of the Programme, AWB’s contracts with IGB required shipment of its wheat only up to the point of entry to Iraq. In July 1999, however, AWB and IGB agreed to a new contractual term requiring AWB to assume the cost of inland transportation to points within Iraq from the port of Umm Qasr. The new contract term provided: “CIF Free on Truck to Silo

⁵¹⁸ AWB letter to the Committee (June 29, 2005) (Attachment A – History and structure of AWB Limited); AWB, “Corporate History,” <http://www.awb.com.au/AWBL/Launch/Site/AboutAWB/Content/AboutAWB/CorporateHistory>; Trevor Flugge interview (Mar. 2, 2005). Mr. Flugge served as Non-Executive Chairman of AWB from 1995 to 2002. Ibid.

⁵¹⁹ AWB letter to the Committee (Oct. 12, 2005); Committee humanitarian contractor table and TaR, COMM nos. 1, 83, 372, 578, 835, 1001, 1032, 1102, 3029, 3030, 3031, 4107, 4108, 4109, 4988, 50220, 50226, 50227, 50228, 50408, 50409, 600078, 600079, 600080, 600744, 700032, 700033, 700034, 800030, 800031, 800032, 800667, 900011, 900012, 1000002, 1000117, 1100013, 1100014, 1200083, 1201376, 1300016; Michael Long interview (Mar. 1, 2005) (describing the size of contracts and shipments). Mr. Long was AWB’s General Manager for International Sales and Marketing from November 2001 through the end of the Programme. Ibid.

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All Governorates via Umm Qasr Port.” According to AWB, this amended provision was proposed by IGB. The “inland transportation” provision became standard in all AWB contracts for the remainder of the Programme.⁵²⁰

AWB did not have its own trucking fleet in Iraq. And, as discussed earlier in this Chapter, goods suppliers such as AWB could not directly pay the Government of Iraq or an Iraqi company for the cost of inland transportation without violating United Nations sanctions and the Programme’s rules, which allowed financial transactions with the government and Iraqi entities only through the United Nations escrow account.⁵²¹

As noted above, however, AWB paid its inland transportation fees to Alia Transportation of Jordan. Moreover, as noted in Section VII.A above, Alia was owned partly by Iraq’s Ministry of Transportation and acted as a collection agent for the Government of Iraq’s inland transportation payments from certain humanitarian goods suppliers. Transportation of goods from Umm Qasr to inland destinations in fact was provided by Iraqi government employees, not by Alia, and AWB’s payments to Alia were tantamount to payments to the Government of Iraq for nominally the provision of inland transportation services.

A more extended discussion of AWB’s activities is warranted because of the size of AWB’s participation in the Programme and the considerable complexity surrounding AWB’s understanding of the nature and disposition of its payments to Alia. The following discussion first describes the payments AWB made to Alia. It then reviews the evidence concerning the extent to which AWB was advised of Alia’s relationship to the Iraqi regime and whether AWB was aware that payments to Alia were being channeled to the regime.

1. AWB’s Payments to Alia

AWB paid transportation fees to Alia from December 1999 through the remainder of the Programme. In connection with AWB’s first three contracts from late 1999 to mid-2000, transport costs ranged between \$10.80 and \$12 per metric ton (“pmt”). The rates rose to between \$14 and \$15 pmt in 2000, and then sharply increased for contracts from 2001 to the spring of 2003 to between \$45 and \$56 pmt.⁵²²

⁵²⁰ Contract between AWB and IGB, COMM no. 600078 (July 14, 2000); AWB letter to the Committee, p. 2 (June 29, 2005) (stating that “[i]n June 1999, the Iraqi Grain Board (IGB) invited AWB to respond to a wheat tender that included a new price term ‘CIF free on truck at all governorates’”).

⁵²¹ S/RES/661, para. 4 (Aug. 6, 1990) (prohibiting financial transactions with Iraq); S/RES/986, paras. 1, 6-8 (Apr. 14, 1995) (authorizing financial transactions involving payments to and from escrow account established by the Secretary-General).

⁵²² AWB schedule and accounts; see also AWB letter to the Committee (June 29, 2005) (stating that “[t]he inland trucking component varied over time” and that, “to the best of our knowledge and calculations,” contracts executed in Phase VI involved transportation fees of \$12 pmt, contracts executed in Phases VII and VIII involved transportation fees of \$15 pmt, and contracts executed after Phase VIII involved transportation fees of between \$44 and \$47 pmt).

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This steep increase in inland transportation fees coincided with the expansion of Iraq's humanitarian kickback policies in the second half of 2000. For example, AWB paid a rate of approximately \$14 pmt for the wheat shipped on a contract executed in July 2000.⁵²³ From August to November 2000 (as described earlier in this Chapter), Iraq increased its demands for kickbacks from suppliers in accordance with official memoranda issued from high-level Iraqi officials to all ministries.⁵²⁴ After these policy changes went into effect, AWB's next contract with Iraq was signed in November 2000. For this contract, the transportation fees that AWB paid more than doubled what was previously charged.⁵²⁵

When interviewed, Iraq's former Minister of Trade recalled that AWB paid after-sales-service fees on all contracts where such fees had been levied. As described earlier in this Chapter, Iraq's imposition of kickbacks in the form of after-sales-service fees often were incorporated into pre-existing transportation fees, leading to large increases in the inland transportation costs that ISCTW and its front companies demanded in 2001 and 2002. Records from the Ministry of Transportation relating to the distribution of funds received by Alia indicate that AWB's remittances to Alia in fact did contain an after-sales-service component. One example of such records, an accounting receipt relating to funds paid by AWB for the transportation of wheat delivered to Umm Qasr by the vessel *Bei Hai*, is discussed in Section III.B above. In light of evidence indicating that the actual transportation fees levied by the Ministry of Transportation remained constant at \$25 pmt, the after-sales-service component of AWB's payments to Alia appears to have ranged from \$20 to \$31 pmt.⁵²⁶

⁵²³ Programme contract, COMM no. 800032 (July 16, 2000) (quoting a total contract price of \$175 pmt); AWB schedule and accounts (showing an average fee of \$14 pmt for the sixteen shipments on this contract).

⁵²⁴ Ministry of Oil record, Taha Yassin Ramadan memorandum to Iraqi Ministries (Aug. 3, 2000) (translated from Arabic) (announcing policy of two to five percent kickback for food and medicine and increased transportation fees); Ministry of Oil record, Hikmat Al-Azzawi memorandum to Iraqi Ministries (Nov. 6, 2000) (translated from Arabic) (assigning responsibility to ISCTW to collect after-sales-service fees in conjunction with inland transportation fees).

⁵²⁵ Programme contract, COMM no. 800667 (Nov. 2, 2000) (quoting a total contract price of DM489.06 pmt, which was approximately \$215 on this date); OANDA, "Currency Converter," <http://www.oanda.com> (converting DM to USD); AWB schedule and accounts (showing an average fee of \$45.43 pmt for eleven shipments).

⁵²⁶ Mohammed Mehdi Saleh interview (Nov. 18, 2004); AWB schedule and accounts; Ministry of Transportation record, Forms for transferring MOU goods (June 1, 2002) (discussing the distribution of goods paid by AWB to Alia in connection with the vessel *Bei Hai*), (June 12, 2002) (discussing the distribution of goods paid by AWB to Alia in connection with the vessel *Captain John L*), (June 13, 2002) (discussing the distribution of goods paid by AWB to Alia in connection with the vessel *Silver Mei*), (Oct. 8, 2002) (discussing the distribution of goods paid by AWB to Alia in connection with the vessel *Andros*); Ministry of Transportation record, "Australian Wheat Board Payment, Schedule of Amounts Received") (noting the inclusion of after-sales-service fees on the vessels *Andros* and *Supersonic*).

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AWB did not advise the United Nations that it was making payments to Alia for inland transportation costs. When the costs of inland transportation were included first in AWB's contracts during Phase VI, the first several contracts submitted for United Nations review and approval advised that payments of "discharge costs" up to \$12 pmt would be paid to unnamed "Maritime Agents." For contracts from Phase VII and afterwards, AWB did not disclose the payment of any "Maritime Agents." Nor was there disclosure of the amount of such payments,⁵²⁷ even as the proportion of contract price attributable to transportation fees increased over time.⁵²⁷

In total, AWB paid a total of over \$221.7 million in side payments for what it termed inland transportation fees. This corresponds to more than fourteen percent of the illicit funds collected by the Iraqi regime under its kickback schemes.⁵²⁸

2. Knowledge of AWB Employees

Little doubt remains that AWB made large numbers of payments to Alia, and these payments in turn were channeled to the Iraqi regime. A closer question, however, concerns the knowledge of AWB employees about Alia's relationship with the Iraqi regime and Alia's practice of remitting funds to the Government of Iraq. On the one hand, AWB has advised the Committee that it believed that Alia was providing actual transportation services. AWB states that it did not know that Alia was owned partially by the Government of Iraq or that payments by AWB to Alia were channeled to the Government of Iraq.⁵²⁹

⁵²⁷ Compare, e.g., AWB Ltd. Australian Wheat contract, contract no. A4653 (July 14, 1999) (COMM no. 600078) (providing that "[t]he cargo will be discharged Free into Truck to all silos within all Governorates [sic] of Iraq" and that "[t]he discharge costs will be a maximum of USD 12.00 and shall be paid by Sellers to the nominated Maritime Agents in Iraq"), with AWB Ltd. Australian Wheat contract, contract no. A4972 (Jan. 20, 2000) (COMM no. 700033) (stating that "[t]he cargo will be discharged Free into Truck to all silos within al Governorates [sic] of Iraq" but not identifying the amount to be paid for trucking).

⁵²⁸ Committee humanitarian kickback table, COMM nos. 600078, 600079, 600080, 600744, 700032, 700033, 700034, 800030, 800031, 800032, 800667, 900011, 900012, 1000002, 1000117, 1100013, 1100014, 1200083, 1300016. Although AWB was advised that its payments were for inland transportation fees, Iraq allocated approximately \$82.5 million of these payments as after-sales-service fees.

⁵²⁹ AWB letters to the Committee (Oct. 12 and Oct. 25, 2005); Committee meeting with AWB (Oct. 12, 2005); Andrew Lindberg interview (Feb. 28, 2005) (Managing Director of AWB noting that he had learned late in the Programme that AWB had been using a trucking company nominated by Iraq, that AWB had no choice in selection of the trucking company, and that he was not aware that Alia channeled funds to the Government of Iraq); Michael Long interview (Mar. 1, 2005) (stating his view that Alia was "clearly a transport company" based in Jordan that provided a genuine service and that he was not aware that money paid to Alia for inland transportation fees was transferred to ISCWT or IGB); Trevor Flugge interview (Mar. 2, 2005) (former Non-Executive Chairman of AWB from 1995 to 2002 stating that he was aware that contracts had inland transportation components but not aware of arrangements for inland transportation in Iraq); Nigel Edmonds-Wilson signed statement (Oct. 24, 2005) (signed statement of an AWB account manager submitted by AWB to the Committee stating that he visited Alia's office in 2001 and did not know or believe that Alia was a front company, that it channeled payments to the Government of Iraq, or that it did not provide trucking services).

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AWB's claims are supported in part by written correspondence from Alia to AWB in which Alia characterized itself as a company providing transportation services in Iraq. For example, on October 20, 1999, Alia wrote a letter of introduction to AWB advising that it was a Jordanian company that specialized in land transportation, that it was an agent of the Government of Iraq, and that it could "offer our services on the field of transport form [sic] Um Qaser [sic] port in Basrah to the other governorate[s] in Iraq."⁵³⁰

In October 2000, AWB wrote to the Australian Department of Foreign Affairs and Trade ("DFAT"), noting that "Jordan based trucking companies are responsible for arranging trucks at [the] discharge port" and that it wished to enter into a "commercial arrangement" with "the Jordan trucking companies" to "ensure that there are enough trucks to enable the prompt discharge of Australian wheat cargoes." An official of DFAT replied that it could see "no reason from an international legal perspective" why AWB could not enter into an agreement with a Jordan-based company.⁵³¹

The Committee asked Alia's owner (Hussain Al-Khawam) and its general manager (Othman Al-Absi) whether they had disclosed the true nature of Alia and its activities to AWB. Mr. Al-Absi thought that AWB knew that Alia did not provide actual transportation services at Umm Qasr, but did not claim that he spoke to AWB about this issue. To the contrary, Mr. Al-Absi recalled that AWB staff inquired at the outset of the two companies' relationship about Alia's operations in great detail, including its experience, the types of vehicles it used, and Alia's capacity to transport large quantities of wheat. He further recalled that AWB asked the Jordanian government whether Alia was a legitimate shipping company. Both Mr. Al-Khawam and Mr. Al-Absi stated that Alia did not advise AWB of its partial ownership by Iraq's Ministry of Trade.⁵³²

In light of these facts, the evidence does not suffice to conclude that AWB had actual knowledge of Alia's partial ownership by the Government of Iraq, that it had actual knowledge of the fact that Alia did not actually perform trucking services for AWB's wheat, or that it had actual knowledge of the fact that Alia remitted the payments it received from AWB to the Government of Iraq. On the other hand, as discussed in detail below, numerous documentary and circumstantial warning signs placed at least some employees of AWB on notice that payments to Alia may have been illicitly funding the Iraqi regime.

First, the relationship between AWB and Alia bore little resemblance to an ordinary arms-length commercial relationship. AWB did not select Alia in the first place to provide transportation

⁵³⁰ AWB record, Alia fax to AWB (Oct. 20, 1999); see also AWB record, Othman Al-Absi letter to AWB (Oct. 27, 1999) (similar letter of introduction); AWB record, Othman Al-Absi letter to AWB (Feb. 10, 2000) (noting that Alia "is appointed to arrange all trucking" under AWB's contract).

⁵³¹ AWB letter to DFAT (Oct. 30, 2000); DFAT letter to AWB (Nov. 2, 2000). It is unclear why AWB's letter to DFAT referred to multiple "Jordanian based trucking companies" rather than simply to Alia for Transportation.

⁵³² Hussain Al-Khawam interviews (Feb. 23 and 26 and May 24, 2005); Othman Al-Absi interview (May 21, 2005).

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services. Instead, as AWB has acknowledged, “it was the [Iraq Grain Board] that selected Alia to provide those services.” Moreover, AWB simply made the requested payments to Alia according to a non-negotiated fee schedule that was issued to AWB each phase. As AWB has acknowledged, “AWB did not initiate discussions for or negotiate a contract with Alia concerning the provision by Alia of inland transport services,” and “AWB did not negotiate with Alia either the inland transport services or the fees for those services.”⁵³³

In view of the sharp increases in transport prices and AWB’s overall commitment of more than \$200 million to Alia, it is difficult to understand AWB’s failure to enter into a formal contract with Alia or to engage in meaningful negotiations with Alia concerning the price and terms of services that Alia provided. AWB has stated that it did not contest the sharp price increases because the change was “revenue neutral” for AWB—it could be incorporated into the price charged and recovered from the escrow account.⁵³⁴ Yet, although AWB may not have had a pecuniary interest in challenging the price increases, it was aware of the increases and, with knowledge that the Government of Iraq had chosen Alia as transporter, thereby alerted to the prospect that these sudden increases would benefit the Iraqi regime.

Second, AWB was aware that the price for Alia’s transport services was determined by the Government of Iraq, not by Alia. Michael Long, who served from November 2001 as AWB’s General Manager for International Sales and Marketing, explained that he knew that Iraq’s Ministry of Transportation set the price for Alia’s inland transportation charges. He stated that he was informed of the transport price during visits to the Ministry of Transportation.⁵³⁵ This role of the Ministry of Transportation in setting the price that Alia charged should have alerted AWB to the probability that the Ministry of Transportation derived some benefit from AWB’s payments for transportation fees to Alia.

Third, apart from the letters of Alia to AWB suggesting that it was in the business of providing transport services, a review of documents made available by AWB to the Committee did not disclose further documentation describing logistical details of trucking services rendered by Alia. In particular, the Committee did not come across communications describing the type of logistical challenges that ordinarily would arise in the course of efforts to transport millions of tons of wheat through the countryside.⁵³⁶

⁵³³ AWB letter to the Committee (June 29, 2005).

⁵³⁴ Ibid.; AWB letter to the Committee (Oct. 12, 2005); Hussain Al-Khawan interviews (Feb. 23 and 26, 2005) (noting that AWB had no contract with Alia).

⁵³⁵ Michael Long interview (Mar. 1, 2005).

⁵³⁶ During a visit to AWB’s corporate headquarters in February and March 2005, Committee investigators examined approximately 25,000 records pertaining to AWB’s participation in the Programme, including records relating to AWB’s payments to Alia. When requested to disclose records detailing logistical issues in relation to trucking, AWB furnished documents concerning loading and unloading problems from ships, but not concerning difficulties with trucking services. AWB letter to the Committee (Oct. 18, 2005) (with attachments).

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Fourth, AWB received many documents from Alia and the Government of Iraq suggesting the likelihood that payments made by AWB were made to or for the benefit of ISCTW. Several of these documents are discussed below. Although AWB notes that many of these documents are written in awkward phrasing by non-native-English speakers, it does not appear that AWB took steps at the time of receiving these documents to investigate or clarify any ambiguous language, notwithstanding the concerns that the document should have raised.

One early example of such correspondence is a fax in November 1999 from Alia to AWB reporting a complaint from ISCTW that AWB had not yet paid its inland transportation charge:⁵³⁷

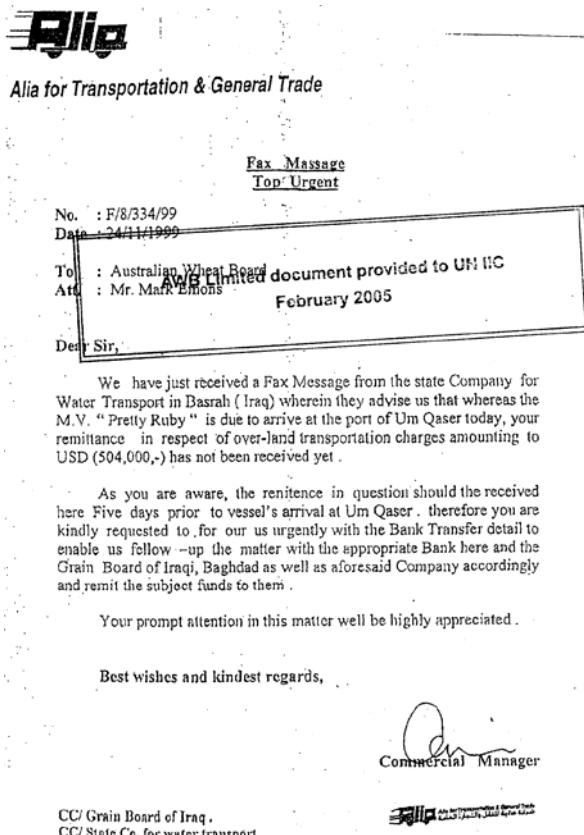


Figure: Alia fax to AWB (Nov. 24, 1999).

The fact that ISCTW was complaining about non-payment of fees by AWB clearly suggests AWB's awareness that the Government of Iraq was privy to its specific payments and arrangements with Alia and that the Government of Iraq possibly was the actual beneficiary of

⁵³⁷ AWB record, Alia fax to AWB (Nov. 24, 1999).

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those payments. Moreover, the fax states that funds were to be remitted to IGB and/or ISCTW through Alia. When asked to comment on this document, AWB stated it had not considered it unusual “to find ISCTW (as port and vessel agent) taking a genuine interest in whether trucking fees had been paid to Alia.” AWB also noted that it was not surprising that a liaison would be required between Alia, the IGB, and ISCTW in light of their respective roles as “buyer,” “ports and vessels agent,” and “supplier of trucks” into which wheat was discharged.⁵³⁸

Another example of such correspondence is a fax sent in October 2001 from Alia to AWB in which Alia warned AWB that “[y]ou are totally aware of the instructions issued by the ISCTW to pay the inland transportation charges (5) days before vessel[s] arrive to the port” and stating that Alia customarily “notif[ied] the ISCTW that we have received the inland transportation charges for AWB’s vessels . . . before actually receiving the funds in our account.”⁵³⁹ When asked to comment on this document, AWB stated the arrangements it described were “in line with the agreement made between AWB and IGB,” which required the payment of trucking fees to Alia in advance of the discharging of wheat at Umm Qasr.⁵⁴⁰

In September 2002, apparently in light of AWB’s failure to make a timely payment for a shipment that had arrived in port, Alia sent a fax marked “URGENT” to AWB warning that “ISCTW informed us that *you should credit their account* with the amount of Euro 203303 immediately today otherwise they will stop the discharging of vessel and would not permit it to leave the harbour until money is received.”⁵⁴¹

⁵³⁸ AWB letter to the Committee (Apr. 22, 2005).

⁵³⁹ AWB record, Othman Al-Absi fax to AWB (Oct. 11, 2001).

⁵⁴⁰ AWB letter to the Committee (Apr. 22, 2005).

⁵⁴¹ AWB record, Alia fax to AWB (Sept. 19, 2002) (emphasis added).

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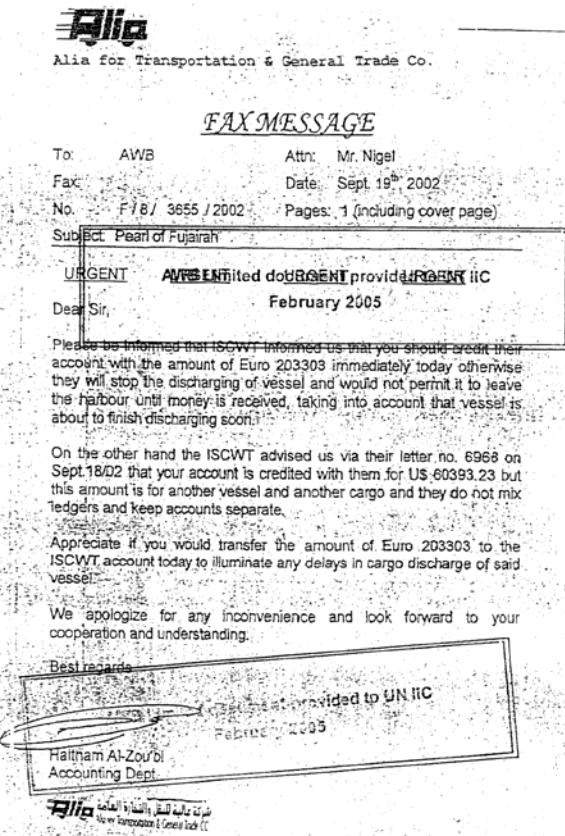


Figure: Alia fax to AWB (Sept. 19, 2002).

AWB responded in an e-mail assuring Alia that “AWB Limited has remitted all inland transport payments for vessels currently discharging at Umm Qasr.” AWB’s reply did not otherwise comment on the asserted role of ISCWT. In a reply e-mail, Alia specified that AWB should confirm that it would send the fee to Alia so “we can notify the ISCWT that we have received the amount of 203303 Euro, & the discharge will continue for they have decided to stop the discharge & hold the vessel by the end of today’s work.”⁵⁴²

This exchange of correspondence again suggests that AWB was placed on notice of ISCWT’s pecuniary interest in payments made by AWB. When asked about this exchange of correspondence, AWB stated that it was uncertain why Alia had referred to the transfer of funds

⁵⁴² Ibid. AWB e-mail to Alia (Sept. 19, 2002); Alia e-mail to AWB (Sept. 19, 2002).

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to ISCTW's account, further adding that AWB at no point had transferred funds to that account.⁵⁴³

In addition to the foregoing communications between Alia and AWB, the files of AWB also contain messages from ISCTW on the subject of transportation fees. In particular, AWB was copied on numerous invoices sent by ISCTW to Alia that related to the collection of transportation fees on AWB's contracts. These invoices notified Alia of future shipments of wheat and instructed the company to "coordinate" with AWB and "arrange for to pay the private sector cost of inland transportation." Many of the invoices received by AWB were printed on Ministry of Transportation letterhead and signed by a senior ISCTW officer. None of the invoices indicated that Alia actually was expected to provide or arrange inland transportation services. One example of such a document is set forth below:⁵⁴⁴

⁵⁴³ AWB letter to the Committee (Apr. 22, 2005). In addition to the documents discussed above, other documents within AWB's files suggest the involvement of the Government of Iraq in AWB's payments to Alia. See, e.g., AWB record, Alia e-mail to AWB (Apr. 25, 2002) (noting Alia's receipt of a telex from ISCTW stating that "the amount [that] should be paid is 2770056 Euro"); AWB record, Alia fax to AWB (Dec. 30, 2002) (reflecting that ISCTW had advised Alia on the "difference in the amounts received in [c]omparison to [a]mounts due" on two of AWB's shipments of wheat); AWB record, Alia fax to AWB (Jan. 21, 2003) (reflecting that ISCTW had informed Alia that AWB owed Alia \$720,210).

⁵⁴⁴ See, e.g., AWB record, ISCTW invoices to Alia (May 10, 2001) (containing Ministry of Transportation letterhead and relating to vessel *Francesca*), (May 10, 2001) (containing Ministry of Transportation letterhead and relating to vessel *Panamax Power*), (Sept. 17, 2001) (containing Ministry of Transportation letterhead and relating to vessel *Lancelot*), (Jan. 8, 2002) (relating to vessel *Alfa Gemini*), (Aug. 12, 2002) (relating to vessel *Vitali*).

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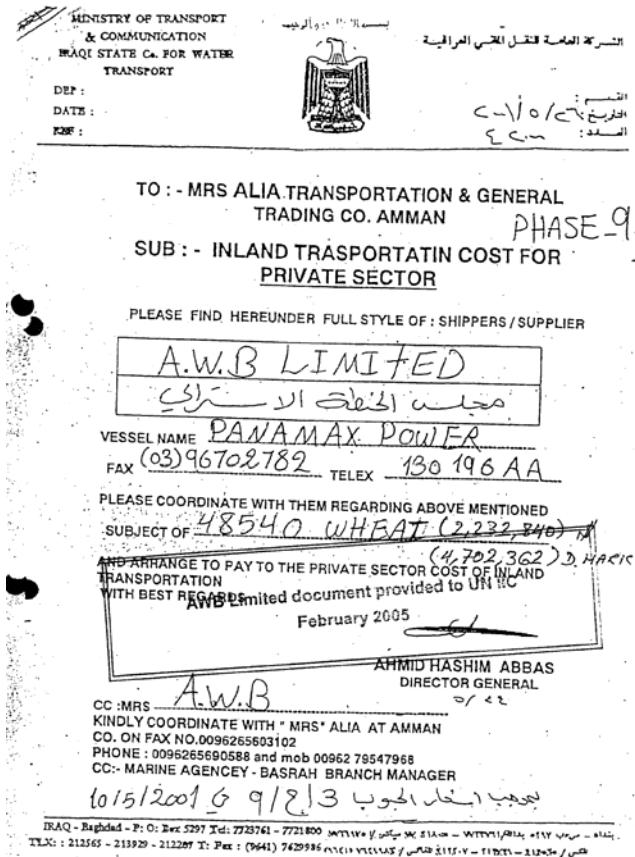


Figure: ISCWT invoice to Alia (May 10, 2001).

AWB has not commented specifically on the invoices it received from ISCWT. It has stated repeatedly, however, that IGB informed it of the transportation fees levied on each of its contracts and that these fees were to be paid to Alia in exchange for actual trucking services.⁵⁴⁵

AWB's correspondence with IGB indicates that AWB routinely informed IGB of the timing and details of its transportation fee payments to Alia. In February 2001, for example, AWB faxed a message to the Director of IGB that discussed a recent sale of 500,000 tons of wheat to Iraq and noted in part that "AWB will pay USD 14.00PMT in equivalent agreed currency for partial payment of transportation fee prior to the vessel arriving in Umm Qasr," and that the "[b]alance of USD31.00 PMT will be paid as final payment of transport fee within 1 week of receipt of UN payment being received by sellers."⁵⁴⁶

⁵⁴⁵ AWB letters to the Committee (Apr. 22 and June 29, 2005); Michael Long interview (Mar. 1, 2005).

⁵⁴⁶ AWB record, AWB fax to Yousif Rahman (Feb. 2, 2001).

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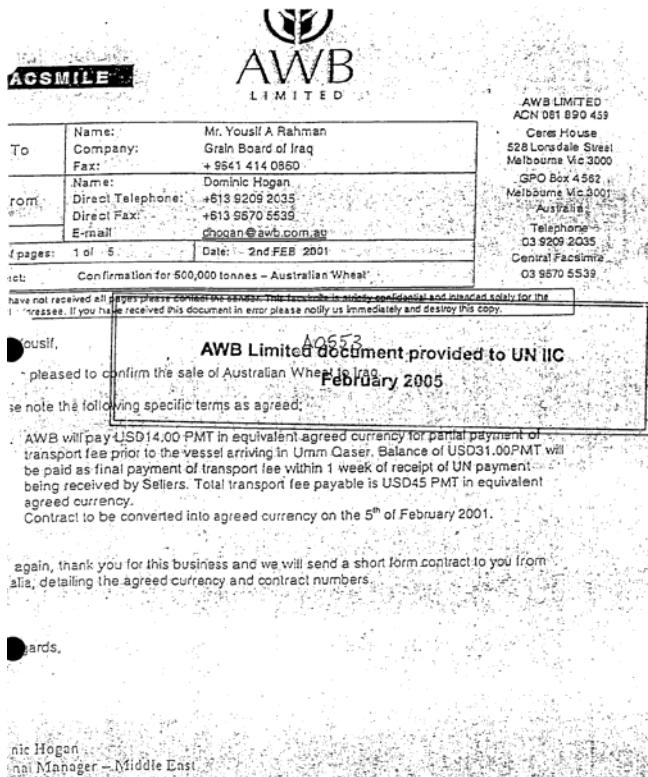


Figure: AWB fax to IGB (Feb. 2, 2001).

AWB sent IGB other faxes describing its payment or intended payment of transportation fees to Alia. One of these faxes noted that “an updated payment schedule for inland transport payments” executed in connection with two of AWB’s contracts was attached. Another fax included “a copy of the latest payment situation from the UN to AWB Ltd. and from AWB Ltd. to Alia Transport Co.” A third fax requested IGB to “advise” ISCWT about adjustments to inland transportation payments on rejected vessels. This fax also noted that the “procedure” for transportation payments involved a remittance to Alia.⁵⁴⁷ These documents again suggest AWB’s awareness of the Government of Iraq’s high degree of interest in AWB’s payments to Alia.

IGB occasionally reminded AWB of its obligation to pay transportation fees. In May 2002, for example, IGB sent a telex to AWB instructing it to “contact Alia” in order to “transfer total amount of inland transport charges” for cargoes specified in an e-mail that AWB had sent to

⁵⁴⁷ AWB record, AWB fax to IGB (Jan. 14, 2002); AWB record, AWB fax to IGB (June 22, 2001); AWB record, AWB fax to IGB (Sept. 12, 2001).

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ISCWT. IGB noted that, once these payments had been made, AWB's ships would be permitted to discharge.⁵⁴⁸

+
WHEAT AA130196
01-05-27 1833 ST+
WHEAT AA130196
=212225 SILOW IK
VIA BAGHDAD
MAY 27 2001 12:39 +
WHEAT AA130196
=212225 SILOW IK

((TOP URGENT))
DD:27/5/2001 NO:776
FM: GRAIN BOARD OF IRAQ
TO: AWB LIMITED
RE: MAVI' HAYDAH AND M/V OLYMPIC MIRACLE AND VITALI
AND BELNOR AND PRETTY LADY AND KAMBA AND QUAN ZHOU HAI
AND M/V ASIAN EXCELSIOR

RY B- MAIL DDT 27/5/2001
PLS CONTACT '' ALTA TRANSPORT CO. '' TO TRANSFER TOTAL AMOUNT
OF INLAND TRANSPORT CHARGES OF CARGOS OF VESSELS MENTIONED IN A.M
E- MAIL TO IRAQI STATE CO. FOR WATER TRANSPORT IN ORDER TO COMMENCE
DISCHARGING .

B. REGARDS

=212225 SILOW IK+
WHEAT AA130196

AWB Limited document provided to UN IIC
February 2005

Figure: IGB telex to AWB (May 27, 2001).

Another AWB document reflects a communication from one AWB employee to another AWB employee reporting that IGB was "looking for" inland transportation fees:⁵⁴⁹

⁵⁴⁸ AWB record, IGB telex to AWB (May 27, 2001).

⁵⁴⁹ AWB record, AWB internal fax (May 28, 2001).

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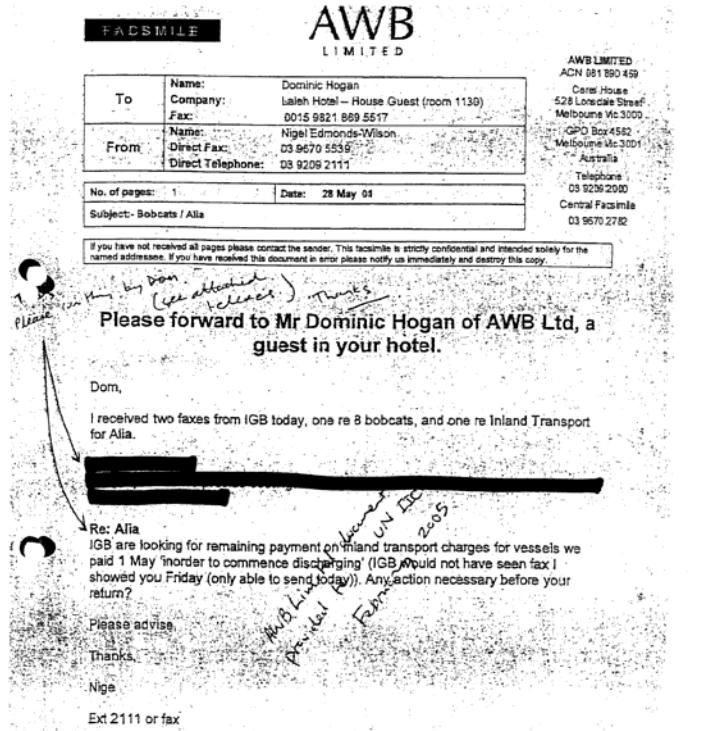


Figure: AWB internal fax (May 28, 2001) (redacted in part by AWB).

In addition to the foregoing documents from AWB, Alia has provided the Committee with a copy of a telex that it received from a former AWB employee in Baghdad. In this telex, the AWB employee complained that AWB did not wish “to be threatened to stop vessel[s] from sailing unless trucking fees received” and warned that “any discussion/message concerning trucking/ and trucking fees should be sent only repeat only from your office in Jordan to myself or Mark Emons [another AWB employee] home fax—not by telex to AWB office and not from Basrah.” The AWB employee also noted in the telex that he would send Alia “wording of 7 letters to cover trucking fees,” and that he would send this “wording” from his home fax and Alia should reply to the same coordinates. Mr. Al-Absi of Alia stated that he could not recall the reasons for AWB sending this telex.⁵⁵⁰

The Committee does not have evidence to indicate that the documents discussed above were transmitted to AWB’s senior management personnel. Nevertheless, when AWB representatives met with the Committee, they acknowledged that these documents raised at least “debatable”

⁵⁵⁰ Alia record, AWB telex to Alia (undated); Othman Al-Absi interview (May 21, 2005).

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questions about whether AWB employees should have known that AWB's payments to Alia were channeled to the Government of Iraq.⁵⁵¹

In summary, based on the available evidence, AWB paid to Alia over \$221.7 million for what it termed inland transport or trucking fees. These payments were channeled to the Government of Iraq by Alia. Both AWB and Alia deny that AWB knew of Iraq's partial ownership of Alia, and there is no evidence to contradict these denials. AWB also denies knowing that Alia did not actually transport its wheat from Umm Qasr and that Alia remitted the money paid by AWB to the Government of Iraq. On the one hand, there is no evidence that Alia told AWB that it was not performing transport services for AWB's wheat or that it was channeling AWB's payments to the Government of Iraq. On the other hand, numerous aspects of the AWB-Alia relationship, as well as the nature of many of the documents received by AWB and discussed above, suggest that some employees of AWB were placed on notice of facts strongly suggesting that AWB's payments were in whole or in part for the benefit of the Government of Iraq. Of particular significance is the degree to which Alia's trucking prices rose sharply beyond what would apparently be a reasonable transportation fee and without other apparent justification. Such increases, in conjunction with AWB's knowledge that Alia had been nominated in the first place by the Government of Iraq, should have signaled AWB officials to the probability that the Government of Iraq stood to illicitly benefit financially from AWB's payments to Alia. In addition, IGB and ISCWT initiated or were party to communications concerning AWB's payment of Alias fees, and AWB was warned that the Government of Iraq would not allow its ships to unload until Alia was paid.

B. CHAIYAPORN RICE CO. LTD.

Founded in 1968, Chaiyaporn Rice is a private rice trader based in Bangkok, Thailand. Iraq had been a major market for Chaiyaporn since 1978 until the onset of sanctions in 1990, and Chaiyaporn viewed the Programme as a significant opportunity to reestablish its trading relationship with Iraq. Between 1996 and 2003, Chaiyaporn sold more than \$686.8 million worth of foodstuffs to Iraq—ranking Chaiyaporn as the fourth largest supplier to Iraq under the Programme.⁵⁵²

⁵⁵¹ Committee meeting with AWB (Oct. 12, 2005). AWB, however, did not concede either that it actually knew or that it should have known that its payments were channeled by Alia to the Government of Iraq. Ibid.; see also AWB letter to the Committee (Oct. 12, 2005) (contending that AWB did not and should not have known of the true relationship between Alia and the Government of Iraq).

⁵⁵² Phaiboon Kuonsongtum, Prasert Krits-Aramruang, and Sermsak Kuonsongtum (July 27, 2005) (hereinafter "Chaiyaporn interview"); see also BNP Paribas (Geneva) record, Chaiyaporn certificate of registration (June 18, 1997); Committee humanitarian contractor table, COMM nos. 3, 174, 671, 1011, 1132, 3040, 3041, 3470, 4036, 50064, 50072, 50788, 600006, 600025, 600026, 700010, 700141, 700599, 800001, 800006, 800007, 800020, 800092, 800093, 900026, 900027, 900324, 1000028, 1000106, 1000331, 1100025, 1100026, 1100027, 1100028, 1100785, 1200231, 1300001. Phaiboon Kuonsongtum is Chaiyaporn's Managing Director, Mr. Krits-Aramruang is a manager, Sermsak Kuonsongtum is an assistant manager. Chaiyaporn interview.

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Chaiyaporn executed a total of thirty-seven contracts with IGB and the State Company for Foodstuffs Trading. The majority of these contracts were for Thai rice, but a number were for the supply of sugar and vegetable ghee. All but one of Chaiyaporn's contracts called for delivery of procured goods through Umm Qasr. As with AWB, for the first five phases of the Programme, Chaiyaporn's contracts required shipment only to Umm Qasr. However, from Phase VI through the remainder of the Programme, Chaiyaporn's contracts provided for inland delivery to all Iraqi governorates. The unit prices of goods ranged considerably between contracts and, in the case of rice and sugar, increased by fifty percent between Phases VIII and X in connection with the introduction of after-sales-service fees.⁵⁵³

Chaiyaporn's inland transportation costs sharply increased over time. Chaiyaporn has provided records of its exchange with IGB indicating transportation payments of \$12 to \$15 pmt on goods delivered to Iraq during Phases VI and VII. In addition to these communications, the Committee has identified transfers from Chaiyaporn's account at the Geneva branch of BNP Paribas to various collection agents of the Iraqi regime, including approximately \$24 million in payments to Alia and \$7 million in payments to Arrow Trans Shipping ("Arrow"). Many of these transfers contain payment details that expressly reference transportation fees and provide the name and tonnage of vessels that delivered Chaiyaporn's goods under the Programme. These records indicate that, corresponding to Iraq's general increase in kickback demands in the summer and fall of 2000, Chaiyaporn paid between \$45 and \$71 pmt in transportation fees on contracts signed during Phases VIII through XII of the Programme. Based on these figures, the Committee estimates that Chaiyaporn paid approximately \$42.8 million in kickbacks to the Iraqi regime between 1999 and 2003. This included about \$18.3 million in the form of after-sales-service fees and nearly \$24.5 million in the form of inland transportation fees.⁵⁵⁴

According to Chaiyaporn, IGB instructed Chaiyaporn to pay transportation fees to Alia and Amman Shipping. Iraqi officials characterized the collection of transportation fees as a means of offsetting costs incurred in the trucking of goods to internal warehouses. Chaiyaporn also noted that the rate at which transportation charges first had been set (\$12 to \$15 pmt) likely had reflected the real cost of land freight, but that prices subsequently increased significantly and without explanation. "Greediness is the nature of human beings," stated a Chaiyaporn

⁵⁵³ Committee humanitarian contractor table and TaR (based on all COMM nos. cited above for Chaiyaporn from Phases VI to XIII).

⁵⁵⁴ Chaiyaporn record, Chaiyaporn telex to IGB (Apr. 15, 2000); Chaiyaporn record, Chaiyaporn telex to ISCTW (Apr. 18, 2000); Chaiyaporn record, IGB telex to Chaiyaporn (Apr. 19, 2000); Chaiyaporn record, ISCTW telex to Chaiyaporn (Apr. 20, 2000); BNP Paribas (Geneva) record, Chaiyaporn bank account and statement (July 2001 to Dec. 2002); Committee humanitarian kickback table, COMM nos. 600006, 600025, 600026, 700010, 700141, 700599, 800001, 800006, 800007, 800020, 800092, 800093, 900026, 900027, 900324, 1000028, 1000106, 1000331, 1100026, 1100027, 1100028, 1100785; According to Mr. Phaiboon Kuonsongtum, Chaiyaporn never made payments directly to Rafidain Bank or at port through a chartering company. Chaiyaporn interview. The Committee's calculation involved a review of contract values, disbursement dates, Cotecna inspection reports (including shipping information), Chaiyaporn's bank debit advices (including tonnage fees), other documents furnished by Chaiyaporn, and documents from ISCTW.

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representative, who suggested that the Iraqi regime had sought additional funds to spend on purposes other than inland transportation.⁵⁵⁵

As for the use of specific front companies for payment, Chaiyaporn explained that IGB had provided the names and bank coordinates of Alia and Amman Shipping in order to facilitate payments. However, Chaiyaporn had little communication with these companies about transport. Chaiyaporn used its own chartered ships, and the masters of Chaiyaporn's ships were in constant contact with IGB and the State Company for Land Transport to ensure that there would be enough trucks to transport its rice from Umm Qasr.⁵⁵⁶

When interviewed, Chaiyaporn denied that it was requested to pay after-sales-service fees. But one of Chaiyaporn's transfers to Arrow specified a shipment of ghee procured in Phase IX and provided compensation for "[additional] land transport and After Sales Serv[ice].” A copy of this bank record is reproduced below. When asked about this discrepancy, Chaiyaporn stated that it did not know why this language was included on the transfer.⁵⁵⁷

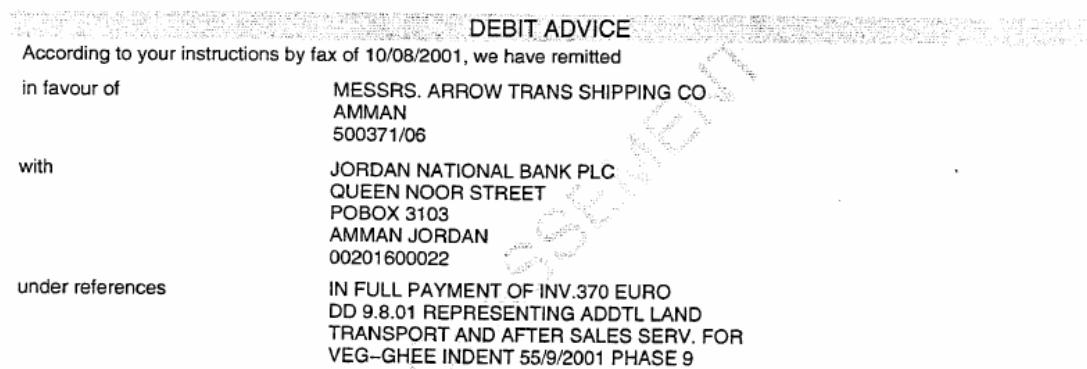


Figure: Chaiyaporn transfer to Arrow (Aug. 10, 2001).

More recently, in response to the Committee's advisory that Chaiyaporn would be discussed in this Report, Chaiyaporn informed the Committee that “we were asked to pay the ‘after sales service fees’ and ‘inland transportation fees’ as we were advised that the goods had to be carried from Umm Qaser [*sic*] to the final destination in Iraq.” The letter further states that “who actually did the inland transportation from Umm Qaser [*sic*], we had no means of knowing.” However, this is inconsistent with Chaiyaporn’s interview statement that transportation arrangements were made with entities of the Government of Iraq; Chaiyaporn’s letter does not explain further any

⁵⁵⁵ Chaiyaporn interview.

⁵⁵⁶ Ibid.

⁵⁵⁷ Ibid.; BNP Paribas (Geneva) record, Chaiyaporn bank account and statement (Aug. 10, 2001); Committee letter to Chaiyaporn (Aug. 25, 2005); Chaiyaporn letter to the Committee (Sept. 8, 2005).

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basis for it to believe that an entity other than the Government of Iraq performed transportation services and benefited from transport and after-sales-service payments.⁵⁵⁸

Apart from its sales to Iraq, Chaiyaporn also executed five oil contracts and purchased nearly 9.9 million barrels of Iraqi oil. When asked how a rice company became involved in purchasing oil, Chaiyaporn explained that payments for its rice were sometimes delayed, and Iraq provided Chaiyaporn with oil allocations as a means of compensation. Chaiyaporn sold its oil to Glencore. Iraqi Ministry of Oil records reflect that Chaiyaporn paid approximately \$1.5 million in illegal oil surcharges. Chaiyaporn stated that it had been compelled to pay these surcharges, just as it had been compelled to pay kickbacks in connection with its food contracts.⁵⁵⁹

In summary, based on the available evidence, Chaiyaporn knowingly paid kickbacks in the form of inland transportation and after-sales-service fees to the Government of Iraq. The Committee estimates that Chaiyaporn paid more than \$42.8 in humanitarian kickbacks and about \$1.5 million in oil surcharges to the Iraqi regime.

C. HOLDING COMPANY FOR FOOD INDUSTRIES

Holding Company is a state-owned company based in Egypt. It was established in the 1950s and subsequently expanded to include several subsidiaries specializing mainly in food production.⁵⁶⁰

As a humanitarian vendor, Holding Company participated in all phases of the Programme—executing seventy-five humanitarian contracts totaling about \$766.2 million primarily for the supply of foodstuffs. Holding Company’s sales amounted to more than two percent of Iraq’s humanitarian purchases—making Holding Company the third largest humanitarian supplier under the Programme.⁵⁶¹

⁵⁵⁸ Chaiyaporn letter to the Committee (Oct. 4, 2005).

⁵⁵⁹ Committee oil company table, contract nos. M/07/52, M/08/33, M/09/100, M/10/74, M/11/14; Committee oil surcharge table, contract nos. M/08/33, M/09/100, M/10/74, M/11/14; Chaiyaporn interview.

⁵⁶⁰ Abd Al-Sattar Sliman, Tarek Shaalan, and Mahmoud Al-Ashmawy interview (Sept. 12, 2005) (“Holding Company interview”). Mr. Sliman is the Vice Chairman and Managing Director of Holding Company; Mr. Shaalan and Mr. Al-Ashmawy are employees of Holding Company’s exports division. Ibid.; see also K. T. Arasu, “U.S. wheat sale to Egypt lifts export outlook,” *Reuters News*, Aug. 6, 2003; “Egypt to sell state stake in food oil firm,” *Reuters News*, Oct. 5, 2005.

⁵⁶¹ Committee humanitarian contractor table and TaR, COMM nos. 68, 69, 611, 667, 668, 684, 1008, 1012, 1013, 1036, 3057, 3065, 3073, 3105, 3743, 3745, 3746, 4059, 4277, 4287, 4322, 4331, 50131, 50279, 50506, 50507, 50508, 50511, 50647, 600197, 600263, 600313, 600412, 600428, 600507, 700025, 700158, 700301, 700423, 700841, 700972, 700973, 701809, 701810, 701811, 702720, 702802, 800039, 800061, 800085, 800448, 800449, 800450, 800712, 800877, 802093, 900106, 900108, 900176, 900177, 900178, 900449, 900815, 1000120, 1000122, 1000123, 1000129, 1000589, 1100201, 1100938, 1200184, 1200729, 1300173, 1300594, 1300728.

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The Committee calculates that more than \$30.5 million was paid to the Government of Iraq in side payments on thirty-one of Holding Company’s humanitarian contracts. This included nearly \$19.3 million in the form of after-sales-service fees and more than \$11.2 million in the form of inland transportation fees.⁵⁶²

When interviewed by the Committee, Holding Company’s representatives confirmed that the company made side payments on humanitarian contracts executed after Phase VIII. Side payments were made via bank transfers directly to Iraqi ministries, as well as through other entities, such as Alia. When asked if the company was aware that these payments violated United Nations sanctions, Holding Company’s Managing Director stated that Iraq needed funds to maintain its administrative structure and pay salaries to government employees. He further added that, since the payments for humanitarian goods derived from Iraqi oil proceeds, Iraqis could “surely do whatever they like.”⁵⁶³

In summary, on the basis of available evidence, Holding Company knowingly violated the rules governing the Programme and United Nations sanctions against Iraq by paying more than \$30.5 million in kickback payments to the Government of Iraq.

D. VIETNAM NORTHERN FOOD CORPORATION AND VIETNAM DAIRY JOINT STOCK COMPANY

Two state-owned companies of Vietnam—the Vietnam Northern Food Corporation (commonly known as “Vinafood”) and the Vietnam Dairy Products Company (commonly known as “Vinamilk”—constituted respectively the second and fifth largest contractors under the Programme. Combined, they accounted for \$1.4 billion in total sales to Iraq under the Programme.⁵⁶⁴

Vinafood and Vinamilk are both large corporate entities wholly owned by and under the direct supervision of the Government of Vietnam. Vinafood is a state-owned company specializing in

⁵⁶² Committee humanitarian kickback table, COMM nos. 700158, 700972, 701809, 701810, 701811, 702720, 702802, 800039, 800061, 800085, 800448, 800449, 800450, 800712, 800877, 802093, 900106, 900108, 900176, 900177, 900178, 900449, 900815, 1000120, 1000122, 1000123, 1000129, 1000589, 1100201, 1100938, 1200184.

⁵⁶³ Holding Company interview.

⁵⁶⁴ Committee humanitarian contractor table and TaR, COMM nos. 177, 549, 550, 1020, 1026, 1027, 1131, 3022, 3023, 4008, 4009, 4010, 4410, 50058, 50059, 50060, 50061, 50062, 50063, 50023, 600002, 600003, 600004, 600005, 600915, 700005, 700007, 700008, 700009, 800002, 800003, 800213, 900005, 900006, 900140, 1000055, 1000098, 1100017, 1100213, 1100217, 1100235, 1200016, 1200994, 1300015 (involving Vinafood); 4007, 4117, 4118, 50157, 50265, 50266, 50513, 600014, 600092, 600093, 600094, 700015, 700016, 700495, 800220, 800311, 800642, 900213, 900214, 900215, 1000214, 1000215, 1200596, 1300169, 1300170 (involving Vinamilk). Vinafood is commonly referred to as “Vinafood 1,” to distinguish it from a sister state-owned company, Vietnam Southern Food Corporation, which is known as “Vinafood 2.”

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producing, processing, trading, and exporting rice, beans, coffee, ground nuts, and other foodstuffs. Vinamilk operates under the Vietnamese Ministry of Industry and sells dairy products such as powdered milk, baby formula, and yogurt.⁵⁶⁵

These two suppliers operated within a formal trade framework established between the Governments of Iraq and Vietnam that dictated the volumes and values of the commodities that the suppliers provided to the Iraqi Ministry of Trade. At the beginning of each phase of the Programme, a delegation of Vietnamese government officials and employees of state-owned companies traveled to Baghdad to discuss trade relations for the following six months. These missions usually were headed by the Vietnamese Minister of Trade and Rural Development. While in Baghdad, the Vietnamese government officials ordinarily met with their Iraqi counterparts to determine the quantity of goods Vietnamese companies would sell to Iraq during the upcoming phase. Once these figures had been set, the Government of Vietnam would allocate specific quantities of goods to individual Vietnamese companies and instruct them to contract with Iraqi SOEs, such as IGB.⁵⁶⁶

The trade arrangements negotiated in Baghdad then were codified in agreements signed between the Governments of Vietnam and Iraq during annual sessions of the “Vietnamese-Iraqi Joint Committee.” One such agreement, signed in 2002, noted the quantities of goods Vietnam would supply to Iraq under Phase XI of the Programme and set out the terms of Vietnam’s oil purchases from Iraq.⁵⁶⁷

Vinafood signed contracts in all thirteen phases of the Programme and supplied nearly \$891 million in goods—principally rice—to IGB, the State Company for Foodstuffs Trading, and the Ministry of Agriculture. Vinamilk dealt exclusively with the State Company for Foodstuffs Trading and sold \$517 million in milk, baby formula, and baby food during Phases IV through XIII. As was frequently the case with contracts requiring delivery to Umm Qasr, the pricing of

⁵⁶⁵ Luong The Phiet interview (July 19, 2005); Mai Hoai Anh interview (July 22, 2005). Mr. Luong is Deputy General Director of Vinafood, and Mr. Mai is Import-Export Manager of Vinamilk. Luong The Phiet interview (July 19, 2005); Mai Hoai Anh interview (July 22, 2005). See also Vinafood brochure; Vinamilk, “History,” http://www.vinamilk.com.vn/homeeg.asp?vinamilk= eg_lichsu.

⁵⁶⁶ Luong The Phiet interview (July 19, 2005); Mai Hoai Anh interview (July 22, 2005).

⁵⁶⁷ Mai Hoai Anh interview (July 22, 2005); Government of Iraq record, Vietnamese-Iraqi Joint Committee meeting minutes (Mar. 15, 2002); Iraq official interview. In addition, Vietnam also supplied goods to Iraq outside of the Programme under an intergovernmental barter arrangement that the Security Council does not appear to have approved. This arrangement related to a debt Vietnam had accrued to Iraq prior to the first Gulf War, which Vietnam had agreed to repay through the provision of commodities in multiple installments. In 2002, for example, Vietnam furnished \$42 million in commodities to Iraq under the terms of this arrangement. Mai Hoai Anh interview (July 22, 2005); Government of Iraq record, Vietnamese-Iraqi Joint Committee meeting minutes (Mar. 15, 2002); Iraq official interview.

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contracts for both Vinafood and Vinamilk changed in Phase VI from arrangements such as “CIF Free Out Umm Qasr” to arrangements such as “CIF Free on trucks to Iraqi Governorates.”⁵⁶⁸

Vinafood stated that it began paying transportation fees to Alia and Amman Shipping in 1999. Although the Committee has not identified any payments by Vinafood to either of these companies prior to 2000, it has obtained a number of documents from Alia reflecting a steady increase in per-metric-ton transportation fees paid by Vinafood from 2000 to 2003. For example, Vinafood paid Alia \$15 pmt for one shipment of rice in Phase VII, \$25 pmt for a shipment in Phase IX, and approximately €65 pmt for a shipment in Phase X. In addition, the Committee has identified more than \$10 million in transfers by Vinafood to Alia’s account at Jordan National Bank between May and December 2002. Based on these figures, and the transportation rates applied to similar rice contracts (Chaiyaporn’s contracts) between Phases VI and XIII, the Committee estimates that Vinafood paid approximately \$37.5 million in after-sales-service fees and inland transportation fees to the Government of Iraq, including through Alia and Amman Shipping.⁵⁶⁹

When interviewed by the Committee, Vinafood denied any knowledge of Alia and Amman Shipping’s roles as collection agents for the Iraqi regime. Vinafood stated that it was surprised to learn that neither Alia nor Amman Shipping provided trucking services at Umm Qasr. Vinafood stated also that Iraq’s Ministry of Transportation advised Vinafood during a 1999 meeting that it would no longer provide transportation services from Umm Qasr and that this responsibility now fell on two private companies based in Jordan. According to Vinafood, the Ministry of Transportation officials justified this new policy by asserting that the Government of Iraq was short on funds and needed suppliers such as Vinafood to pay Alia and Amman Shipping so Iraq could pay its truck drivers. Moreover, the price for inland transportation was set by Iraq and incorporated by Iraq into Vinafood’s contracts. Concerning the sharp increase in the transportation fees paid by Vinafood in 2001 and 2002, a Vinafood official stated that IGB had informed him that the initial rate charged by Alia had been insufficient to meet the needs of Iraqi

⁵⁶⁸ Committee humanitarian contractor table and TaR, COMM nos. 177, 549, 550, 1020, 1026, 1027, 1131, 3022, 3023, 4008, 4009, 4010, 4410, 50058, 50059, 50060, 50061, 50062, 50063, 50023, 600002, 600003, 600004, 600005, 600915, 700005, 700007, 700008, 700009, 800002, 800003, 800213, 900005, 900006, 900140, 1000055, 1000098, 1100017, 1100213, 1100217, 1100235, 1200016, 1200994, 1300015 (involving Vinafood); 4007, 4117, 4118, 50157, 50265, 50266, 50513, 600014, 600092, 600093, 600094, 700015, 700016, 700495, 800220, 800311, 800642, 900213, 900214, 900215, 1000214, 1000215, 1200596, 1300169, 1300170 (involving Vinamilk); Luong The Phiet interview (July 19, 2005) (discussing changes in the contract provisions); Mai Hoai Anh interview (July 22, 2005).

⁵⁶⁹ Luong The Phiet interview (July 19, 2005); Alia record, Ministry of Trade contract status table (Mar. 13, 2000) (reflecting that Vinafood was charged \$15 pmt of rice in connection with contracts 700007, 700008, and 700009); Alia record, Alia invoices to Vinafood (Aug. 16, 2001) (reflecting a fee of \$25 pmt of rice in connection with a contract signed in Phase IX), (May 15, 2002) (reflecting a fee of €65.25 pmt of rice in connection with a contract signed Phase X); Jordan National Bank record, Alia bank account and statements (May 1, 2002 to Dec. 31, 2002); Committee humanitarian kickback table, COMM nos. 600002, 600003, 600004, 600005, 600915, 700005, 700007, 700008, 800002, 800003, 800213, 900005, 900006, 900140, 1000055, 1000098, 1100017, 1100213, 1100217, 1100235, 1200016, 1200994, 1300015.

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truck drivers. Vinafood was told that refusal to pay transportation fees to Alia and Amman shipping would result in the cancellation of all future business between Vinafood and Iraq.⁵⁷⁰

Vinafood also bought oil from Iraq under the Programme, including through a subsidiary named The Nghe An Petro Trading Services. Vinafood's Deputy General Director recalled personally visiting SOMO to negotiate the details of Vinafood's allocations. SOMO records reflect the payment of \$322,928 in surcharges by Vinafood in connection with one of these oil contracts. This payment is confirmed by copies of receipts for this surcharge payment as made to the Embassy of Iraq in Hanoi. Vinafood's Deputy General Director denied that Vinafood paid surcharges; when shown the embassy receipts bearing Vinafood's name as surcharge payor, he stated that Vinafood's oil dealings had occurred several years ago and that he did not remember the details.⁵⁷¹

In contrast to Vinafood's claim that it believed Alia to be providing transportation services, Vinamilk's Import-Export Manager stated that his company understood that Alia did not provide any transportation services from Umm Qasr, but acted as an intermediary for the Iraqi regime. Vinamilk described how its payments to Alia began only after the company had tried unsuccessfully to remit transportation fees by more direct means to ISCWT. Vinamilk initially was directed to pay fees directly to ISCWT, preferably in cash, but this arrangement proved logically unfeasible because it required ship captains to carry large volumes of cash. In an effort to improve the situation, Vinamilk approached the Iraqi Ministry of Trade for further instructions and was promptly referred to the Ministry of Transportation. When the Ministry of Transportation proved unresponsive, Vinamilk appealed to the Vietnamese Embassy in Baghdad for assistance. The Embassy approached both the Ministries of Trade and Transportation, but even these demarches did not alleviate the situation.⁵⁷²

Eventually, the Ministry of Trade informed Vinamilk that the Government of Iraq had "changed methods," and all payments could be made to a bank account in Jordan in the name of Alia. Shortly after this announcement, Alia contacted Vinamilk to arrange the transfer of funds. From this point until the Programme's end, Vinamilk paid all of its transportation fees through Alia. The Committee estimates that Vinamilk paid approximately \$23.5 million in the form of after-sales-service fees and an undetermined amount in the form of inland transportation fees.⁵⁷³

⁵⁷⁰ Luong The Phiet interview (July 19, 2005).

⁵⁷¹ Ibid.; Committee oil company table, contract nos. M/11/90 (contracting with Nghe An Petro Trading Services), M/13/10 (contracting with Vietnam Northern Food Corp.); SOMO record, Iraq Embassy in Hanoi letter to Iraq Foreign Ministry (Apr. 25, 2002); SOMO record, Iraq Ambassador to Vietnam letter to Iraq Foreign Ministry (Aug. 22, 2002); Committee oil surcharge table, contract no. M/11/90.

⁵⁷² Mai Hoai Anh interview (July 22, 2005).

⁵⁷³ Ibid.; Committee humanitarian kickback table, COMM nos. 600014, 600092, 600093, 600094, 700015, 700016, 700495, 800220, 800311, 800642, 900213, 900214, 900215, 1000214, 1000215, 1200596, 1300169, 1300170.

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Neither Vinafood nor Vinamilk said they were aware of the existence of after-sales-service fees. However, a Vinamilk representative recalled that the Coalition Provisional Authority (“CPA”) had requested Vinamilk to reduce the value of one of its contracts by ten percent following the fall of the Iraqi regime. This request led the Vinamilk representative to suspect that a ten percent commission may have been included in Vinamilk’s payments to Alia.⁵⁷⁴

In summary, based on the available evidence, Vinafood and Vinamilk knowingly paid kickbacks to the Iraqi regime in the form of what they were advised were “inland transportation fees” and that included over time a component for Iraq’s ten percent after-sales-service fees. The Committee calculates that Vinafood paid approximately \$37.5 in after-sales-service fees and inland transportation fees and Vinamilk paid about \$23.5 million in after-sales-service and an undetermined amount in inland transportation fees. In addition, Vinafood paid \$322,928 in oil surcharges on oil contracts executed by one of its subsidiaries.⁵⁷⁵

⁵⁷⁴ Luong The Phiet interview (July 19, 2005); Mai Hoai Anh interview (July 22, 2005).

⁵⁷⁵ In response to the Committee’s notification of the substance of Vinafood’s description in this Report, Vinafood has advised the Committee in part that the Government of Iraq “requested [Vinafood] to transfer such inland transportation charge to their nominated transportation companies then they arranged for cargo receiving and trucking at their end deliberately.” Vinafood letter to the Committee (Oct. 4, 2005). Vinafood did not furnish any further basis for its belief that Alia was providing transportation services, and its acknowledgement that Alia was nominated by the Government of Iraq further suggests its awareness that its transportation payments were for the Government of Iraq’s use.

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IX. MAJOR TRADING COMPANIES

Some mercantile companies obtained very large shares of Programme contracts for products that they did not manufacture, but rather acquired from other companies and then resold to Iraq. This Part examines several of these companies: (1) The Belhsa Group of Companies (“the Belhsa Group”) of the United Arab Emirates; (2) Belmetalenergo and Infobank of Belarus; (3) Bukkehav A/S (“Bukkehav”) of Denmark; (4) Ginza Co. (“Ginza”) of Egypt; (5) Jawala Corporation Sdn. Bhd. (“Jawala”) of Malaysia; (6) Phoenix Investment International (“Phoenix”) of Jordan; (7) Russian Engineering Company (“REC”) of Russia; (8) SES International Corp. (“SES”) of Syria; and (9) Sinochem Corporation (“Sinochem”) of China.

A. BELHSA GROUP OF COMPANIES

The Belhsa Group is a conglomerate consisting of approximately twenty-eight companies with business activities separated into four distinct groups: (1) automotive, industrial, and educational; (2) construction, technology, and petroleum; (3) trading; and (4) investment, real estate, travel, and tourism. The Belhsa Group is headquartered in Dubai, United Arab Emirates and is chaired by its founder, Ahmed Saif Belhsa. The day-to-day operations of the Belhsa Group are managed through a holding company, Belhsa International Company LLC (“Belhsa International”), of which Mr. Belhsa is also Chairman. His four sons, Amer Ahmed Belhsa, Majed Ahmed Belhsa, Haithem Ahmed Belhsa, and Saeed Ahmed Belhsa, are company directors, each heading one of the four business groups.⁵⁷⁶

Of the numerous companies comprising the Belhsa Group, four of them participated in the Programme. These companies were:

1. Belhsa Motors Company LLC (“Belhsa Motors”);
2. Union Trading Company LLC (“Union Trading”);
3. Al-Rowa'a General Trading Company LLC (“Al-Rowa'a”); and
4. Safire Ltd. (“Safire”).

The Belhsa Group was the largest provider of non-foodstuff goods to Iraq under the Programme. From Phase VI until the Programme’s end, the Belhsa Group was paid approximately \$742.2 million for goods supplied pursuant to 129 Programme contracts. Belhsa Motors and Union

⁵⁷⁶ Ahmed Habboush, Dawood Mohammed, and Ra'ed Abu-Rumman interviews (May 2 and 4, 2005) (hereinafter “Belhsa interviews”); The Belhsa Group, “Belhsa International Company LLC,” <http://www.belhsa.com/default.asp?displayid=1>. Dr. Mohammed was the Chief Executive Officer and Dr. Habboush the Executive Manager of Ebtikar Investment Company LLC, which is a joint venture of Belhsa International and the Hartha Group of Iraq. Ibid.; Ebtikar Investment Co. LLC, “About Ebtikar,” <http://www.ebtikar-inv.com/profile.html>. Mr. Abu-Rumman was a legal advisor to the Belhsa Group. Belhsa interviews. Iraqi records include one side agreement executed by Belhsa Motors and three executed by Union Trading in connection with funded contracts. Belhsa interviews.

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Trading Company accounted for the large majority of these contracts. The contracts provided for the supply of automobiles and automobile-related parts to various Government of Iraq entities.⁵⁷⁷

When interviewed, representatives of the Belhsa Group acknowledged that their companies paid inland transportation fees, stating their belief that such fees were required from the Programme's inception. Moreover, company officials acknowledged that the Belhsa Group also paid after-sales-service fees of ten percent on Programme contracts. According to these officials, the Government of Iraq initially insisted that companies sign side agreements committing to pay the after-sales-service fees; but, at some point, this requirement for a written side agreement was discontinued because it was impossible for a company to do business with Iraq without paying the fee.⁵⁷⁸

The Committee calculates that on 108 Programme contracts issued under Phases VI through XII, the Belhsa Group paid more than \$45.3 million in after-sales-service fees and an undetermined amount in inland transportation fees. The Belhsa Group paid its after-sales-service fees by instructing its bank to pay the Rafidain Bank in Jordan. If a particular ministry had an account

⁵⁷⁷ Ibid.; Committee humanitarian contractor table and TaR, COMM nos. 602010, 602013, 602035, 602036, 700794, 701589, 701604, 702008, 702747, 7027480, 702750, 702751, 800941, 800951, 800952, 801093, 801574, 801585, 801611, 801678, 802107, 802108, 802783, 802966, 802967, 900222, 900223, 900224, 900488, 900527, 900888, 900893, 901298, 901528, 901529, 901645, 901646, 901647, 901648, 901661, 901662, 901759, 902041, 902044, 902045, 902046, 1000188, 1000234, 1000828, 1000829, 1000838, 1001293, 1001294, 1001295, 1001649, 1001651, 1100110, 1100308, 1100311, 1100549, 1100550, 1100551, 1101125, 1200219, 1200326, 1200335, 1200430, 1200441, 1200498, 1200500, 1200501, 1200502, 1200503, 1200504, 1200538 (involving Belhsa Motors); 601693, 601989, 702633, 702908, 801091, 801092, 801677, 801797, 801798, 801799, 801801, 802105, 802106, 802113, 802210, 802212, 802655, 900060, 900064, 900535, 900836, 900837, 900889, 900890, 900891, 900892, 901152, 901539, 1000264, 1000265, 1000394, 1000531, 1000532, 1000533, 1000777, 1200349, 1200405, 1200472, 1200540, 1200745, 1201410 (involving Union Trading); 1000986, 1000991, 1001379, 1201409, 1201412, 1201414, 1201415, 1201423, 1201424, 1201425 (involving Safire); 1100557, 1201413, 1300126 (involving Al-Row'a'a). The contracting Iraqi government entities included: (1) General Establishment for Electricity Production; (2) State Company for Agricultural Supplies; (3) State Company for Foodstuff Trading; (4) Ministry of Irrigation; (5) Ministry of Transportation; (6) Ministry of Higher Education and Scientific Research; (7) Ministry of Agriculture; (8) General Company for Private Transport Management; (9) State Company for Marketing Drugs and Medical Appliances; (10) General Establishment for Water and Sewerage; (11) Ministry of Education; (12) Ministry of Interior; (13) Iraq Telecommunications and Postal Company; (14) State Company of Iraqi Airways; (15) Iraqi Railways General Company; (16) State Company for Transportation of Delegates; (17) General Automobile and Machinery Company; and (18) Board of Youth and Sports. Ibid.

⁵⁷⁸ Belhsa interviews. . See Company side agreements, COMM nos. 900064 (Mar. 2001), 1000264 (Aug. 16, 2001), 1000265 (Aug. 16, 2001) (involving Union Trading); 902041 (Apr. 2002) (involving Belhsa Motors). Iraqi records include one other side agreement for a Belhsa Motors contract, which was signed but ultimately not approved. Company side agreement, COMM no. 802803 (Aug. 14, 2001).

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with Rafidain Bank, the money then was transferred into the relevant ministry's account. If not, the money was transferred into the Rafidain account of ISCWT.⁵⁷⁹

The payment of inland transportation fees proved more complicated. These fees were paid to the Ministry of Transportation by making payments to the Rashid Bank, which dealt only in Iraqi dinars. Because of the sanctions regime, currency could not be exchanged for Iraqi dinars outside of Iraq. Consequently, a Belhsa staff member transported cash in United States currency sufficient to cover the fees to Baghdad, exchanged it for the dinars with private currency brokers, and then made payments at the Rashid Bank. After Belhsa made these payments, the bank notified the relevant ministry.⁵⁸⁰

In summary, based on available evidence, the Belhsa Group knowingly made kickback payments to the Iraqi regime outside of the Programme and in violation of the United Nations sanctions against Iraq. The Committee estimates that these illicit payments totaled more than \$45.3 million in after-sales-service fees and an undetermined amount in inland transportation fees.

B. BELMETALENERGO AND INFOBANK

Belmetalenergo, a Belarus-based company specializing in trade, was established in the late 1990s. According to Vladimir Zhavrid, director of Belmetalenergo, export of goods to Iraq was one of Belmetalenergo's main business activities. Throughout its participation in the Programme, Belmetalenergo relied on financial support from Infobank, which was created in Belarus in November 1994 and traditionally has focused on transactions with Middle Eastern countries. According to Mr. Zhavrid and Victor Shevtsov, Chairman of Infobank's Board of Directors, Infobank owned about ten percent of the shares of Belmetalenergo at the time of the Programme.⁵⁸¹

⁵⁷⁹ Committee humanitarian kickback table, COMM nos. 602010, 602013, 602035, 602036, 700794, 701589, 701604, 702747, 702748, 702750, 702751, 800941, 800951, 800952, 801093, 801574, 801585, 801611, 801678, 802107, 802108, 802783, 802966, 802967, 900222, 900223, 900224, 900488, 900527, 900888, 900893, 901298, 901528, 901529, 901645, 901646, 901647, 901648, 901661, 901662, 901759, 902041, 902044, 902045, 902046, 1000188, 1000234, 1000828, 1000829, 1000838, 1001293, 1001294, 1001295, 1001649, 1001651, 1100110, 1100308, 1100311, 1100549, 1100550, 1100551, 1101125, 1200219, 1200326, 1200335, 1200430, 1200441, 1200501 (involving Belhsa Motors); 601693, 301989, 702633, 702908, 801091, 801092, 801677, 801797, 801798, 801799, 801801, 802105, 802106, 802113, 802210, 802212, 802655, 900060, 900064, 900535, 900836, 900837, 900889, 900890, 900891, 900892, 901152, 901539, 1000264, 1000265, 1000394, 1000531, 1000532, 1000533, 1000777 (involving Union Trading); 1000986, 1000991, 1001379, 1201412 (involving Safire); 1100557 (involving Al-Rowa'a); Belhsa interviews.

⁵⁸⁰ Ibid.

⁵⁸¹ Victor Shevtsov and Vladimir Zhavrid interview (Mar. 7, 2005); Vladimir Zhavrid interview (Aug. 26, 2005); Olga Biryukova, "Was there a client?" *Belorusskiy rynok*, Sept. 6, 2004,

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Belmetalenergo obtained seventy-one contracts from Iraq worth \$249.3 million—ranking it as the thirteenth largest humanitarian supplier under the Programme. The company had an office in Baghdad and began participating in the Programme during Phase VI and continued doing so until the Programme's end. The goods supplied under Belmetalenergo's contracts primarily consisted of tractors, trucks, and construction equipment originating mainly from Belarus and Russia.⁵⁸²

According to records obtained from Iraqi ministry files, Belmetalenergo entered into at least twenty written side agreements to make illicit payments in connection with its Programme contracts. Some of these agreements include guarantee letters from Infobank assuring the Government of Iraq that Belmetalenergo would make its agreed-upon payments.⁵⁸³ In a letter to the Iraqi Ministry of Agriculture, Mr. Zhavrid emphasized the significance of Infobank's guarantee of its side payment agreements: “[G]uarantees from ‘INFOBANK’ are accepted by ALL Iraqi companies and ministries that we [Belmetalenergo] are cooperating with . . . and ‘INFOBANK’ has never broken them.”⁵⁸⁴

The following two documents illustrate a Belmetalenergo agreement to pay an after-sales-service fee, coupled with an Infobank payment guarantee:

<http://www.belmarket.by/index.php?article=22834&year=2004> (translated from Russian) (stating that Infobank was created in November 1994 and focuses on transactions with Middle East).

⁵⁸² Committee humanitarian contractor table and TaR, COMM nos. 600410, 600411, 600803, 600819, 601219, 601306, 601331, 601332, 601333, 601334, 601373, 601380, 601692, 630522, 631147, 700487, 700488, 700489, 701053, 701054, 701206, 701447, 701740, 701741, 701767, 701768, 701769, 702066, 702125, 702126, 702127, 702201, 702202, 702359, 702515, 702529, 702596, 702641, 800772, 800773, 800795, 801060, 801075, 801189, 801311, 801312, 801386, 801387, 801892, 801957, 802168, 802344, 802559, 900559, 900633, 900758, 901102, 901541, 901807, 902048, 1000247, 1000438, 1000950, 1001813, 1002029, 1030305, 1200117, 1230105, 1230391, 1300017, 1300018; Victor Shevtsov and Vladimir Zhavrid interview (Mar. 7, 2005); Vladimir Zhavrid interview (Aug. 26, 2005).

⁵⁸³ Company side agreements, COMM nos. 631147 (Oct. 29, 2001), 801957 (Nov. 25, 2000), 802344 (June 19, 2001) (issued by Infobank), 802946 (Sept. 29, 2001), 803053 (Dec. 9, 2002), 803054 (Dec. 9, 2002), 803055 (Dec. 23, 2002), 803056 (Dec. 9, 2002), 803057 (Dec. 23, 2002), 803058 (Dec. 23, 2002), 803077 (Dec. 23, 2002), 1000438 (Aug. 26, 2001) (one agreement issued by Infobank and one agreement issued by Belmetalenergo), 1030305 (Oct. 29, 2001), 1201403 (Dec. 9, 2002), 1201404 (Dec. 23, 2002), 1230105 (Oct. 29, 2001), 1230652 (June 6, 200_) (exact year omitted on form), 1230657 (undated), 1230658 (undated), 1230659 (undated).

⁵⁸⁴ Belmetalenergo letter to Iraq Ministry of Agriculture (Jan. 13, 2002) (original text format).

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CONTRACT NO. 685/12

DATED 26 / 8 / 2001

FIRST PARTY / STATE COMPANY FOR AGRICULTURAL SUPPLIES,
REPRESENTED BY GENERAL DIRECTOR IN ADDITION TO HIS POSITION.

SECOND PARTY BELMETALENERGO, Inc.

- 1- THE SECOND PARTY HAS TO PAY AMOUNT OF (654922.8) Swiss Frank TO THE FIRST PARTY WHICH REPRESENTS 10% OF THE VALUE OF THE CONTRACT NO. (685/12) AFTER OPENING THE L/C BY THE BNP BANK AND DELIVER THE ALL CONTRACTED QUANTITY OR DELIVER PART OF THE CONTRACTED QUANTITY .
- 2- THE SECOND PARTY UNDER TAKE TO SUBMIT THE GUARANTEE LETTER TO RAFIDAIN BANK IN BAGHDAD,AMMAN,BEIRUT OR TO ONE OF RAFIDAIN FOREIGN BANK BRANCHES , WHICH PRESENT 100 PERCENT OF THE MENTIONED AMOUNT IN ARTICLE (1). THIS LETTER WILL NOT BE RELEASED ONLY UNLESS BY NOTIFICATION FROM THE FIRST PARTY .
- 3- THE FIRST PARTY WILL INFORM THE SECOND PARTY THE ACCOUNT NUMBERS AT SAID BANKS IN ARTICLE (2) ABOVE WHICH THE AMOUNT SHOULD BE PAID ACCORDINGLY TO ARTICLE (1).

THIS CONTRACT SIGNED IN BAGHDAD ON DATE 26 / 8 / 2001

FIRST PARTY

State Company for Agricultural
Supplies
Wazeriah, Baghdad, Iraq

Second party

BELMETALENERGO, Inc.
IGNATENKO STR., MINSK, 220035
BELARUS

Viktor Tsybulka



JOINT STOCK COMMERCIAL BANK
Head office: 220035 Minsk, Republic of Belarus
Tel./Fax: (375) 17 2504395
(375) 17 2504281
Telex: 2504395 INF0 BY
SWIFT: INF0 BY 2 X
E-mail: root@infobank.by

Date 14.12.2001 N 685/12
REF. TO DD.

To:
RAFIDAIN BANK

Copy to:
MINISTRY OF AGRICULTURE
STATE COMPANY FOR
AGRICULTURAL SUPPLIES
BAGHDAD, IRAQ

PAYMENT GUARANTEE NO. 685/12

Dear Sirs,

We have been advised that You had concluded the contract No. M(M.O.U.)M/685/2001 10-A-005 dated 18/08/2000 with the company BELMETALENERGO (hereinafter called 'Principal') and the amount of CHF 654'922.80 shall be paid out to you after getting refund under the Letter of Credit (hereinafter called 'Letter of Credit') issued in accordance with the terms and conditions of the Contract.

Hereby we, Joint-Stock Commercial Bank 'Infobank', unconditionally and irrevocably undertake to pay to you any amount not exceeding

CHF 654'922.80 (Swiss Francs Six hundred and fifty four thousand nine hundred and twenty two 80/100 only)

pro rata upon receipt of the refund under the Letter of Credit in full or partially.

The amount of our guarantee will be automatically reduced proportionally to the amounts paid under this guarantee.

The present guarantee is coming into force from the date of its issuance and is valid until 8 (eight) months and expires automatically and in full after that date. This guarantee may be prolonged by the written request of THE STATE COMPANY FOR AGRICULTURAL SUPPLIES, BAGHDAD/IRAQ.

This guarantee is not assignable or transferable.

Sincerely yours,

Victor A. Shevtsov
President of
Joint-Stock Commercial Bank 'Infobank'
2.2001

Figure: Company side agreements, COMM no. 1000438 (Aug. 26, 2001) (including Belmetalenergo and Infobank agreements).

When jointly interviewed in March 2005, Mr. Zhavrid and Mr. Shevtsov acknowledged that Programme contractors commonly made side payments to Iraq in connection with oil and humanitarian contracts. When shown copies of Infobank guarantee letters, Mr. Shevtsov of Infobank acknowledged their authenticity and added that it was common to include built-in kickback payments into the contract price. He further stated that Infobank did not keep its own copies of these letters because they lost their value once the actual payments were made. During the joint interview, Mr. Zhavrid did not object to Mr. Shevtsov's statements about the side payments.⁵⁸⁵

However, Mr. Zhavrid has since denied that Belmetalenergo made illicit payments in connection with its humanitarian contracts. Mr. Zhavrid has conceded that there were cases when signing of a side agreement was a condition for approval of a contract, but he has insisted that no actual payments were required. When shown certain side agreements signed by Belmetalenergo

⁵⁸⁵ Victor Shevtsov and Vladimir Zhavrid interview (Mar. 7, 2005).

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employees on Belmetalenergo's stationary and with Belmetalenergo's corporate stamp, Mr. Zhavrid stated that "some staff were authorized to negotiate and sign contracts, but not to execute payments." He added: "I don't know who signed them and I never took them seriously." When shown copies of four side agreements signed in his own name, Mr. Zhavrid stated that the agreements were fake.⁵⁸⁶

More recently, Belmetalenergo has written to the Committee to advise that "[a]ctually Iraqis required from time to time that representatives of our company provide[] guarantees on payment of 'after sales service fee' and 'inland transportation fee' but our company has never made such payments and did not plan to make them," and such "signing" of guarantees were a "mere formality." This contention is contradicted by Iraqi ministry payment data that reflects actual payments made in connection with many of Belmetalenergo's contracts.⁵⁸⁷

Aside from actively selling goods to Iraq under the Programme, Belmetalenergo also purchased a total of 21.6 million barrels of Iraqi oil, paying nearly \$464.2 million to the United Nations escrow account. Four of Belmetalenergo's six oil contracts were signed by Mr. Shevtsov. Belmetalenergo's oil purchases were financed by Bayoil and Chevron, which took care of all necessary arrangements and paperwork and subsequently purchased oil from Belmetalenergo. For its participation, Belmetalenergo received a profit of about five cents per barrel, and Mr. Shevtsov estimated Belmetalenergo's profits on oil contracts throughout the Programme at about \$500,000.⁵⁸⁸

In connection with Belmetalenergo's oil contracts, a total of about \$2.9 million was paid in surcharges to the Iraqi regime. These payments were made through a number of conduit companies. Although Mr. Shevtsov and Mr. Zhavrid stated that they were not familiar with these companies, bank records show numerous business transactions between Belmetalenergo, Infobank, and such companies.⁵⁸⁹

⁵⁸⁶ Vladimir Zhavrid interview (Aug. 26, 2005); see also Belmetalenergo letter to the Committee (June 7, 2005) (stating that "Belmetalenergo has never paid surcharges or commissions to Saddam Hussein's regime").

⁵⁸⁷ Belmetalenergo letter to the Committee (Oct. 6, 2005); Committee humanitarian kickback table, COMM nos. 702641, 800795, 801312, 801387, 802344, 802559, 900559, 901541, 1000247, 1000438 (reflecting records of actual payments as recorded in Iraqi ministry ledgers).

⁵⁸⁸ Committee oil company table, contract nos. (contracting with Belmetalenergo) M/06/60 (signed by Mr. Shevtsov), M/07/74 (same), M/08/41 (same), M/09/08 (same), M/11/69, M/13/49; Committee oil financier table, contract nos. M/06/60 (one lifting financed by Bayoil), M/07/74 (one lifting financed by Bayoil and two liftings financed by Chevron Texaco), M/09/08 (two liftings financed by Chevron Texaco), M/11/69 (one lifting financed by Chevron Texaco), M/13/49 (one lifting financed by Bayoil); Victor Shevtsov and Vladimir Zhavrid interview (Mar. 7, 2005).

⁵⁸⁹ Committee oil surcharge table, contract nos. M/08/41 (containing payments by "Balmorals Ventures"), M/09/08 (same), M/11/69; Fransabank record, SOMO account, SWIFT message (Feb. 13, 2001) (payment of \$558,900 from Hanner Tire Trading); Fransabank record, SOMO account, SWIFT message (Apr. 19, 2002) (payment of \$423,983 from Hi-Tech Technology Company Ltd.); Fransabank record, SOMO

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According to the Committee's calculations based on documents obtained from the Government of Iraq, Belmetalenergo paid approximately \$15.7 million in the form of after-sales-service fees to the Iraqi regime in connection with twenty-six of its humanitarian contracts. Additionally, an undetermined amount was paid in the form of inland transportation fees.⁵⁹⁰

In summary, based on the available evidence, Belmetalenergo knowingly violated the rules governing the Programme and United Nations sanctions against Iraq by paying kickbacks on humanitarian contracts and surcharges on oil contracts. Specifically, the Committee calculates that Belmetalenergo, with financial support from Infobank, paid approximately \$15.7 million in kickbacks, and about \$2.9 million in surcharges on oil contracts.

C. BUKKEHAVE A/S

Bukkehove is a global distributor of vehicles and spare parts headquartered in Svendborg, Denmark. Bukkehove also has office locations in the United States, Japan, and Jordan. The company has a longstanding tradition of selling vehicles and spare parts to the United Nations, the World Bank, the Red Cross, and government agencies throughout the world.⁵⁹¹

From 2000 to 2002, Bukkehove sold more than \$24.4 million of vehicles and spare parts to the Government of Iraq under the Programme. These goods, ranging from trucks and cars to station wagons and buses produced by manufacturers such as Isuzu, Kenworth, and Renault, were sold to the Iraqi Ministries of Electricity, Oil, and Trade. During the Programme, Bukkehove had a small liaison office in Jordan, headed by Peter Post, a Bukkehove employee who served as "Area Export Manager" responsible for coordinating all sales to Iraq. Bukkehove also used the services of a local agent in Jordan, Riad Marei, whose responsibilities included the handling of after-sales-service arrangements.⁵⁹²

In April 2001, the United Kingdom Mission sent a letter to the Danish Mission expressing concerns that three of Bukkehove's contracts contained an "after-sales service" clause, which

account, SWIFT message (Dec. 11, 2001) (payment of \$660,775 from Rouden Co. LLC); Victor Shevtsov and Vladimir Zhavid interview (Mar. 7, 2005). Mr. Shevtsov serves as the Chairman of the Board of Directors of Trustbank, whose founders include Belmoral International, a company associated with Belmoral Ventures. Trustbank, "Management," <http://www.trustbank.by/en/about/managment>; Trustbank, "History of PJSC 'Trustbank,'" <http://www.trustbank.by/en/about/history>; Confidential source report.

⁵⁹⁰ Committee humanitarian kickback table, COMM nos. 702641, 800772, 800773, 800795, 801060, 801075, 801189, 801312, 801386, 801387, 801892, 801957, 802168, 802344, 802559, 900559, 900633, 900758, 901102, 901541, 901807, 1000247, 1000438, 1000950, 1001813, 1002029.

⁵⁹¹ Christian Haar and Peter Barklin interview (Sept. 30, 2005); Bukkehove, "The role of Bukkehove," <http://www.bukkehove.com/About%20us.aspx>.

⁵⁹² Committee humanitarian contractor table and TaR, COMM nos. 701399, 701480, 702866, 702870, 730316, 730317, 730318, 730470, 802048, 802400, 802413, 830062, 830077, 830279, 830462, 830463, 830511, 901527, 901561, 930044, 930263, 930277, 1030362, 1030451, 1030622, 1230593; Christian Haar and Peter Barklin interview (Sept. 30, 2005); Bukkehove letter to the Committee (Sept. 12, 2005).

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would “appear to provide further evidence of Iraqi manipulation of the Oil for Food (OFF) programme.” One of the contracts identified by the United Kingdom was for the supply of cargo trucks and spare parts, with a value of €160,000 (approximately \$147,058), signed by Mr. Post on December 29, 2000.⁵⁹³

The Danish Mission forwarded the United Kingdom’s inquiry directly to Bukkehave. In response, Mr. Post wrote that the “after sales service mentioned in the three contracts is standard when selling factory new vehicles all over the world.” Yet, contrary to Mr. Post’s representations, the after-sales-service component mentioned in Bukkehave’s contract was not used to provide legitimate after-sales services. Instead, it was used to make an unauthorized payment to the Iraqi regime. Records obtained from the Iraqi Ministry of Oil reflect that Mr. Post signed a side letter prior to the conclusion of the contract entered into with the Government of Iraq on December 29, 2000, in which he agreed on behalf of Bukkehave to pay the North Oil Company \$36,109 (€41,087). This side agreement explicitly covered payment of “after sales service” for two contracts, including the contract that the United Kingdom identified as a concern.⁵⁹⁴

⁵⁹³ United Kingdom Mission letter to Denmark Mission (Apr. 23, 2001) (referencing COMM nos. 830062, 830076, 830077); Programme contract, COMM no. 830062 (Dec. 29, 2000) (signed by Peter Post). As noted earlier in this chapter, the mere inclusion of an after-sales-service provision in a Programme contract was not against the Programme’s rules. The inclusion of such a provision, however, often signaled an arrangement between a contractor and the Government of Iraq for the making of a side payment to the Government of Iraq in place of the contractor providing after-sales services.

⁵⁹⁴ Bukkehave letter to Government of Denmark (Apr. 29, 2001); Company side agreement, COMM nos. 830062, 830511 (Dec. 13, 2000).

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Bukkehove Ltd.
Norgesvej 2
P. O. Box 140
DK 5700 Svendborg

Tel. +45 63 21 21 21
Fax +45 63 21 21 63
buk@bukkehove.dk

CVR No. 15502002
SE No. 15502002
www.bukkehove.com

BUKKEHAVE 
Global Vehicle & Parts Supply since 1925

To: North Oil Company
Kirkuk
Iraq

13.12.2000

Subject: Contract nos. NOC/08/8051 and NOC/08/8050

Dear Sirs,

We, Bukkehove Ltd, hereby confirm that we will pay the after sales service mentioned in the above 2 contracts for the total amount of:

EUR 41,087.00

To North Oil Company, after our receive of the payment from the 2 L/C.

The amount of 41,087.00 EUR will be paid cash or to any account informed to us by North Oil Company. As above mentioned.

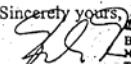
Sincerely yours,

BUKKEHAVE 
Bukkehove Ltd.
Norgesvej 2, P.O. Box 140, DK-5700 Svendborg
Peter Post Tel. +45 63 21 21 21, Fax +45 63 21 21 63
Export Manager SE-nr. 1550 2002
Bukkehove Ltd.

Figure: Company side agreement, COMM nos. 830062, 830511 (Dec. 13, 2000).

This was one of numerous illicit kickbacks made for Bukkehove contracts. Iraqi ministry records reflect that Mr. Post signed more than a dozen side letters on behalf of Bukkehove, agreeing to make payments directly to the Iraqi regime. Based on these side letters, as well as relevant ministry levy and payment data, it is calculated that more than \$1.4 million was paid in the form of after-sales-service fees in connection with Bukkehove's contracts under the Programme.⁵⁹⁵

When contacted concerning evidence of these illicit payments, Bukkehove's management informed the Committee that "[Bukkehove] has not made any unauthorized payments. All dealings with the after sales service fee has [sic] been handled by our agent at the time in Jordan." When later interviewed by the Committee, Bukkehove's chairman stated that Bukkehove commonly included in its contracts with end customers an after-sales-service fee of five percent for warranty services on vehicles. According to Bukkehove, this fee usually applies when the

⁵⁹⁵ Committee humanitarian kickback table, COMM nos. 70280, 802048, 802400, 802413, 830062, 830076, 830279, 830462, 830463, 830511, 901527, 901561, 930044, 930263, 930277, 1030362; Company side agreements, COMM nos. 830062 (Dec. 13, 2000), 830279 (Feb. 26, 2001), 830462 (Mar. 27, 2001), 830463 (Apr. 20, 2001), 830511 (Dec. 13, 2000), 930044 (May 24, 2001) (translated from Arabic), 930263 (June 11, 2001), 930277 (May 27, 2001), 930279 (May 29, 2001), 1030362 (Oct. 24, 2001), 930517 (June 20, 2001), 1030451 (Oct. 24, 2001), 1030622 (Nov. 10, 2001), 1130152 (June 2, 2002), 1230593 (May 24, 2001).

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manufacturer lacks a dealership or agency in a particular country to handle the after-sales-service. In such cases, Bukkehove either kept the five percent and assumed responsibility for the after-sales services or paid a local agent to assume that responsibility. Bukkehove's chairman explained that under the Programme Bukkehove paid its agent, Mr. Marei, a commission of three percent for services rendered and a commission of ten percent for providing after-sales services. Bukkehove's chairman also noted that Bukkehove's contracts included an after-sales-service component that had been approved by the Danish government, OIP, and the 661 Committee.⁵⁹⁶

Although Bukkehove's contracts may have provided for Bukkehove to furnish after-sales services, it did not authorize Bukkehove simply to pay to the Government of Iraq the money set aside for the performance of after-sales services. When questioned about the side letters signed by Mr. Post, Bukkehove's chairman noted that he had never seen these agreements before being shown them by the Committee. The chairman suggested that Mr. Post was a "rogue employee" who was not authorized to do "things . . . outside . . . what normal sales managers would do," and that Mr. Marei was not authorized as an agent to sign contracts on Bukkehove's behalf. The chairman advised the Committee that Mr. Post had left the company two or three years before and that the chairman and Mr. Post were no longer on speaking terms. Although Bukkehove has assisted the Committee in its efforts to locate Mr. Post and Mr. Marei, the Committee has been unable to interview them.⁵⁹⁷

Bukkehove has acknowledged that it made payments to Mr. Marei and stated its view that these payments were for Mr. Marei to perform after-sales services. For one of its contracts, Bukkehove has disclosed a bank wire record of its payment to Mr. Marei on March 20, 2002 for "ASF SERVICE FEE" in the amount of €62,071. This amount is the same that Mr. Post previously agreed to pay the Ministry of Oil (State Company for Oil Projects) in a side agreement dated May 27, 2001, and it is the same amount that is reflected in the Ministry of Oil's payment data as having been paid to an account at Rafidain Bank on April 1, 2002—several days after Bukkehove sent the funds to its agent.⁵⁹⁸

There is no evidence that Bukkehove made direct payments to the Government of Iraq. Nor is there evidence that any employees of Bukkehove other than Mr. Post knew of the illicit payments made by Bukkehove's agent using funds provided by Bukkehove.⁵⁹⁹

⁵⁹⁶ Bukkehove letter to the Committee (Sept. 12, 2005); Christian Haar and Peter Barklin interview (Sept. 30, 2005).

⁵⁹⁷ Ibid.

⁵⁹⁸ Bukkehove letter to the Committee (Oct. 17, 2005) (stating and enclosing a receipt showing payments to the agent of €62,071 on March 26, 2002 for COMM no. 930277); Company side agreement, COMM no. 930277 (May 27, 2001); Ministry of Oil record, Spreadsheet data for COMM no 930277 (reflecting payment €62,071 to Rafidain bank on April 1, 2002).

⁵⁹⁹ Bukkehove letter to the Committee (Oct. 17, 2005). For example, Bukkehove states that "[h]aving investigated this further, it is our understanding that these 'side letters' had to be signed to obtain any contract, there should be letters that afterwards are canceling these, since they were made for the Iraqi

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In summary, based on the available evidence, Bukkehove provided funds that were used by its third party agent (Mr. Marei) to pay more than \$1.4 million in kickbacks to the Iraqi regime in violation of United Nations sanctions and the Programme's rules. Bukkehove's Area Export Manager (Mr. Post) was aware of and complicit in these payments by the agent. The Committee does not have evidence that Bukkehove employees other than Mr. Post were aware of or took part in this scheme to make kickback payments to the Government of Iraq.

D. GINZA

Ginza Co. (also known as Ginza Company for Construction and Real Estate Development and collectively referred to herein as "Ginza") is a subsidiary of the International Group for Investments ("IGI"), a holding company for various industrial and trading companies controlled by the Sheta family in Cairo, Egypt. From 1999 to 2001, Ginza sold approximately \$285.6 million in construction products to the Government of Iraq—ranking as Iraq's ninth largest goods supplier under the Programme. The products sold to Iraq's State Trading Company for Construction Materials and to the Ministries of Interior and Industry included primary construction materials such as reinforcing bars (flat and deformed), chequered plates, galvanized sheets, and window sections. Ginza's goods generally were shipped by vessel to Umm Qasr and then trucked to destinations inside Iraq.⁶⁰⁰

According to Ginza, it learned at some point in 2000 of the Iraqi regime's directive to "collect something extra from now on" with respect to its contracts under the Programme. The respective Iraqi ministries issued payment schedules specifying per-unit fees for inland transportation. Sometimes, Ginza was told to give the fee a different name, like a "training fee." Ginza incorporated the new fees into the price it proposed to Iraq for each contract. It decided to pay the requested transportation fees—even though it knew that the fees did not reflect a real cost factor for transportation of its goods within Iraq.⁶⁰¹

Ginza has advised the Committee that it did not pay what it deemed to be "after-sales-service fees." However, records obtained from Iraq reflect side agreements signed in connection with several of Ginza's contracts. The agreements provided for payment of an "after sales service" fee

officials to obey to guidelines issued by the Iraqi Government." Ibid. Bukkehove, however, has not disclosed any information to suggest that such letters as signed by Mr. Post were cancelled at some later time.

⁶⁰⁰ IGI, "Ginza," <http://www.igi.com.eg>; Committee humanitarian contractor table and TaR, COMM nos. 602017, 700117, 700159, 700208, 700209, 700839, 701093, 701094, 701939, 800094, 800095, 800371, 800482, 800484, 800485, 800858, 800859, 800860, 801022, 801277, 900041; Hishan Sheta, Amr Sheta, Mohammad Al-Sayyed, and Adel Hafez interview (Sept. 18, 2005) (hereinafter "Ginza interview"). Hishan Sheta is vice chairman of the IGI Group; Mohammad Al-Sayyed is Legal Counsel to the IGI Group; Amr Sheta and Adel Hafez are vice chairmen of IGI subsidiary companies. Ibid.

⁶⁰¹ Ibid.

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of ten percent for each shipment before unloading the vessel. Some of the agreements also included payments of “tender charges” of €1.02 per ton.⁶⁰²

Based on twenty-one contracts issued during Phases VI through IX of the Programme, the Committee calculates that Ginza paid kickbacks of approximately \$10.6 million in the form of after-sales-service fees and an undetermined amount in the form of inland transportation fees. Ginza representatives have described making payments by bank transfers from a company account in Egypt to bank accounts in Jordan, including in the names of Alia Transportation and Amman Shipping. Sometimes an Iraqi ministry gave instructions to Ginza about payment of the fees, and sometimes instructions came from Alia or Amman Shipping. Ginza understood that these fees had to be paid before its goods would be accepted for off-loading in Iraq.⁶⁰³

In summary, based on the available evidence, Ginza knowingly made kickback payments to the Iraqi regime outside of the Programme and in violation of the United Nations sanctions against Iraq. The Committee calculates that Ginza paid about \$10.6 million in the form of after-sales-service fees and an undetermined amount in the form of inland transportation fees to the Government of Iraq.

E. JAWALA CORPORATION SDN. BHD.

Jawala is a Malaysian-based corporation that was founded in 1984 as a sawn timber exporter. It has since grown into a general trading company. From Phases VII through XII of the Programme, Jawala sold approximately \$24.2 million of goods, including plywood, teak, block board, and vegetable ghee, to the Government of Iraq pursuant to nine contracts. Most of Jawala’s contracts were with the State Trading Company for Construction Materials, though the company dealt also with the State Company for Foodstuff Trading.⁶⁰⁴

Jawala’s management has acknowledged that Jawala paid both inland transportation and after-sales-service fees on its Programme contracts and that Jawala undertook in side agreements to

⁶⁰² Ibid.; Company side agreements, COMM nos. 801022 (Nov. 22, 2000) (ten percent after-sales-service fee), 803020 (Dec. 15, 2002) (ten percent after-sales-service fee and tender charge), 803043 (Dec. 15, 2002) (same), 803044 (Dec. 15, 2002) (same), 1101795 (Aug. 28, 2002) (same). Although these contracts were signed by Ginza and approved by the United Nations, only COMM no. 801022 ultimately was consummated and funded from the United Nations escrow account.

⁶⁰³ Committee humanitarian kickback table, COMM nos. 602017, 700117, 700159, 700208, 700209, 200839, 701093, 701094, 701939, 800094, 800095, 800371, 800482, 800484, 800485, 800858, 800859, 800860, 801022, 801277, 900041; Ginza interview.

⁶⁰⁴ Jawala Corporation SDN. BHD., “Our Company,” http://www.jawala.com.my/the_company.htm; Committee humanitarian contractor table and TaR, COMM nos. 702279, 800264, 800271, 900001, 900002, 1100118, 1100119, 1100120, 1100121.

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pay these fees. Jawala stated that it paid these fees because they were mandatory in order to do business with Iraq.⁶⁰⁵

Based on side agreements and ministry data, the Committee calculates that Jawala paid more than \$1.6 million in the form of after-sales-service fees and an undetermined amount in inland transportation fees relating to nine of its humanitarian contracts signed between Phases VII and XI.⁶⁰⁶

Jawala management explained that the company initially made payments through Alia but found that Alia did not reliably notify ISCWT of Jawala's payments. Accordingly, Jawala began paying through its ship chartering company and the ship chartering company's agent. Because the ship chartering company stood to lose money from delays in unloading if the fees were not paid, Jawala believed that the ship chartering company had more incentive to ensure notification of the payment of fees to ISCWT.⁶⁰⁷

Based on the commercial contacts it established with Iraq for humanitarian contracts, Jawala also obtained three oil allocations during the Programme—two of which it sold to Sinochem in London and the third it sold to Sempra, a Swiss energy trading company. Iraqi records include correspondence from the Iraqi Embassy to SOMO demonstrating that Jawala made \$910,000 in oil surcharge payments through the Embassy in Kuala Lumpur. Jawala management did not recall making these specific payments, but remembered making many “donations” to the Embassy.⁶⁰⁸

In summary, based on the available evidence, Jawala knowingly breached the Programme's rules and United Nations sanctions. It paid at least \$1.6 million in kickbacks relating to nine of its

⁶⁰⁵ Chee Ah What and Hazmat Khan interview (July 25, 2005). Mr. Chee is Jawala's general manager, and Mr. Khan is Jawala's executive director. *Ibid.*

⁶⁰⁶ Committee humanitarian kickback table, COMM nos. 702279, 800264, 800271, 900001, 900002, 1100118, 1100119, 1100120, 1100121. The Committee obtained seven side agreements signed by Jawala in connection with funded contracts. Company side agreements, COMM nos. 702279 (Sept. 12, 2000), 800264 (Sept. 18, 2000), 900001 (Jan. 23, 2001), 900002 (Jan. 23, 2001), 1100118 (Feb. 13, 2002), 1100119 (Feb. 13, 2002), 1100120 (Feb. 13, 2002), 1200931 (Feb. 13, 2002), 1200932 (undated), 1201548 (Jan. 16, 2003).

⁶⁰⁷ Chee Ah What and Hazmat Khan interview (July 25, 2005). When interviewed, Mr. What and Mr. Khan provided documents demonstrating Jawala's use of Alia at one time and its later use of its ship charterer agent. *Ibid.*

⁶⁰⁸ Committee oil surcharge table, contract nos. M/09/46, M/11/12; Ministry of Oil record, Iraq Embassy in Kuala Lumpur letters to SOMO (July 9, 2001 and May 20, 2002); Chee Ah What and Hazmat Khan interview (July 25, 2005).

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humanitarian contracts and, additionally, paid \$910,000 in surcharges relating to two of its oil contracts.⁶⁰⁹

F. PHOENIX INVESTMENT INTERNATIONAL

Phoenix is a Jordan-registered trading company that was established in 1997. Ranking among the largest forty suppliers to Iraq under the Programme, Phoenix sold approximately \$139.5 million of goods through a total of one hundred contracts. It provided goods, such as foodstuffs, construction supplies, vehicles and vehicle parts, musical instruments, detergent and soap, and office supplies, to a wide range of Iraqi ministries, such as the Ministries of Trade, Oil, and Irrigation.⁶¹⁰

In March 2000, an internal memorandum of the Ministry of Oil instructed all components of the Ministry to give priority to Phoenix's bids. This memorandum further stated that this priority was to be granted in accordance with instructions issued in January 2000 from President Hussein to Vice President Ramadan.⁶¹¹

⁶⁰⁹ Jawala has written to the Committee to advise of its view that it did not know that paying the Government of Iraq for after-sales-service fees and inland transport was wrong and that “[w]e certainly did not have prior knowledge that the ASSF was a payment outside the United Nations Oil-[f]or-Food Programme and that it contravened the United Nations sanctions.” Jawala letter to the Committee (Sept. 30, 2005). Jawala, however, has not indicated any efforts that it made to determine the legality of such payments.

⁶¹⁰ Reza Maktabi interviews (July 22 and Sept. 25, 2005) (describing his involvement as Managing Director and a major shareholder of Phoenix); Committee humanitarian contractor table and TaR, COMM nos. 40006, 601965, 601966, 602019, 602020, 602027, 700268, 700687, 730346, 730351, 730355, 730937, 731024, 800019, 800117, 800118, 800168, 800169, 800254, 800289, 800376, 800516, 800517, 800522, 800550, 800551, 800566, 800567, 800568, 800661, 801095, 801272, 801296, 801373, 801768, 801821, 801865, 801958, 801959, 802134, 802290, 900119, 900120, 900121, 900124, 900156, 900505, 900506, 900508, 900510, 900691, 900927, 900928, 900932, 901591, 901619, 901620, 901829, 901831, 901832, 901935, 901976, 902076, 930315, 930434, 930438, 930581, 930594, 930605, 930677, 1000033, 1000034, 1000037, 1000041, 1000239, 1000348, 1000474, 1000629, 1000692, 1000854, 1000949, 1001340, 1001351, 1001352, 1001356, 1001417, 1001418, 1030168, 1100057, 1100077, 1100132, 1100434, 1101463, 1101468, 1101469, 1101475, 1101995, 1200188, 1200198, 1230451. The Committee is not aware of any relationship between Phoenix Investment International and Phoenix International, a company controlled by Samir Vincent of the United States that purchased oil under the Programme as discussed in a prior Committee report. “Programme Management Report,” vol. II, pp. 95-96.

⁶¹¹ Falleh Hassan Al-Khaya memorandum to Ministry of Oil company managers (Mar. 9, 2000) (translated from Arabic) (citing “the instructions by the President and leader, may god care for him and protect him, in a letter by the respected Vice President of the Republic numbered (99) on 29/1/2000,” and then requesting that the company general manager “give priority to bids submitted by Phoenix for International Investments Company, with the aim of preparing your companies with the required materials during the MOU”). The Committee does not have a copy of the Saddam Hussein letter referenced in this memorandum.

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When interviewed, Phoenix's managing director stated that he was unaware of the Ministry of Oil's instruction to give Phoenix priority status, and he believed that, for political reasons, Phoenix often lost its contract bids to companies from Russia, France, and China. He stated that Phoenix was successful in obtaining contracts because its bids were priced very competitively and offered the best quality.⁶¹²

Phoenix has acknowledged paying inland transportation and after-sales-service fees, asserting that Iraq demanded these fees from all companies during the Programme. After a contract price was approved, the fees were added to the final contract value that then was sent to the United Nations for approval. According to Phoenix, it typically paid for inland transportation fees directly in USD to ISCWT bank accounts in Jordan or Baghdad. For after-sales-service fees, Phoenix made direct payments to the Rafidain bank in Jordan and sometimes sent messengers in cars from Jordan to make cash payments to various ministries in Baghdad.⁶¹³

Iraqi ministry records contain numerous side agreements signed by Phoenix's managing director and other company employees to make payments to the Iraqi regime in connection with Phoenix's contracts. Based on these agreements and other ministry levy and payment data, the Committee estimates that Phoenix paid about \$9.5 million in the form of after-sales-service fees and an undetermined amount in the form of inland transportation fees.⁶¹⁴

⁶¹² Reza Maktabi interview (Sept. 25, 2005).

⁶¹³ Reza Maktabi interviews (July 22 and Sept. 25, 2005). Although many companies under the Programme were required to pay after-sales-service fees in advance of delivery of goods, Phoenix was granted dispensation to pay its fees after it received payment from the United Nations escrow account. On some occasions, it obtained bank guarantees to secure its eventual payment of fees. On other occasions, it obtained an agreement from its bank to assign a portion of funds received from the escrow account for payment to the relevant Iraqi ministry. Reza Maktabi interview (Sept. 25, 2005).

⁶¹⁴ Company side agreements, COMM nos. 601965 (Dec. 19, 2000), 601966 (Dec. 19, 2000), 730971 (May 13, 2002), 800374 (Sept. 26, 2000), 800516 (Oct. 5, 2000), 800517 (Oct. 5, 2000), 800518 (Oct. 5, 2000), 800661 (Nov. 2, 2000), 801272 (Dec. 20, 2000), 801296 (Dec. 19, 2000), 801958 (Dec. 19, 2000), 801959 (Dec. 19, 2000), 803118 (Dec. 4, 2002), 802957 (Feb. 21, 2002), 803098 (Dec. 4, 2002), 803099 (Dec. 4, 2002), 901157 (Nov. 2, 2000), 1000246 (Oct. 5, 2000), 1000250 (Sept. 26, 2000), 1001356 (Nov. 21, 2001), 1002209 (Apr. 21, 2002), 1030168 (undated), 1030447 (Oct. 30, 2001), 1100257 (Feb. 21, 2002), 1100258 (Feb. 20, 2002), 1100329 (Mar. 12, 2002), 1101456 (Sept. 26, 2000), 1201558 (Dec. 4, 2002), 1201777 (Jan. 16, 2003), 1201778 (Jan. 16, 2003); Committee humanitarian kickback table, COMM nos. 40006, 601965, 601966, 700687, 730346, 730937, 800019, 800168, 800169, 800254, 800289, 800376, 800516, 800517, 800522, 800550, 800551, 800566, 800567, 800568, 800661, 801095, 801272, 801296, 801373, 801768, 801821, 801865, 801958, 801959, 802134, 802290, 900119, 900120, 900121, 900124, 900156, 900263, 900505, 900506, 900508, 900510, 900691, 900927, 900928, 900932, 901591, 901619, 901620, 901829, 901831, 901832, 901935, 901976, 902076, 930315, 930434, 930438, 930581, 930594, 930605, 930677, 1000033, 1000034, 1000037, 1000041, 1000239, 1000348, 1000629, 1000692, 1000854, 1000949, 1001340, 1001351, 1001352, 1001356, 1001417, 1001418, 1030168, 1100057, 1100077, 1100132, 1100434, 1101463, 1101468, 1101469, 1101475, 1200188, 1200198.

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In its communications with the Committee, Phoenix disputed that its payments to the Government of Iraq were illegal or known by Phoenix to be illegal. Phoenix stated that it received assurances from the Ministry of Transportation that the United Nations had approved its inland transportation payments. However, Phoenix has not disclosed any documentary evidence reflecting that it was given such assurances. Nor has it asserted that it verified with the United Nations that such payments were legal.⁶¹⁵

Phoenix suggests also that it agreed to pay the ten percent “administrative” or after-sales-service fee only after Iraqi authorities showed Phoenix examples of other contracts that had been approved by the United Nations and that included such fees.⁶¹⁶ However, Phoenix has not produced such contracts to the Committee. To the extent that after-sales-service fees were referenced in Programme contracts, such contracts required suppliers to furnish such services and not to discharge obligations to provide services by making payments to the Government of Iraq. The United Nations’ contract files for Phoenix do not reflect that any of the numerous side agreements signed by Phoenix to pay the Government of Iraq were submitted for the United Nations’ review and approval.

In summary, based on the available evidence, Phoenix knowingly breached the Programme’s rules and United Nations sanctions. Phoenix paid about \$9.5 million in after-sales-service fees and an undetermined amount in inland transportation fees to the Government of Iraq in connection with contracts under the Programme.

G. RUSSIAN ENGINEERING COMPANY

REC is a Russian-registered company located in Moscow that was created in the late 1990s. According to an article published by one of REC’s managers, the company specializes in “export of goods and technologies of leading Russian and foreign manufacturers to the Middle East” and views its participation in the Programme as its most successful business project. Since the years of the Programme, REC has maintained an office in Baghdad. REC staff members, including Sergei Issakov, Chairman of the Board of Directors, frequently traveled to Iraq during the Programme and reportedly met with high-level Iraqi officials, including Tariq Aziz and Saddam Hussein.⁶¹⁷

⁶¹⁵ Reza Maktabi interview (Sept. 25, 2005); Phoenix letters to the Committee (Sept. 16 and Oct. 10, 2005) (acknowledging payments and contending that the payments were approved by the United Nations or believed by Phoenix to be legal).

⁶¹⁶ Reza Maktabi interview (Sept. 25, 2005); Phoenix letters to the Committee (Sept. 16 and Oct. 10, 2005).

⁶¹⁷ Confidential source report; Confidential witness interview; Andrei Okhotkin, “Russian Engineering Company – Your Partner in Russia” (May 17, 2004), <http://www.en.mirros.ru/economics/rikr>; REC, “Company Structure,” <http://www.rectrade.ru/mods.php?name=section&oid=3&bid=35> (identifying Sergei Issakov as “Chairman of the Board”); World of Russia (Mir Rossii), “Blood, Lies, and Tears: An interview with Sergei Isakov,” May 28, 2005, <http://en.mirros.ru/politics/tears> (quoting Mr. Issakov as stating that he started working in Iraq in 1997 and traveled to Iraq “four or five times a year”); Olga Proskurina,

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REC began participating in the Programme during Phase VII and actively engaged in both the humanitarian and oil sides of the Programme. Throughout the Programme, REC executed forty humanitarian contracts worth about \$210 million—ranking as the sixteenth largest contractor under the Programme. Among the goods supplied by REC were foodstuffs, cars, trucks, construction materials, and equipment. In executing these contracts, REC relied on numerous intermediaries to supply the goods that it sold to Iraq, most of which were produced in Germany, Japan, India, Italy, and Russia.⁶¹⁸

Records obtained by the Committee from Iraq include thirty-two side agreements signed by REC representatives.⁶¹⁹ Set forth below is one such document, in which REC agreed to pay nearly €180,000 in connection with one of its contracts to provide furnace equipment:⁶²⁰

Alexander Bekker, Ekaterina Derbilova, and Vasily Kashin, “Our man in Baghdad,” *Vedomosti*, May 20, 2005, p. A1 (translated from Russian).

⁶¹⁸ Confidential witness interview; Confidential witness interview; Committee humanitarian contractor table, COMM nos. 701527, 800683, 800687, 801233, 901345, 901881, 901987, 902036, 902047, 1000139, 1000146, 1000157, 1001403, 1030441, 1030526, 1100117, 1100269, 1100301, 1100335, 1100576, 1100577, 1130010, 1130012, 1130013, 1130036, 1130060, 1130061, 1200068, 1200113, 1200144, 1200145, 1200213, 1200248, 1200411, 1200744, 1230187, 1230189, 1230357, 1230543, 1300128; Committee oil company table, contract nos. M/11/05, M/11/07, M/12/17, M/12/69.

⁶¹⁹ Company side agreements, COMM nos. 631122 (Oct. 1, 2001), 631149 (Oct. 31, 2001), 730963 (May 24, 2002), 901618 (July 21, 2001), 1000600 (Sept. 20, 2001), 1030294 (undated), 1030295 (Sept. 24, 2001), 1030302 (Sept. 1, 2001), 1030320 (Sept. 1, 2001), 1030414 (Oct. 1, 2001), 1030441 (Oct. 27, 2001), 1030526 (Oct. 1, 2001), 1030608 (Oct. 1, 2001), 1030686 (Jan. 5, 2002), 1030729 (Jan. 5, 2002), 1030747 (Oct. 7, 2001), 1130010 (undated), 1130012 (undated), 1130013 (undated), 1130036 (undated), 1130060 (undated), 1130061 (undated), 1130140 (undated), 1130142 (May 19, 2002), 1130288 (May 12, 2002), 1130289 (June 12, 2002), 1130290 (June 12, 2002), 1230187 (undated), 1230189 (undated), 1230203 (May 24, 2002), 1230357 (undated), 1230543 (Nov. 25, 2002). To the extent that some of the contract numbers referenced for side agreements may not appear in the list of contract numbers referenced in the preceding footnote, this is because some of the contracts for which side agreements were entered did not end up being approved or funded by the United Nations.

⁶²⁰ Company side agreement, COMM no. 1230357 (undated). The side agreement contained reference to contract no. NR-12-03, which is the internal Iraqi number used for COMM no. 1230357. Programme contract, COMM no. 1230357 (Nov. 5, 2002).

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SIDE AGREEMENT BETWEEN :

FIRST PARTY :
(North Refineries Co. - Baiji)

SECOND PARTY:
RUSSIAN ENGINEERING COMPANY
13. BUILDING 4 Pr. Cherskogo,
Moscow 127410. Russia

REFERENCE TO CONTRACT NO.NR-12 - 03

1. We hereby undertake to pay to North refineries without any Conditions, Reasons, Circumstances, or Excuses, the amount of Euro (179998) One hundred seventy nine thousand nine hundred ninety eight Euro). The amount will be paid, net, excluding all bank fees, interest ... ETC.
In A currency to be advised by North Refineries to a bank account to be nominated, or approved by North Refineries.
2. We shall submit an effective bank guarantee in favor of North Refineries in the same amount stated in Para.(1) above issued by a bank acceptable to North Refineries and in the form approved by North Refineries.
3. This bank guarantee shall be issued within two weeks of contract approval, effective on L/C opening; and valid until End User received his dues.
4. The payment can be effected in one lot (for complete shipments) or in parts corresponding to partial shipment prior to each shipment & in the same proportion in either case, the actual payment must be effected with (2-3) weeks of receipt by the contractor of his dues under the above contract for each shipment .
5. This payment will be effected either in cash or through a mechanism, which is to be agreed upon between the two sides.


Riyad Abid Ghassab
Director General


RUSSIAN ENGINEERING COMPANY
ALEXEY BAKOV
SALES MANGER

Figure: Company side agreement, COMM no. 1230357 (undated).

REC's corporate letterhead and seal on the side agreement above, as well as the name and signature of REC's employee, correspond to the letterhead, seal, name, and signature appearing in United Nations records for official contracts approved by the United Nations, including the contract corresponding to this side agreement.⁶²¹ On the basis of such side agreements and Iraqi ministry financial data, the Committee calculates that REC paid more than \$5.8 million to the Government of Iraq in the form of after-sales-service fees in connection with nineteen of its contracts under the Programme. Additionally, REC paid an undetermined amount in the form of inland transportation fees.⁶²²

⁶²¹ See, e.g., Programme contracts, COMM nos. 901881 (July 31, 2001), 1200213 (May 21, 2002), 1100576 (Apr. 9, 2002), 1230357 (Nov. 5, 2002).

⁶²² Committee humanitarian kickback table, COMM nos. 631122 (not executed), 800683, 800687, 801233, 901345, 901881, 901987, 902036, 902047, 1000139, 1000146, 1000157, 1001403, 1100117, 1100269, 1100577, 1130012, 1200113, 1200213; Confidential witness interview.

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Mr. Issakov's contacts with Iraq led to REC receiving rights to buy large amounts of Iraqi oil in addition to selling Iraq humanitarian goods. Starting in Phase XI, REC contracted for 24.5 million barrels of oil, for which approximately \$517.4 million was paid to the United Nations escrow account.⁶²³ In relation to one of its contracts in Phase XI, REC made surcharge payments to the Government of Iraq, totaling at least \$2.5 million. These payments were made in cash to the Iraqi embassy in Moscow between February and August 2002. Additionally, according to SOMO records, REC participated in surcharge payments of over \$4 million on behalf of another Russian oil purchaser, Rosnefteimpex. These payments were also made through the Iraqi embassy in Moscow between October and December 2001.⁶²⁴ Receipts for some of these payments reflect that Mr. Issakov personally brought the payment money to the embassy, including the payment of \$150,000 as shown below:⁶²⁵

⁶²³ Committee oil company table, contract nos. M/11/05, M/11/07, M/12/17, M/12/69.

⁶²⁴ Committee oil surcharge table, contract no. M/11/05 (involving its own contract); M/09/25, M/10/15 (involving Rosnefteimpex); SOMO record, Iraq Embassy in Moscow payment receipts, nos. 2 (Mar. 23, 2001), 3 (Apr. 5, 2001), 7 (Apr. 28, 2001), 10 (May 25, 2001), 12 (May 30, 2001), 20 (July 18, 2001), 43 (Oct. 16, 2001), 45 (Oct. 23, 2001), 50 (Nov. 13, 2001), 53 (Nov. 22, 2001), 58 (Dec. 7, 2001), 63 (Dec. 21, 2001), 87 (Feb. 26, 2002), 90 (Mar. 18, 2002), 108 (Apr. 26, 2002), 118 (June 21, 2002), 130 (Aug. 7, 2002). Additionally, the Committee obtained a record of payment made by the Iraqi embassy in Moscow of a \$100,000 deposit by a representative of "Russian Engineering Company/Brenton Ventures." This payment, however, was not reflected in SOMO documents. SOMO record, Iraq embassy in Moscow payment receipt, no. 109 (Apr. 26, 2002).

⁶²⁵ SOMO record, Iraq Embassy in Moscow payment receipts, nos. 2 (Mar. 23, 2001), 3 (Apr. 5, 2001), 7 (Apr. 28, 2001), 10 (May 25, 2001), 12 (May 30, 2001), 20 (July 18, 2001), 58 (Dec. 7, 2001), 108 (Apr. 26, 2002); Iraq official interview (stating that Mr. Issakov personally brought cash to the embassy).

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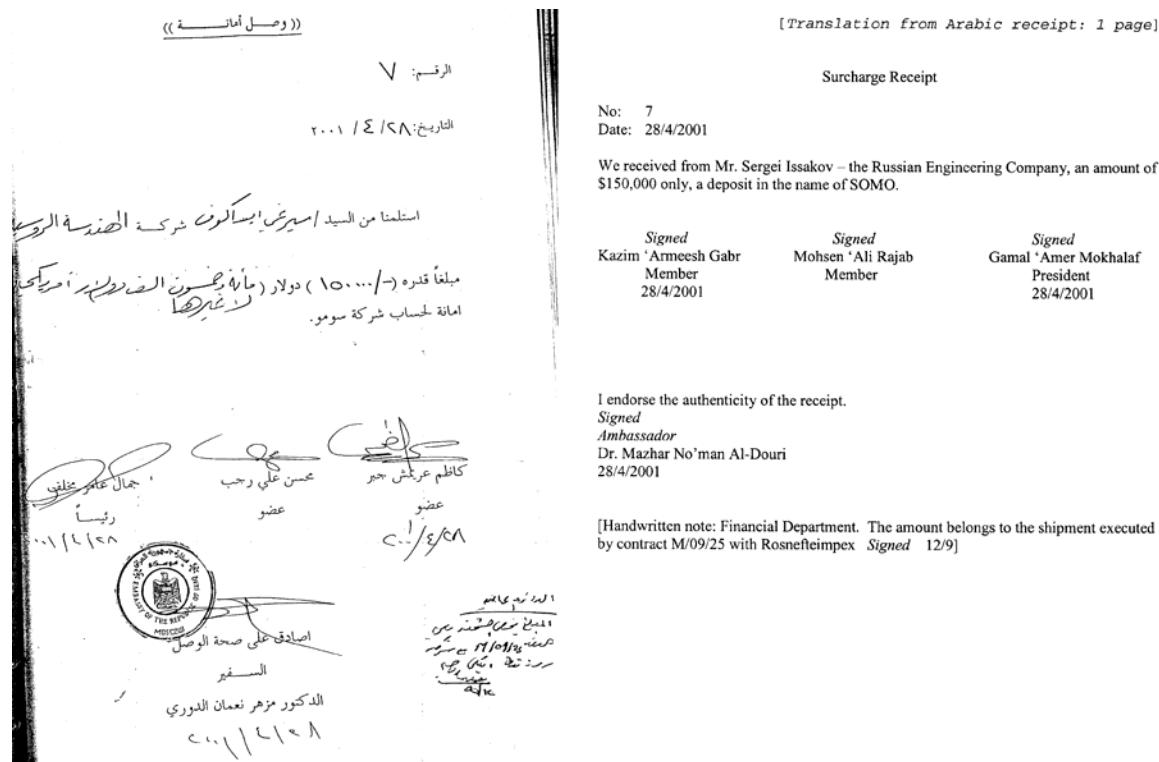


Figure: Iraq Embassy in Moscow payment receipt, no. 7 (Apr. 28, 2001) (translated from Arabic) (regarding contract no. M/09/25).

REC has declined to cooperate with the Committee, and Mr. Issakov has refused to be interviewed. The Committee has furnished copies of documents obtained from the Government of Iraq and requested a meeting with company representatives. Among the documents provided to REC by the Committee were copies of side payment agreements and receipts in the name of REC for oil surcharge payments made to the Iraqi embassy in Moscow. In February 2005, Mr. Issakov signed a letter to the Russian Ministry of Foreign Affairs insisting that REC “undeviatingly followed all recommendations of the Ministry of Foreign Affairs and strictly observed all rules, norms, and restrictions of the sanctions regime.” The letter also assailed the Committee’s purpose as “aimed solely at one goal - discrediting an active, developing and successful . . . Russian company.” More recently, when advised of the Committee’s intention to include a discussion of REC’s and his activities in this Report, Mr. Issakov wrote to the Committee to state that his company had not made side payments and that the Committee’s conclusions were “evidently based on inadequate, false information with a definitive political

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orientation, which has been incorrectly interpreted.” REC otherwise has failed to explain or rebut the specific evidence reflecting its illicit payments to the Iraqi regime.⁶²⁶

In summary, based on the available evidence, REC knowingly violated the rules governing the Programme and United Nations sanctions against Iraq by paying kickbacks on humanitarian contracts and surcharges on oil contracts. Specifically, the Committee calculates that REC paid the Government of Iraq approximately \$5.8 million in the form of after-sales-service fees and an undetermined amount in the form of inland transportation fees. In addition, as reflected in Iraqi records and embassy payment receipts, REC paid at least \$2.5 million in surcharges for Iraqi oil that it obtained in its own name and assisted in payment of over \$4 million in oil surcharges for another Russian company.

H. SES INTERNATIONAL CORP.

SES is a Syrian-based company that initially specialized in construction and road-building, but subsequently became involved in the trading sector. SES participated in the Programme beginning in Phase IX and executed a total of ten humanitarian contracts worth \$216.9 million—making it the fifteenth largest humanitarian supplier under the Programme.⁶²⁷

According to SES managers interviewed by the Committee, SES acted as an intermediary agent for the sale of goods during the Programme. Most of the goods sold under SES’s contracts originated from Ukraine, Romania, Russia, and Egypt, and they included construction materials, wood, foodstuffs, and trucks. SES did not purchase any goods directly from manufacturers; instead, it entered into agent agreements with other intermediaries, primarily Ginza (Egypt) (discussed above), Samah (Jordan), and business ventures of Hassan Hamadani, a Jordanian national. SES’s partners in Egypt and Jordan were responsible for finding manufacturers, preparing tender applications, and transporting goods to Iraq. For its participation, SES received a share of the profit, sometimes up to fifty percent. SES preferred to act through its partners in Egypt and Jordan because it lacked experience in international trade and did not have the financial resources necessary to finance purchases directly from manufacturers.⁶²⁸

⁶²⁶ Committee letters to REC (Feb. 7 and July 29, 2005); REC site visit report (Feb. 28, 2005) (regarding a visit to REC’s headquarters by Committee investigators); REC letter to Russia Ministry of Foreign Affairs (Feb. 11, 2005) (translated from Russian); REC letter to the Committee (Oct. 7, 2005).

⁶²⁷ Committee humanitarian contractor table and TaR, COMM nos. 900530, 1000316, 1000820, 1100089, 1100090, 1100743, 1101473, 1200286, 1200295, 1200522; Assef Shaleesh and Ibrahim Al-Rawi interview (July 6, 2005). Mr. Shaleesh is the general manager of SES, and Mr. Al-Rawi is the commercial manager. Ibid.

⁶²⁸ Ibid.; see, e.g., SES contract with Ginza, cl. 2 (Oct. 29, 2001) (stating that the SES and Ginza each would receive fifty percent of the profit).

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The Committee has obtained eighteen side agreements related to SES's humanitarian contracts.⁶²⁹ An example of one of such letters is provided below:⁶³⁰

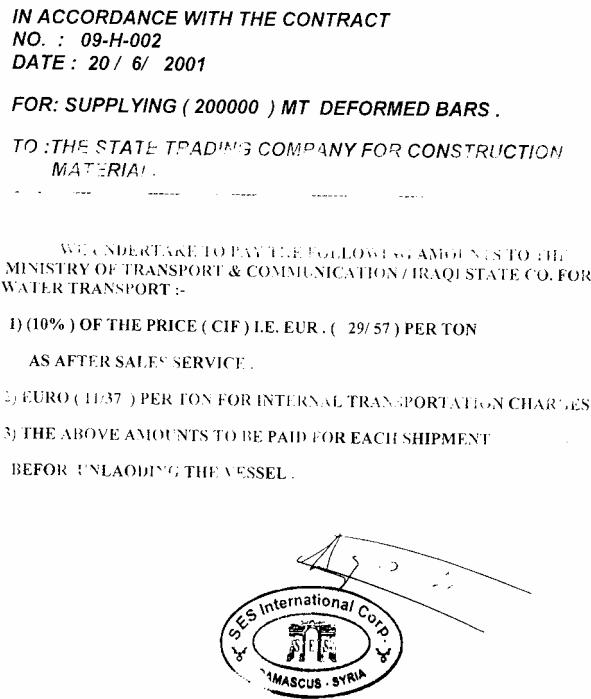


Figure: Company side agreement, COMM no. 1000316 (June 20, 2001).

The signature on the side agreement above belongs to Mr. Shaleesh, SES's general manager, who confirmed to the Committee the authenticity of the SES stamp and his signature. Mr. Shaleesh, however, denied writing or authorizing such letters. Mr. Shaleesh explained that, for each of SES's humanitarian contracts, he provided his partner companies in Egypt and Jordan about a dozen blank sheets signed by him and containing SES's stamp. Mr. Shaleesh stated that he did not know what happened with these sheets and insisted that the letters were most likely provided to the Government of Iraq by his partners.⁶³¹

⁶²⁹ Company side agreements, COMM nos. 702885 (Jan. 30, 2002), 802943 (Jan. 2002), 802948 (Jan. 2002), 802952 (Jan. 2002), 803025 (Nov. 24, 2002), 803039 (Nov. 24, 2002), 803145 (Nov. 24, 2002), 803227 (Dec. 21, 2002), 803228 (Dec. 2002), 803229 (Dec. 2002), 803230 (Dec. 2002), 900530 (Feb. 24, 2001), 1000316 (June 20, 2001), 1000820 (Oct. 1, 2001), 1000821 (Oct. 1, 2001), 1000822 (Oct. 1, 2001), 1001975 (Jan. 30, 2002), 1100089 (Jan. 30, 2002).

⁶³⁰ Company side agreement, COMM no. 1000316 (June 20, 2001).

⁶³¹ Assef Shaleesh and Ibrahim Al-Rawi interview (July 6, 2005).

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Mr. Shaleesh nevertheless confirmed that there were side payments made on SES's contracts for roughly ten percent of the original contract values. He stated that SES's role in side payments was limited, and the side payments were authorized and transferred by SES's partners through SES's bank account at BNP Beirut to the Government of Iraq. According to Mr. Shaleesh, side payments were made on several of SES's executed contracts, including the contract corresponding to the above side agreement.⁶³²

Based on side letter agreements issued in the name of SES and other payment records obtained from the Government of Iraq, the Committee calculates that a total of about \$16.2 million in the form of after-sales-service fees was paid to the Government of Iraq in connection with six of SES's humanitarian contracts. Additionally, an undetermined amount was paid in the form of inland transportation fees.⁶³³

In summary, based on the available evidence, SES knowingly violated the rules governing the Programme and United Nations sanctions against Iraq by making side payments on SES's humanitarian contracts. The Committee calculates that approximately \$16.2 million was paid in after-sales-service fees and an undetermined amount in inland transportation fees for SES's humanitarian contracts to the Iraqi regime.

I. SINOCHEM

Sinochem is one of the world's largest trading companies specializing primarily in the areas of petroleum, fertilizers, and chemicals. Formerly known as China Import Company, Sinochem was founded by the Government of China in 1950 and remains a state-owned enterprise. During the last decade, Sinochem has been listed consistently on the *Fortune* Global 500 list. Its corporate structure includes dozens of companies registered in various countries. Five of Sinochem's subsidiaries participated in the Programme, namely: (1) Sinochem International Corp. (China); (2) Sinochem Tianjin Import and Export Corp. (China); (3) Sinochem Hebei Import and Export Corp. (China); (4) Sinochem International Tendering Co. Ltd. (China); and (5) Sinochem International Oil London Co. Ltd. (United Kingdom).⁶³⁴

⁶³² Assef Shaleesh and Ibrahim Al-Rawi interview (July 6, 2005).

⁶³³ Committee humanitarian kickback table, COMM nos. 900530, 1000316, 1000820, 1100089, 1100090, 1100743.

⁶³⁴ Sinochem, "2004 Annual Report," <http://www.sinochem.com/en/annual/download.asp> (containing a list of Sinochem's subsidiaries); Datamonitor Company Profiles, "Sinochem – SWOT Analysis" (July 21, 2004) (stating that Sinochem was ranked fifth among the top five hundred Chinese companies in 2003); Hoover's Company Basic Records, "China National Chemicals Import & Export Corporation" (Sept. 28, 2005) (identifying Sinochem as the largest trading company in China and stating that it operates through more than one hundred subsidiaries); Fortune Asian Edition, "The Index" (Aug. 8, 2005); Sinochem, "About SINOCHEM," <http://www.sinochem.com/en/about/index.asp>; Sinochem, "The ranking of Sinochem in FORTUNE," <http://www.sinochem.com/en/news/background3.asp>.

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Throughout the Programme, Sinochem companies executed a total of twenty-six humanitarian contracts with a total value of \$20.6 million. Under these contracts, which were signed between Phases V and IX, Sinochem primarily supplied Chinese-made pipes and related accessories.⁶³⁵

The Committee has obtained from Iraq copies of several agreements signed by Sinochem representatives that guaranteed side payments to the Iraqi regime in connection with Programme contracts. One example, set forth below, includes Sinochem's promise to pay €300,000 to the North Oil Company in connection with a contract to furnish approximately €3.3 million of oil industry valves:⁶³⁶

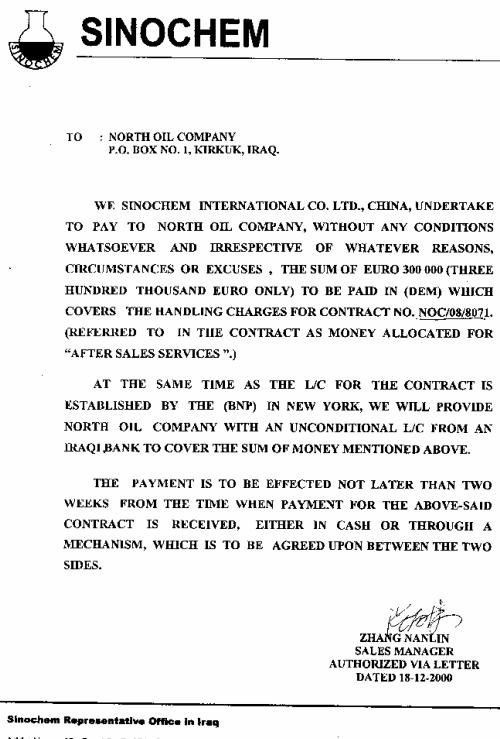


Figure: Company side agreement, COMM no. 830477 (Dec. 18, 2000).

⁶³⁵ Committee humanitarian contractor table and TaR, COMM nos. 53195, 53196, 53198, 53280, 53487, 53535, 53615, 600476, 630321, 630326, 700510, 700511, 700512 (involving Sinochem International Corp.); 700513 (involving Sinochem Hebei Import and Export Corp.); 702575 (involving Sinochem Tianjin Import and Export Corp.); 730460, 730494, 730495, 730848, 800524, 801352, 801353, 830477, 830478 (involving Sinochem International Corp.); 830606 (involving Sinochem International Tendering Co. Ltd.); 930228 (involving Sinochem International Corp.).

⁶³⁶ Company side agreements, COMM nos. 830477 (Dec. 18, 2000), 830606 (Nov. 20, 2000), 830478 (Dec. 12, 2000).

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Based on documents obtained from the Government of Iraq, the Committee calculates that, in connection with nineteen of its humanitarian contracts, Sinochem paid the Iraqi regime \$669,107 in the form of after-sales-service fees and an undetermined amount in the form of inland transportation fees.⁶³⁷ Numerous bank records obtained by the Committee from the Housing Bank of Trade and Finance in Amman, Jordan reflect Sinochem's payments to the Iraqi regime in connection with its contracts under the Programme.⁶³⁸

Apart from its provision of goods to Iraq, Sinochem—through its United Kingdom-based subsidiary, Sinochem International Oil London Co. Ltd.—was the second largest oil contractor under the Programme. It purchased 114.1 million barrels of Iraqi oil, paying nearly \$2.2 billion to the United Nations escrow account. SOMO records reflect the payment of a total of nearly \$5.1 million in surcharges to the Government of Iraq for Sinochem's oil contracts.⁶³⁹

Sinochem has declined to cooperate with the Committee's inquiry. In January 2005, Committee investigators visited China to meet with diplomatic officials. Before this visit, they requested an opportunity to meet with Sinochem officials concerning evidence of Sinochem's payment of oil surcharges to the Iraqi regime. Although Sinochem is owned by the Government of China, the Government did not arrange a meeting. In July 2005, the Committee wrote to Sinochem concerning evidence of its payments of kickbacks in connection with humanitarian contracts, but has not received any response. Most recently, in response to the Committee's further notifications that Sinochem would be a subject of discussion in this Report, Sinochem has advised the Committee that these matters are now under investigation.⁶⁴⁰

⁶³⁷ Committee humanitarian kickback table, COMM nos. 600476, 630321, 630326, 700510, 700511, 700512 (involving Sinochem International Corp.); 700513 (involving Sinochem Hebei Import and Export Corp.); 702575 (involving Sinochem Tianjin Import and Export Corp.); 730460, 730494, 730495, 730848, 800524, 801352, 801353, 830477, 830478 (Sinochem International Corp.); 830606 (involving Sinochem International Tendering Co. Ltd.); 930228 (involving Sinochem International Corp.).

⁶³⁸ See, e.g., Housing Bank for Trade and Finance record, Iraq-controlled bank account, credit advice (June 9, 2002) (advising of an incoming transfer of €46,728 in relation to COMM no. 730848); Housing Bank for Trade and Finance record, Iraq-controlled bank account, credit advice (Apr. 16, 2002) (advising of an incoming transfer of €47,542 in relation to COMM no. 830478); Housing Bank for Trade and Finance record, Iraq-controlled bank account, credit advice (Apr. 16, 2002) (advising of an incoming transfer of €28,561 in relation to COMM no. 930228); Housing Bank for Trade and Finance record, Iraq-controlled bank account, credit advice (June 10, 2002) (advising of an incoming transfer of €300,000 in relation to COMM no. 830477).

⁶³⁹ Committee oil company table, contract nos. M/02/28, M/03/29, M/03/42, M/04/14, M/05/42, M/06/04, M/07/05, M/08/12, M/09/84, M/10/44, M/11/02, M/12/38, M/13/08; Committee oil surcharge table, contract nos. M/08/12, M/09/84, M/10/44, M/11/02, M/12/38.

⁶⁴⁰ Committee letter to China Permanent Mission (Jan. 3, 2005) (listing specific oil surcharge payments made on Sinochem's oil contracts and requesting that the Government of China arrange a meeting with appropriate company representatives to discuss); China officials #1-2, 4-5 interview (Jan. 19, 2005); Committee letter to China Permanent Mission (Jan. 10, 2005); Committee letter to Sinochem (July 26, 2005) (advising of the Committee's information indicating Sinochem's payment of ten percent kickbacks

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In summary, based on the available evidence, Sinochem knowingly violated the rules governing the Programme and United Nations sanctions against Iraq by paying kickbacks on humanitarian contracts and surcharges on oil contracts. Sinochem paid \$669,107 in the form of after-sales-service fees and an undetermined amount in the form of inland transportation fees on its humanitarian contracts. Additionally, it paid nearly \$5.1 million in surcharges on contracts for the purchase of oil by its United Kingdom subsidiary.

on humanitarian contracts and inviting Sinochem's response); Committee letter to Sinochem (Sept. 29, 2005); Sinochem e-mail to the Committee (Sept. 30, 2005); Committee e-mail to Sinochem (Sept. 30, 2005); Sinochem letters to the Committee (Oct. 13, 2005) (responses from Sinochem International Corp., Sinochem International Tendering Co., Ltd., and Sinochem International Oil London Co. Ltd.).

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X. MAJOR INDUSTRIAL COMPANIES

The final category of companies includes major industrial manufacturing companies based in Europe and North America. These include companies: (1) Atlas Copco Airpower N.V. (“Atlas”) of Sweden; (2) DaimlerChrysler AG (“DaimlerChrysler”) of Germany; (3) Maloney Industries Inc. (“Maloney”) of Canada; (4) Siemens companies; (5) Volvo Construction Equipment (“Volvo CE”) of Sweden; and (6) Weir Group PLC (“Weir”).

A. ATLAS COPCO AIRPOWER N.V.

Founded in 1873, Atlas Copco Group is a global industrial group of companies headquartered in Stockholm, Sweden, specializing in the production of compressors, generators, construction and mining equipment, and industrial tools. The Group employs more than 25,000 people and manufactures products in forty-nine facilities in sixteen countries worldwide. Atlas Copco Airpower N.V. (“Atlas”) is a company within the Group that specializes in compressed air technology and is based in Wilrijk, Belgium.⁶⁴¹

Through a subsidiary known as Atlas Copco Compressor International N.V. (“ACCI”), Atlas sold approximately \$30.2 million of primarily air compressors and spare parts for air compressors to the Government of Iraq under the Programme. These products were sold from 1997 to 2003 to the Ministries of Agriculture, Electricity, Health, Housing, Industry, Interior, Irrigation, and Oil, and to the Municipality of Baghdad.⁶⁴²

For its sales in Iraq, Atlas used the services of a sales agent. For its services, Atlas’s sales agent was paid a commission that was calculated as a percentage over Atlas’s total contract value. Half

⁶⁴¹ Geert Follens, Hans Sandberg, Alex Bongaerts interview (Sept. 26, 2005) (hereinafter “Atlas interview”). Mr. Follens is President of Atlas Copco Airpower N.V.; Mr. Sandberg is Senior Vice President and General Counsel for Atlas Copco AB; and Mr. Bongaerts is Vice President for Finance and Administration of Atlas Copco Airpower N.V. Ibid.; see also Atlas Copco, “Atlas Copco’s organization,” <http://www.atlascopco.com/acgroup/acgroup.nsf/docs/organization> (discussing Atlas Copco’s corporate structure). References to “Atlas” herein also include Atlas Copco Compressor International N.V.

⁶⁴² Committee humanitarian company table, COMM nos. 5, 60, 169, 559, 577, 589, 3499, 4380, 4456, 4757, 50106, 50438, 50439, 50688, 50786, 50873, 50935, 53091, 53375, 53412, 53416, 53510, 501034, 6015659, 601570, 601687, 601891, 630068, 630807, 630808, 630809, 630810 630966, 63100, 631021, 631061, 700524, 700563, 701366, 701851, 701867, 702195, 702196, 702307, 702356, 730059, 730151, 730205, 730272, 730273, 730277, 730481, 730552, 730554, 730623, 730864, 730870, 731020, 800890, 800996, 801038, 801448, 801449, 801755, 801855, 801965, 802004, 802034, 802248, 802391, 802678, 830053, 830061, 830072, 830079, 830095, 830098, 830101, 830504, 830505, 830556, 830731, 830807, 901158, 901262, 930064, 930066, 930496, 1000230, 1030544, 1101459, 1130056, 1200082, 1230241, 1230397, 1230487.

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of this commission was paid when Atlas's sales agent placed an order with Atlas, and the remaining half was paid upon final invoicing from Atlas to the Government of Iraq.⁶⁴³

Atlas concluded its first agency agreement with its sales agent in April 1999. The initial agreement authorized the agent to "collect enquiries, submit Atlas quotations, accept orders, [and] sign contracts in accordance with submitted quotations." However, by e-mail to Atlas's sales agent in April 2001, the General Manager of ACCI stipulated that pro forma invoices could be issued only by ACCI in Belgium or by "Mr. Antoine Santiago as a representative of ACCI, authorized by 'Power of Attorney' to sign official documents."⁶⁴⁴

In April 2000, Mr. Santiago signed a contract with the Ministry of Oil, on Atlas's behalf, to furnish machinery and equipment for a price of €377,434. Mr. Santiago's signature appears in the contract alongside the title "Regional Manager" and also in the pro forma invoice that was submitted for approval through the Belgian Mission to the United Nations.⁶⁴⁵

The contract includes a line-item for "after-sales-service" in the amount of €4,320. As discussed earlier, under the Programme's rules, such a provision could be included in a goods contract only if the company itself were providing the after-sales service and not simply paying the money to Iraq. When this contract was submitted for United Nations approval, OIP's contract review office noticed the provision and wrote to Atlas, in March 2001, asking whether the after-sales services actually would be provided. Atlas sent a reply letter in April 2001, stating that "[a]n Atlas Copco engineer will visit the customer" to install the equipment, that the engineer "is part of Atlas Copco'[s] staff pool," and that "[p]ersonnel are traveling in Iraq to complete these services." Atlas submitted an amended pro forma invoice to reflect that the company would be providing this service.⁶⁴⁶

Yet, by the time Atlas sent this letter to the United Nations, Atlas long had since committed—through a side agreement signed together with the underlying contract—to pay the Ministry of Oil a total of €4,320, which was dubbed as a fee for "after sales service." This was precisely the

⁶⁴³ Atlas interview; Atlas letter to the Committee (Sept. 13, 2005). Although the name of the agent is known to Atlas, the Committee does not disclose the sales agent's name because he lives in Iraq and has stated safety concerns (unrelated to Atlas) if his name were publicly disclosed.

⁶⁴⁴ Atlas interview; Atlas and Atlas's sales agent representation agreement (Apr. 1, 1999); Jean-Pierre Fauque e-mail to Atlas's sales agent (Apr. 2, 2001).

⁶⁴⁵ Programme contract, COMM no. 830079 (Dec. 24, 2000); Atlas pro forma invoice, COMM no. 830079 (Dec. 24, 2000).

⁶⁴⁶ Programme contract, COMM no. 830079, para. 3(b) (Dec. 24, 2000); OIP letter to Atlas (Mar. 1, 2001); Atlas Copco fax to OIP (Apr. 4, 2001). In contrast to Atlas's representation to OIP that "an Atlas Copco engineer" of "Atlas Copco'[s] staff pool" would perform the start-up activity, Atlas Copco's President more recently has advised the Committee that "service" in Iraq was performed by Atlas's sales agent, and "it must be stressed that Atlas Copco did not have any staff in Iraq for the purpose of carrying out any activities in the areas of start up, commissioning, training, etc." Atlas letter to the Committee (Sept. 13, 2005).

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amount stipulated as an after-sales-service fee in the contract submitted to the United Nations. Consistent with Iraq's general policy of requiring contractors to agree to ten percent kickbacks and then adding this amount to contract prices submitted for United Nations approval, the amount of €34,320 represented approximately ten percent of the contract price (€377,434), when reduced by the amount of the kickback.

The side agreement—signed by Antoine Santiago as Atlas's “Regional Manager” and bearing Atlas's logo and seal—is reproduced below:⁶⁴⁷

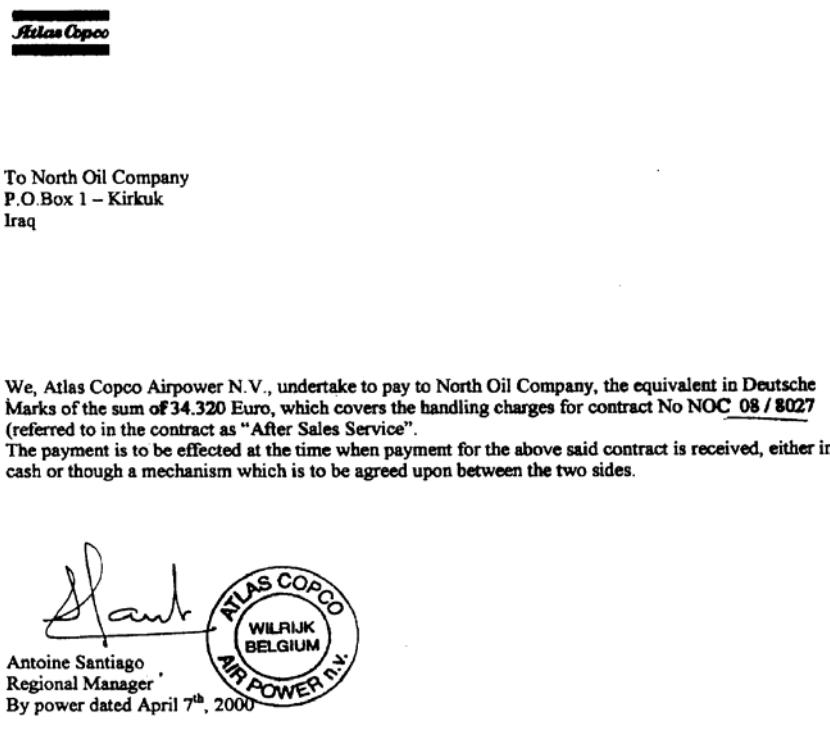


Figure: Company side agreement, COMM no. 830079 (Apr. 7, 2000).

Records obtained from Iraq reflect many more side payment agreements for Atlas contracts. Some are signed by Mr. Santiago; others are signed by Atlas's sales agent or one of the agent's employees on behalf of Atlas.⁶⁴⁸

⁶⁴⁷ Company side agreement, COMM no. 830079 (Apr. 7, 2000).

⁶⁴⁸ Company side agreements, COMM nos. 731020 (undated), 830053 (Nov. 7, 2000), 830061 (undated), 830072 (undated), 830079 (Apr. 7, 2000), 830098 (undated), 830505 (Apr. 7, 2001), 830731 (undated), 830807 (undated), 930064 (May 17, 2001), 930066 (undated), 1230241 (May 12, 2002), 1030544 (Oct. 28,

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In addition to these side agreements, bank records from an Iraqi-controlled account at the Housing Bank of Trade and Finance reflect six deposit receipts referencing kickback payments for Atlas contracts.⁶⁴⁹ On the basis of these agreements, as well as payment data spreadsheets from various Iraqi ministries that reflect amounts levied and paid for some of Atlas's contracts, the Committee calculates that more than \$1.3 million in after-sales-service fees and an undetermined amount in inland transportation fees was paid to the Government of Iraq in connection with Atlas contracts under the Programme.⁶⁵⁰

Atlas has advised the Committee that “[n]either [Atlas] Airpower nor ACCI have ever paid any commission to an Iraqi end-customer.” Atlas has stated also that the side letters “were not known by [Atlas] Airpower or ACCI prior to your communication” and that “the agent” had not been granted the authority to sign the side agreements. Atlas has contended further that “none of [its] Atlas companies made any payments whatsoever to the Government of Iraq in connection with the Programme.”⁶⁵¹

When asked about Mr. Santiago, Atlas company officials stated that the company had employed him for many years until 1999, when he began working for Atlas's sales agent, before retiring in 2003. Therefore, according to Atlas, at the time that Mr. Santiago signed contracts and side agreements as “Regional Manager” for Atlas, he in fact was an employee of Atlas's sales agent. Despite the Committee's request, Atlas has not provided documents to the Committee clarifying Mr. Santiago's employment status and has not furnished any contact information for Mr. Santiago.⁶⁵²

2001), 1030566 (Nov. 7, 2001), 1130230 (May 12, 2002), 1230397 (Nov. 7, 2001), 1230487 (Apr. 29, 2001), 1230687 (Dec. 10, 2002), 1230688 (undated).

⁶⁴⁹ Iraq officials interviews; Housing Bank for Trade & Finance record, Iraqi-controlled account, deposit receipts (Dec. 24, 2002) (deposit of €17,066 corresponding to COMM no. 830056), (June 19, 2002) (deposit of €8,000 for COMM no. 930496), (Dec. 12, 2002) (€5,000 for COMM no. 830098 and English-language notation “atlas cop co” on deposit receipt), (Jan. 9, 2003) (€5,377 for COMM no. 1230241 and English-language notation “ATLAS COPCO” on deposit receipt), (Jan. 16, 2003) (€1,954 for COMM no. 930180 and English-language notation “ATLAS COPCO” on deposit receipt), (Nov. 27, 2002) (€83,226 for COMM no. 1030146 and English-language notation “atlascopco” on deposit receipt), (Jan. 9, 2003) (€12,618 for COMM no. 1030826). These deposit receipts do not reflect the COMM numbers assigned by the United Nations, but are linked to Atlas by reference to Atlas Copco's name in the receipt, or by reference to the Iraqi-assigned contract number, or correlation with Iraqi ministry levy/payment data reflecting the deposit of specific amounts for Atlas contracts to the Housing Bank.

⁶⁵⁰ Committee humanitarian kickback table, COMM nos. 631061, 701851, 702196, 702356, 730554, 730864, 730870, 731020, 800890, 800996, 801449, 801755, 801855, 801965, 802004, 802034, 802248, 802391, 802678, 830053, 830061, 830072, 830079, 830095, 830098, 830101, 830504, 830505, 830556, 830731, 830807, 901158, 901262, 930064, 930066, 930496, 1000230, 1130056, 1200082, 1230241.

⁶⁵¹ Atlas letters to the Committee (Sept. 12 and Oct. 14, 2005).

⁶⁵² Atlas interview.

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Atlas further advised the Committee that, in June 2000, its agent requested in writing that Atlas increase the agent's commissions by ten percent. Atlas's sales agent based this request on the need for additional funds to cover service, installation, start up, training, and after-sales repairs. In response to the agent's request, Atlas agreed to increase its agent's commissions "depending on the profit reached on a deal." When interviewed, Atlas stated that the company was not aware of what was going on and that, in hindsight, it should have looked more closely at this matter.⁶⁵³

When the Committee first interviewed Atlas's sales agent, he claimed that the after-sales-service fees were levied for actual service and support and that the numerous companies that he represented in Iraq, such as Atlas, believed they were paying for legitimate after-sales services to be performed by a private company known as the "Industrial Services Company." Three days later, the Committee again interviewed Atlas's sales agent. At this time, he acknowledged that all his clients knew money was being paid to the Government of Iraq: "Nobody can say they didn't know it. Everybody knew. I always discussed [this] with companies." He explained that side letters were prepared for companies, and the companies added the kickbacks to what they paid him as commissions. He reiterated that he never agreed to pay the fee to Iraq without the knowledge of his client company.⁶⁵⁴

In summary, based on available evidence, approximately \$1.3 million in the form of after-sales-service fees and an undetermined amount in inland transportation fees was paid in connection with Atlas's contracts under the Programme. Atlas denies that it knew of these payments. The degree of its knowledge is unclear. As an initial matter, the kickbacks were known to Mr. Santiago, who—regardless of his formal employment status—was explicitly authorized by Atlas to enter into contracts in its name. Although Atlas's sales agent said that Atlas knew of the kickbacks, the agent has not specified the Atlas employees with whom he discussed the matter. The Committee does not have evidence that other persons at Atlas—beyond Mr. Santiago—knew of the kickback payments to the Iraqi regime. Moreover, Atlas stated that its sales agent presented his request for higher commissions as based on genuine increases in costs.

⁶⁵³ Ibid.

⁶⁵⁴ Atlas sales agent interviews (Sept. 26 and 29, 2005). The Atlas sales agent further explained that a ministry sometimes exempted a company from making the ten percent payment—for example, if the company was the sole supplier of particular goods or the goods were urgently needed. Without identifying with whom he spoke at Atlas, Atlas's sales agent stated that he discussed this exemption with Atlas and that Atlas believed it should qualify for an exemption because it separately paid its agent for what it believed to be after-sales services. Atlas's sales agent stated: "Our staff would go to the ministry every time" to ask for an exemption, and "Atlas Copco expected this." Ibid.

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B. DAIMLERCHRYSLER AG

DaimlerChrysler is a global German car manufacturer of both commercial and personal vehicles and trucks. The company resulted from a 1998 merger between the German- and American-based companies Daimler-Benz AG and Chrysler Corporation.⁶⁵⁵

During the Programme, DaimlerChrysler had four direct contracts with the Government of Iraq that were submitted to and approved by the United Nations. These contracts were for the supply of vehicles and spare parts to the Ministry of Oil and the State General Automobile and Machinery Company. In total, DaimlerChrysler received about \$5.2 million dollars for these contracts.⁶⁵⁶

One of DaimlerChrysler's contracts was to furnish to the Ministry of Oil a Mercedes mobile box truck—the equivalent of an armored van. The stated purpose for this purchase was to allow the Ministry of Oil to transport money from banks to its offices. The contract for this purchase was signed in Baghdad on July 8, 2001, on behalf of DaimlerChrysler, by Wolfgang Denk, who was identified by his signature on the contract as "Area Manager."⁶⁵⁷

⁶⁵⁵ See DaimlerChrysler, "DaimlerChrysler – Home," <http://www.daimlerchrysler.com> (linking to information on the "Company at a Glance" and its "Heritage").

⁶⁵⁶ Committee humanitarian contractor table and TaR, COMM nos. 50664, 50952, 830815, 930572; see also DaimlerChrysler e-mail to the Committee (Sept. 20, 2005) (listing nine "indirect" transactions involving third-party sales of DaimlerChrysler products to the Government of Iraq). The Committee does not have evidence that DaimlerChrysler was responsible for any illicit payments made in connection with the nine "indirect" contracts that it has identified to the Committee.

⁶⁵⁷ Programme contract, COMM no. 830815 (July 8, 2001); OIP customs report, S/AC.25/2001/986/COMM.830815 (Oct. 30, 2001).

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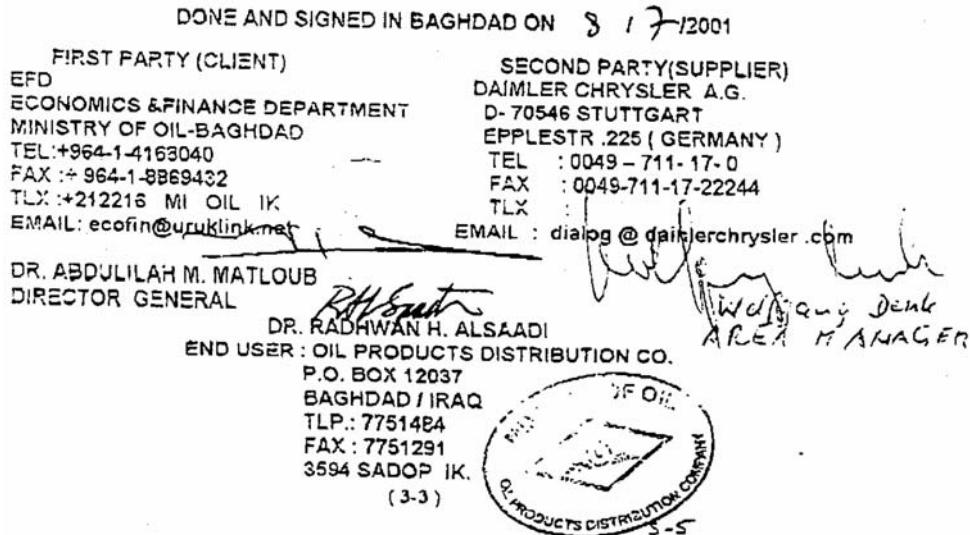


Figure: Programme contract, COMM no. 830815 (July 8, 2001) (signature block).

At the time, Mr. Denk worked in Stuttgart, Germany as Area Sales Manager for the DaimlerChrysler Overseas Department. He had worked for the company since 1975, including in the Middle East and for several years during the 1980s in Iraq. In 1997, he moved back to Germany and assumed responsibility in the DaimlerChrysler Overseas Department for sales in Jordan and other Middle Eastern countries.⁶⁵⁸

In 1998, with the Programme already in progress, Mr. Denk traveled to Baghdad—where DaimlerChrysler maintained a service office—and resumed DaimlerChrysler’s business in Iraq. He soon learned, however, that Iraq had blacklisted DaimlerChrysler from receiving Programme contracts because DaimlerChrysler had filed a pending claim against Iraq with the United Nations Compensation Commission (“UNCC”) for compensation arising from damage caused by Iraq during the first Gulf War. In order to clear the way for DaimlerChrysler to seek contracts from Iraq, senior company management decided in 2001 to withdraw DaimlerChrysler’s UNCC claim. Mr. Denk continued to work at DaimlerChrysler’s office in Germany, but traveled to Iraq on company business two or three times per year from 1998 to 2002. This travel included a trip in July 2001—when he signed the contract for DaimlerChrysler to sell a mobile box truck.⁶⁵⁹

⁶⁵⁸ Wolfgang Denk and Gert Uebel interview (Sept. 27, 2005). Mr. Uebel was Mr. Denk’s supervisor. Ibid.

⁶⁵⁹ Ibid.; Eric Jonscher interview (Oct. 18, 2005) (describing Wolfgang Denk’s authority to sign contracts on behalf of the company and the company’s decision to withdraw its UNCC claim). Mr. Jonscher is President of DaimlerChrysler Overseas. OLA letter to UNCC (May 27, 1999) (attaching “E” Claims-Withdrawal Requests as of April 1998). Although Mr. Denk recalled that the company did not withdraw its

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As reflected in records obtained from Iraq, Mr. Denk also signed a side agreement in connection with this contract for DaimlerChrysler to pay the Ministry of Oil ten percent of the contract's value—specifically, 13,589 German deutsche marks ("DM"). This side agreement was signed on June 28, 2001—ten days before the date of signature appearing on the official contract submitted for United Nations approval:⁶⁶⁰

Ministry of Oil
Oil Products Distribution Company
Baghdad / Iraq
Attn.: Purchasing Manager

28.06.01

Contract No.: EFD REF No .SADOP/08/66

DaimlerChrysler AG undertakes to pay to the Oil Products Distribution Company a sum of DM 13.589,50 equivalent to 10% of the total amount of DM 135.895,— (one hundred thirty five thousand eight hundred ninety five) upon the establishment of the Letter of Credit.

DaimlerChrysler Overseas

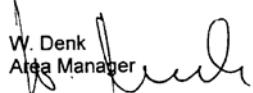

W. Denk
Area Manager

Figure: Company side agreement, COMM no. 830815 (June 28, 2001).

The above side agreement indicated a contract price of DM135,895. However, consistent with the practice of inflating official contract prices to account for kickback payments, the contract and pro forma invoice submitted for United Nations approval reflected a price of DM149,484.50—corresponding to the pre-kickback contract amount of DM135,895 plus the kickback amount of DM13,589.50.⁶⁶¹

As noted, the Committee obtained this side agreement from the Government of Iraq. For its part, DaimlerChrysler did not disclose this agreement or any documents in response to the

claim until 2001, United Nations records reflect that DaimlerChrysler sought to withdraw its claim in 1998. Wolfgang Denk and Gert Uebel interview (Sept. 27, 2005); OLA letter to UNCC (May 27, 1999).

⁶⁶⁰ Company side agreement, COMM no. 830815 (June 28, 2001) (bearing Iraq contract no. SADOP/08/66, which appears both on the official contract and the pro forma invoice prepared on Mercedes-Benz letterhead, signed by Mr. Denk, and submitted to the United Nations for approval); Programme contract, COMM no. 830815 (July 8, 2001); DaimlerChrysler pro forma invoice (Oct. 3, 2001) ("Ref. Enq. No. SADOP/08/66").

⁶⁶¹ Programme contract, COMM no. 830815 (July 8, 2001); DaimlerChrysler pro forma invoice (Oct. 3, 2001) ("Ref. Enq. No. SADOP/08/66").

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Committee's request for documents, including any documents reflecting kickbacks paid to the Iraqi regime.⁶⁶²

The kickback ultimately was paid by bank wire transfer to an Iraqi-controlled account at the Housing Bank for Trade and Finance in Jordan. Housing Bank records reflect a payment of €6,950 on December 19, 2002. Bank records further reflect a source bank account for the payment at Banque Cantonale de Fribourg in Switzerland for an account controlled by an attorney and associates of Hussam Rassam—a former sales agent for Mercedes-Benz in Iraq. During the Programme, Mr. Rassam operated various service centers for Mercedes-Benz vehicles in Iraq.⁶⁶³

The Swiss bank record reflects that the account was opened in 1999 by Azar Bawwab. When interviewed, Mr. Bawwab stated that he was previously the Mercedes-Benz representative in Jordan, Lebanon, and Palestine. He knew Hussam Rassam for many years as the Mercedes-Benz sales agent in Iraq. Mr. Bawwab stated that he was asked by Mr. Rassam to open the account, and it was Mr. Bawwab's understanding that the purpose of the account was to conduct business between Mercedes and Iraq under the Programme, including illegal payments to Iraq. Mr. Bawwab was not familiar with the payment of €6,950 in December 2002.⁶⁶⁴

Although Mr. Bawwab asserted that the source of funds in this account were from DaimlerChrysler, it is not possible to determine from the bank record the source of funds that were used for the kickback payment. This account was not very active in terms of number and

⁶⁶² Nor has DaimlerChrysler responded to the Committee's request for copies of any corporate policies, instructions, or other communications regarding illegal payments in connection with the Programme or DaimlerChrysler's business in Iraq. Committee letter to DaimlerChrysler (Sept. 21, 2005) (requesting such information). The President of DaimlerChrysler Overseas has advised that it was against the company's policy to make payments to the Government of Iraq for any reason. Eric Jonscher interview (Oct. 19, 2005). To date, there is no proof of such policy or that it was communicated in a meaningful manner to DaimlerChrysler representatives in Iraq.

⁶⁶³ Housing Bank for Trade & Finance record, Iraqi-controlled account, deposit receipt (Dec. 19, 2002) (involving a payment of €6,950, corresponding to DM13,593, or \$7,134 as of December 19, 2002); Committee humanitarian kickback table, COMM no. 830815 (showing a payment of €6,950, corresponding to \$7,134 as of December 19, 2002); OANDA, "Currency Converter," <http://www.oanda.com> (converting euros to DM and USD as of December 19, 2002); Wolfgang Denk and Gert Uebel interview (Sept. 27, 2005) (including the explanation of DaimlerChrysler attorney Rene von Samson-Himmelstjerna, accompanying the interview of Wolfgang Denk and Gert Uebel, that Mr. Rassam was distributor/agent for DaimlerChrysler in the early 1990s); Banque Cantonale de Fribourg record, debit advice (Dec. 18, 2002) (reflecting transfer of funds to Housing Bank account); Eric Jonscher interview (Oct. 19, 2005) (describing Mr. Rassam's operation of service centers during Programme); Azar Bawwab interview (Oct. 17, 2005) (identifying other account holders, including Ronald Farage as a business advisor for Hussam Rassam and Louay Rassam as the son of Hussam Rassam).

⁶⁶⁴ Azar Bawwab interview (Oct. 17, 2005). Mr. Bawwab further stated that he is involved in litigation against Mr. Rassam. Ibid.; see also Eric Jonscher interview (Oct. 19, 2005) (stating that Azar Bawwab had worked for Mercedes distributorship in Jordan).

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size of transactions; it has not been determined that other payments to or from this account involved illicit funds.

Mr. Bawwab identified two of the three names that appear as signatories on the account: Ronald Farage as Mr. Rassam's accountant and Louay Rassam as Mr. Rassam's son. The third account holder, Jacques Buchi, has identified himself as Mr. Rassam's attorney in Fribourg. Mr. Buchi advised that Mr. Rassam would not consent to be interviewed. According to Mr. Buchi, Mr. Rassam denied involvement in transactions under the Programme. Mr. Buchi further stated his own understanding that the payment of €6,950 was a commission that had nothing to do with the Programme. Mr. Buchi disclaimed having personally authorized the transaction and said he could not comment on who did as this was subject to attorney-client privilege.⁶⁶⁵

When interviewed, Mr. Denk remembered negotiating and signing the contract for the mobile box truck. He stated that he had heard rumors that Iraq was requiring vendors to make side payments in the form of after-sales-service fees. However, when he was shown the side agreement obtained from Iraq and signed in his name, he stated that he could not remember this agreement—though conceding that the signature appeared to be his. Mr. Denk stated that it was possible that he signed the document not understanding what he had signed. When asked whether he knew Mr. Rassam, Mr. Denk stated that he had met him several times on a friendly basis, twice in Stuttgart, Germany and also in Baghdad.⁶⁶⁶

Further records obtained from the Ministry of Oil reflect that Mr. Denk signed two more side agreements with entities of the Government of Iraq. Mr. Denk agreed on behalf of DaimlerChrysler to pay €39,384 to the Iraqi Gas Filling Company and €47,460 to the Oil Products Distribution Company:⁶⁶⁷

⁶⁶⁵ Azar Bawwab interview (Oct. 17, 2005); Jacques Buchi interviews (Sept. 26 and Oct. 18, 2005).

⁶⁶⁶ Wolfgang Denk and Gert Uebel interview (Sept. 27, 2005).

⁶⁶⁷ Company side agreements, Iraq contract nos. GF/09/43 (undated), SADOP/09/36 (July 3, 2001). These contracts were never executed or assigned official United Nations COMM numbers.

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TO : GAS FILLING CO.
SUB : SIDE AGREEMENT FOR CONTRACT GF/09/43

Ministry of Oil
Oil Products Distribution Company
Baghdad / Iraq
Attn.: Purchasing Manager

03.07.01

WE HEREBY CONFIRM AND UNDERTAKE TO PAY YOU THE SUM OF
EURO (39 384.22) SAY (THIRTY NINE THOUSAND THREE
HUNDRED EIGHTY FOUR) TWENTY TWO CENTS
WHICH REPRESENT AFTER SALES SERVICES FOR ABOVE CONTRACT.
THE AMOUNT WILL BE PAID BY US TO YOUR ACCOUNT AT TRAFIDEN
BANK IN AMMAN (JORDAN) BEFORE THE ARRIVAL OF THE MATERIALS
TO THE IRAQI BORDERS.
THE ABOVE AMOUNT WILL BE SUPPORTED BY ISSUING IN YOUR
FAVOUR A BANK GUARANTEE WITHIN TWO WEEKS OF CONTRACT
APPROVAL BY UN COMMITTEE.

✓
WOLFGANG DENK
AREA MANAGER

Wolfgang Denk
DaimlerChrysler AG
DaimlerChrysler AG

Contract No.: EFD PEF No. SADOP/09/36

DaimlerChrysler AG undertakes to pay to the Oil Products Distribution Company a sum of Euro 47,460,66 (fortyseven thousand fourhundredsixty and sixty six Cents only) equivalent to 10% of the total amount of Euro 474,606,59 (fourhundredseventyfourthousand sixhundredsixand fifty ninecents only) upon the establishment of the Letter of Credit.

DaimlerChrysler Overseas

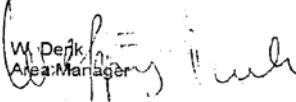

W. Denk
Area Manager

Figure: Company side agreements, Iraq contract nos. GA/09/43 (undated), SADOP/09/36 (July 3, 2001).

When Mr. Denk was shown these two additional side agreements, he stated again that the signatures appeared to be his, but he questioned their authenticity, claiming that “you can do funny things with a computer.” DaimlerChrysler, however, has not challenged the authenticity of these side agreements, and neither Mr. Denk nor DaimlerChrysler have offered any basis to believe that Mr. Denk did not know what he was signing.⁶⁶⁸

For these two side agreements, however, the underlying contracts for the sale of DaimlerChrysler goods do not appear among the OIP records. The Committee has no additional information or evidence that the agreed-upon payments were made. Nor does the Committee have evidence of side payments in connection with DaimlerChrysler’s three other contracts with Iraq under the Programme.⁶⁶⁹

⁶⁶⁸ Wolfgang Denk and Gert Uebel interview (Sept. 27, 2005).

⁶⁶⁹ In addition, two DaimlerChrysler contracts preceded the time when Iraq imposed its broad kickback policy. Programme contracts, COMM nos. 50664 (Feb. 22, 1999), 50952 (Feb. 22, 1999). Furthermore, the DaimlerChrysler contract was not executed until after the spring of 2003 and was reduced by ten percent. Programme contract, COMM no. 930572 (undated); Programme contract amendment, COMM no. 930572 (Oct. 7, 2003); Peter Waskonig, Gerd Kenner, and Thomas Laubert interview (Aug. 4, 2005) (containing comments of three DaimlerChrysler employees); Wolfgang Denk and Klaus Euler interview (Sept. 27, 2005).

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Mr. Denk's immediate supervisor has advised the Committee that he had heard rumors of the Iraqi regime requiring side payments for after-sales-service fees, but he had not seen the side agreements that were signed in the name of Mr. Denk. The President of DaimlerChrysler Overseas stated that he did not know of side payments made by the company to the Government of Iraq and said that he did not recognize the side agreements signed by Mr. Denk. The Committee does not have evidence that other employees of DaimlerChrysler were aware of or authorized Mr. Denk's side agreements.⁶⁷⁰

DaimlerChrysler has written to the Committee to suggest that it did not "knowingly" pay a kickback because Mr. Denk "expressed his confusion about the program's rules and regulations" and did not remember signing the letters. However, DaimlerChrysler did not dispute that Mr. Denk signed the side letters and does not suggest a basis for him to have been confused about the sanctions rules. DaimlerChrysler also questioned "whether the Committee has sufficient evidence to impute Mr. Denk's knowledge and actions to DaimlerChrysler." However, Mr. Denk held a managerial position and, as the President of DaimlerChrysler Overseas made clear, he was authorized to sign sales contracts on the company's behalf in Iraq.⁶⁷¹

In summary, based on the available evidence, DaimlerChrysler knowingly made or caused to be made a kickback payment of approximately €6,950 (about \$7,134) to the Government of Iraq outside the Programme and in violation of the United Nations sanctions against Iraq. Although the Committee does not have evidence that other persons at DaimlerChrysler knew of this kickback payment, the payment was known to Wolfgang Denk who, as Area Sales Manager, held a managerial position with the company at its office in Germany. Mr. Denk further signed two more side agreements to pay more than €80,000 in kickbacks, relating to anticipated but unexecuted Programme contracts for which no payment appears to have been made.

C. MALONEY INDUSTRIES INC.

Maloney Industries (now known as "Hanover Canada Corporation") is a Canadian company that designs and manufactures production equipment for the oil and gas industry. Among such products are skids for oil production and testing the potential of oil wells.⁶⁷²

In January 2001, Maloney executed a contract with the Iraqi Ministry of Oil to sell a set of four well potential testing skids for DM2,359,837. The invoice adjoining the contract reflected two

⁶⁷⁰ Wolfgang Denk and Gert Uebel interview (Sept. 27, 2005).

⁶⁷¹ DaimlerChrysler letter to the Committee (Oct. 14, 2005); Eric Jonscher interview (Oct. 18, 2005).

⁶⁷² Hanover Compressor Company e-mail to the Committee (Oct. 21, 2005); Dean Poohachow interview (Oct. 20, 2005); Mike McCarthy interview (Oct. 4, 2005); Schlumberger, "Oilfield Glossary," <http://www.glossary.oilfield.slb.com/search.cfm> (containing a definition of "skid"). Mr. Poohachow was formerly a project manager at Maloney, and Mr. McCarthy is presently the Director of Manufacturing of Hanover Canada Corporation, which is a subsidiary of Hanover Compressor Company of the United States. Dean Poohachow interview (Oct. 20, 2005); Mike McCarthy interview (Oct. 4, 2005).

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price components: an equipment price of DM2,145,307 plus a ten percent charge of DM214,530 for “supervision, testing & commissioning.”⁶⁷³

Maloney’s contract was signed on its behalf by Dr. A. Hamid Majid, an oil industry consultant with extensive experience in the Iraqi oil industry. Dr. Majid was not an employee of Maloney. Rather, he furnished services to Maloney pursuant to a consultancy agreement.⁶⁷⁴ Within a few weeks after signing the contract with Iraq on behalf of Maloney, Dr. Majid entered into two follow-up contracts with Maloney, namely: (1) a contract to receive a 7.2 percent commission from Maloney upon payment to Maloney by the United Nations for the equipment component of the contract; and (2) a contract delegating to Dr. Majid the responsibility to fulfill Maloney’s contractual obligation “to conduct the supervision, testing, and commissioning part of the [Iraq] contract.” With respect to this second contract, Maloney agreed to furnish the services of an engineer for the commissioning process, but Dr. Majid otherwise was responsible for “all the facilitation aspects in Iraq which include the approval of the completion of the commissioning by [the South Oil Company] and the UN representative in Iraq.”⁶⁷⁵

After Maloney’s contract with Iraq was submitted for United Nations approval, OIP’s Contracts Processing Section wrote to Maloney, inquiring about the nature of and arrangements for the “supervision, testing and commissioning” specified in the contract. On July 23, 2001, Maloney’s project manager replied to OIP, indicating that this contract component would involve two

⁶⁷³ Programme contract, COMM no. 730924 (Jan. 3, 2001) (containing an invoice dated December 10, 2000). In addition, Maloney Industries (France) S.A.—a Maloney foreign affiliate—previously executed a contract during Phase IV of the Programme to sell SOMO approximately \$6.1 million of oil production equipment. Committee humanitarian contractor table and TaR, COMM no. 464.

⁶⁷⁴ Programme contract, COMM no. 730924 (Jan. 3, 2001) (involving Maloney and signed by Dr. Majid); Hamid Majid e-mail to the Committee (Oct. 12, 2005) (noting his industry experience, particularly in relation to Iraq, and noting his work through “[m]y company, Canadian International Petroleum Consultants Ltd,” since 1995, on behalf of another company as “a special consultant to conduct technical and legal negotiations with the Iraqi Ministry of Oil on Production Sharing Contract on several oil field developments in Iraq”); see also CWC Group, “The Rehabilitation and Development of Iraq’s Petroleum Sector,” http://www.thecwcgroup.com/UserFiles/Con_File/Iraqfinal.pdf (providing a brochure for a conference in Geneva in October 2003 that featured Dr. Majid as a panelist on the topic of “Legal and Contractual Aspects Affecting Investments” and also featured panels including the Chief Executive Officer of the Iraqi Ministry of Oil and several senior representatives of the Iraqi Ministry of Oil); Hanover Compressor Company record, Maloney consultancy agreement with Global Business Group Inc. (May 12, 1998) (signed by Dr. Majid); Hanover Compressor Company e-mail to the Committee (Oct. 14, 2005) (describing terms of Dr. Majid’s consultancy). Dr. Majid’s consultancy expired in 2003, and he no longer furnishes services for Hanover Canada Corporation or Hanover Compressor Company. Ibid. A review of United Nations records reflects that Dr. Majid was associated with additional contracts under the Programme for companies other than Maloney. Programme contracts, COMM no. 464 (Oct. 10, 1998), 53310 (Mar. 24, 1999), 630836 (June 30, 2000), 730851 (July 2, 2000), 830884 (Aug. 9, 2001), 930223 (May 23, 2001), 930591 (May 22, 2001), 1230057 (May 21, 2000) (involving other contractors under the Programme); SOMO sales contract, no. M/05/54 (Jan. 25, 1999).

⁶⁷⁵ Hanover Compressor Company record, Maloney agreements with Hamid Majid (Feb. 5, 2001).

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Maloney staff for a total of seventeen days with a “cost per man day” of “\$ 1,500.00 USD plus expenses.”⁶⁷⁶

In response to Maloney’s letter, OIP sent a follow-up request for a cost itemization of the “supervision, testing and commissioning” component of the contract. Maloney replied that “we have re-evaluated the service requirement for the supervision, testing and commissioning” to require the services of three Maloney staff members for a total of forty-one man days—more than double the amount of expert labor that Maloney had identified in its previous letter. Maloney included a chart detailing labor, travel, and other expenses, which totaled DM214,481—the designated cost for “supervision, testing and commissioning” in the contract.⁶⁷⁷

As noted earlier in this Chapter, in cases where a humanitarian contractor agreed to furnish after-sales-service in connection with its sale of goods to Iraq, OIP conditioned payment for the after-sales-service component of the contract on authentication by Cotecna personnel that such services actually had been performed by the contracting company. Maloney advised the United Nations that it understood this requirement.⁶⁷⁸

The United Nations ultimately approved the contract, and Maloney’s goods entered Iraq on February 24, 2003. On January 15, 2003, several weeks before these goods entered Iraq, Dr. Majid made a wire transfer of €109,688 (approximately \$115,786), from the account of Canadian International Petroleum Consultants—a Canadian oil consulting company that he owned—to an Iraqi-controlled account at the Jordan Housing Bank of Trade and Finance. This Housing Bank account, which was held in the name of two Iraqi government employees, frequently was used by the Iraqi regime for the collection of kickback payments from Programme contractors. The amount wired was the equivalent of the amount that appeared on Maloney’s contract with Iraq as the purported cost that Maloney would incur for airfare, lodging, and labor to send personnel from Canada to Iraq to supervise, test, and commission the equipment after it arrived in Iraq. This demonstrates that the payment by Dr. Majid was not intended to cover the airfare and lodging for Canadian engineers, as was represented to the United Nations.⁶⁷⁹

⁶⁷⁶ Dean Poohachow letter to OIP Contracts Processing Section (July 23, 2001).

⁶⁷⁷ Dean Poohachow letter to OIP Contracts Processing Section (Aug. 22, 2001). Small discrepancies in the costs of “supervision, testing and commissioning” throughout 2001 were due primarily to currency exchange fluctuations.

⁶⁷⁸ Dean Poohachow letter to OIP Contracts Processing Section (July 23, 2001).

⁶⁷⁹ Cotecna authentication sheet, COMM no. 730924 (showing an inspection date of February 24, 2003); Iraq official interview (interview of one of the account holders describing the use of this account for receipt of contractor kickbacks); Housing Bank for Trade and Finance record, Iraq-controlled bank account, credit advice (Jan. 15, 2003) (translated from Arabic) (showing a deposit of €109,688); Housing Bank for Trade and Finance record, Iraq-controlled bank account, SWIFT message (Jan. 15, 2003) (showing “Canadian International Petro” with a corporate address in Calgary, Canada, as the source of funds); OANDA, “Currency Converter,” <http://www.oanda.com> (converting €109,688 to \$115,786, or DM214,531, as of January 15, 2003).

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When contacted by the Committee about this payment, Dr. Majid declined to be interviewed, but he responded by e-mail to written questions. He admitted that he made the payment and claimed that it was “for the cost of commissioning and start up of the project.” When asked about Maloney’s letters to the United Nations stating that the commissioning costs would be spent to send company personnel from Canada to Iraq, Dr. Majid replied: “I am not here to defend or to respond to what Maloney sent and/or did not send to the UN with reference to airfare from Canada and travel cost.” According to Dr. Majid, he did not send “any note or form to the UN representing Maloney.”⁶⁸⁰

With respect to why he made his payment to a bank account in Jordan in the name of two individuals, Dr. Majid stated that he had “no relationship” to the two individuals whose names appeared on the account. He explained: “I received this account number from my contact (not an employee of the Ministry of Oil) in Iraq and on a piece of paper.” Then, before making the payment, he “visited the Housing Bank for Trade and Finance in Amman to do [his] due diligence and to find out about the citizenship of the persons [naming the two names listed as account holders] and also whether or not this account was controlled by the Government of Iraq.” According to Dr. Majid, “I was told by the bank verbally that the Government of Iraq does not have any account at their bank.” The bank would not identify the citizenship of the two persons whose names appeared as owners of the bank account. Following this, according to Dr. Majid, he made the payment.⁶⁸¹

Although Dr. Majid has admitted to making the payment, Maloney has stated that it did not know he was doing so. According to Maloney, it “did not authorize or finance, nor was it aware of, any payment by ‘Canadian International Petro’ . . . to any Iraqi-controlled bank account,” and “Maloney had no knowledge of improprieties in connection with this contract.” When interviewed, Maloney’s project manager who corresponded with OIP concerning this contract stated that he was not aware of Dr. Majid’s payment to the Government of Iraq.⁶⁸²

Maloney has stated further that its personnel never performed the anticipated commissioning services, because “military hostilities commenced before the supervision/testing/commissioning services could be rendered.” Indeed, the United Nations contract file does not reflect any authentication of services by Cotecna and does not reflect that payment was requested by or made

⁶⁸⁰ Hamid Majid e-mails to the Committee (Oct. 12 and 24, 2005).

⁶⁸¹ Ibid. In his most recent e-mail to the Committee, Mr. Majid reiterated that he was not aware that the recipient of the payment was the Government of Iraq. Hamid Majid e-mail to the Committee (Oct. 24, 2005).

⁶⁸² Hanover Compressor Company e-mail to the Committee (Oct. 14, 2005); Dean Poohachow interview (Oct. 20, 2005).

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to Maloney for the after-sales-service component of the contract price. In turn, both Maloney and Dr. Majid state that Maloney did not pay Dr. Majid for this service.⁶⁸³

In summary, based on the available evidence, Dr. Majid knowingly paid a kickback of €109,688 (about \$115,786) to the Iraqi regime in connection with Maloney's contract to furnish oil production equipment to Iraq. The available evidence, however, does not reflect that Maloney financed this kickback payment or that Maloney's officers or employees were aware of or agreed to the kickback payment made by Dr. Majid.

D. SIEMENS COMPANIES

Siemens AG of Germany is one of the world's largest electrical engineering and electronics companies, with more than 400,000 employees across 190 countries and sales exceeding €75 billion in its most recent fiscal year. Siemens subsidiaries or affiliates that supplied Iraq with goods under the Programme included: (1) Siemens S.A.S. of France ("Siemens-France"); (2) Siemens Sanayi ve Ticaret A.S. of Turkey (also known as Simko Ticaret ve Sanayi and referred to herein as "Siemens-Turkey"); and (3) Osram Middle East FZE of the United Arab Emirates ("Osram-Middle East"). These three companies collectively accounted for approximately \$124.3 million in Programme sales. Most of these three companies' contracts were with the Ministry of Electricity to provide electrical-related equipment such as switch gear, control protection and measuring systems, circuit breakers, transformers, and street lighting.⁶⁸⁴

As discussed below, each of these Siemens-related companies paid kickbacks to the Iraqi regime in order to obtain Programme contracts. These kickbacks are reflected in accounting records maintained by the Ministries of Electricity and Oil. In addition, several of the kickback payments are corroborated by records independently obtained by the Committee from a bank in Jordan to which some of the kickback payments were made.

⁶⁸³ Hanover Compressor Company e-mail to the Committee (Oct. 14, 2005); TaR, COMM no. 730924 (showing the disbursement of funds only for the equipment portion of contract); Hamid Majid e-mail to the Committee (Oct. 12, 2005).

⁶⁸⁴ Siemens AG, "Global network of innovation," <http://www.siemens.com> (providing a general corporate overview and website pages for Siemens's operations throughout the world); see also Siemens, "Siemens France," <http://www.siemens.fr> (providing information on Siemens's French subsidiary); Siemens, "Siemens Türkiye," <http://www.siemens.com.tr> (providing information on Siemens's Turkish subsidiary); Committee humanitarian contractor table, COMM nos. 601701, 701256, 701411, 701532, 701696, 701844, 701876, 701877, 702664, 801337, 801930, 802005, 802006, 802009, 802268, 802393, 901462, 1200846 (involving payments of approximately \$45 million to Siemens-France for eighteen Programme contracts); 702892, 800589, 801171, 801541, 802070, 802073, 802330, 901471, 1000844, 1101329, 1102002, 1200855, 1300342 (involving payments of approximately \$77.8 million to Siemens-Turkey for thirteen Programme contracts); 730985, 701259, 730527, 730528, 730530, 830186, 901649, 930139 (involving payments of approximately \$1.5 million to Osram-Middle East for eight contracts). Osram Middle East FZE is a subsidiary of Osram GmbH, a German company that is owned by Siemens AG. See Osram Middle East, "The Company," <http://www.osrammiddleeast.com/company/index.html>.

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For example, Siemens-France entered into a contract in November 2000 with the Ministry of Electricity to sell turbine system equipment and spare parts for €38,175. This contract is reflected in the following approval request form that was obtained from the United Nations contract file:⁶⁸⁵

THIS IS TO CONFIRM THAT WE, THE GENERAL COMPANY FOR ELECTRICITY PRODUCTION (GEEP), COMMISSION OF ELECTRICITY, GOVERNMENT OF IRAQ, HAVE CONCLUDED THE FOLLOWING CONTRACT :

| | |
|------------------------|--|
| 1- CONTRACTING PARTY : | SIEMENS S.A.S. DIVISION ENERGIE F-93527 SAINT DENIS, CRDEX - 2 FRANCE TEL: 0049 9131 189738 / 0033 1 9422 3971 FAX: 0049 9131 186032 / 0033 1 9422 3690 |
| 2- TOTAL VALUE : | 538 175 EURO CIF BAGHDAD |
| 3- GOODS : | TURBINE SYSTEM EQUIPMENT AND SPARES |
| 4- CODE NO. : | 04-01-00026 IN ACCORDANCE WITH THE M.O.U. RESOLUTION 1302 (2000) (PHASE VIII) |
| 5- QUANTITY : | 2 PCS. |
| 6- EXPORTING COUNTRY : | FRANCE |
| 7- ENTRY POINT : | TREBEEH |
| 8- OUR REF. : | 5/2/1M/3684 |
| 9- YOUR REF. : | KL6CC - 0-0000-000941/IRK 340 / SH BTD 26-4-2000 |



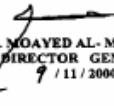

DR. MOAYED AL-MAAYOUF
 DIRECTOR GENERAL
9/11/2000

Figure: Contract approval request, Iraq contract no. 5/2/1M/3684 (Nov. 9, 2000) (relating to COMM no. 801930).

For purposes of obtaining United Nations approval of this contract, Siemens assembled a pro forma invoice itemizing each component and claiming that the “total value” of the goods sold was €38,175.⁶⁸⁶ In fact, the Ministry of Electricity’s records reveal that the contract price was purposely inflated. As shown in the excerpt of the Ministry of Electricity’s records below, the contract price was derived by taking a pre-kickback contract “price” of €48,925 and then adding a ten percent charge for “services” of €48,925—resulting in a kickback-inflated price of €38,175, which then was submitted for United Nations approval:

⁶⁸⁵ Contract approval request, no. 5/2/1M/3684 (Nov. 9, 2000) (relating to COMM no. 801930).

⁶⁸⁶ Ibid.; Pro forma invoice, purchase order no. 5/2/1M/3684 (Nov. 9, 2000).

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الطلبات التي تم تسديد مبالغ خدمات ما بعد البيع نقداً داخل وخارج القطر وإيداعها في حساب الخزانة - البنك المركزي العراقي
(شركة انتاج الوسط)

| نوع التسديدات في | مبلغ العقد | | | | | | | | جنسية الشركة | اسم الشركة المجهزة | المادة | رقم الطلب | ن | | | |
|------------------|------------|------|------|-------|--------|----------|---------|---------|--------------|--------------------|--------|-----------|-------|--------------|-------|----|
| | FS | FF | Евро | دولار | الكلي | بالدولار | الخدمات | الأصلية | | | | | | | | |
| * | الكلية | خارج | - | - | 5,000 | - | 538,175 | 41,097 | 48,925 | 489,250 | Евро | فرينسا | سيمنس | مدلات حرارية | 3,684 | 25 |
| * | الكلية | خارج | - | - | 43,925 | - | | - | - | | | | | | | |

After-Sale-Services for requests that were paid in cash in and outside Iraq and Deposited in Treasury account - Iraqi Central Bank
Middle Production Co.

| Comments | Phase | Location of payment | Paid in | | | | Contract Value | | | | Origin | Company Name | Description | Request No. | No. | |
|----------|-------|---------------------|---------|----|--------|-----|----------------|--------|----------|---------|--------|--------------|-------------|-------------------|------|----|
| | | | FS | FF | Euro | Usd | Total | USD | Services | price | | | | | | |
| * | 8 | ABROAD | - | - | 5,000 | - | 538,175 | 41,097 | 48,925 | 489,250 | Euro | FRANC | Siemens | Thermo exchangers | 3684 | 25 |
| * | 8 | ABROAD | - | - | 43,925 | - | | - | - | | | | | | | |

Figure: Ministry of Electricity Excel spreadsheet (translated from Arabic) (excerpt) (relating to Siemens's payment for Iraq contract no. 5/2/1M/3684).

The Ministry of Electricity spreadsheet above further shows that the kickback for this contract was made in two payments—one for €5,000 and the other for €43,925—and that both payments were made “abroad.” Although the Ministry’s record does not further reflect the location of these “abroad” kickback payments, the Committee has obtained a deposit record for €43,895 from a Ministry-controlled account at the Housing Bank for Trade & Finance in Amman, Jordan. Significantly, this deposit record notes reference number “3684”—corresponding to the last four digits of the contract number assigned by the Ministry for this transaction with Siemens-France.⁶⁸⁷

⁶⁸⁷ Housing Bank for Trade & Finance record, Iraqi-controlled account, deposit receipt (June 5, 2002) (reflecting payment of €43,925 for “Source no. 3684”).

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Date #: HBT 100080
[Translation from Arabic: 1 page]

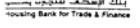
| |
|--|
|  <p>The Housing Bank for Trade and Finance Branch: Main Branch Date: June 5, 2002</p> <p>Account deposit/Bank copy</p> <p>Account No.: 001 742796 15 01 current account Branch No.: 001 Client Name: [REDACTED] Transaction symbol: 001 Cash Value date: 00/00/0000 Amount in Dinar: 29,335.750 Transaction description: Available currency: Guarantor number: Reason for payment: Source no. 3684 [Handwritten note: for the benefit of the electric authority] Telephone: [REDACTED] Document No.: 000000000000 Document ID no.: Type of document ID:</p> <p>Amount: 43,925 Euro Only: forty-three thousand, nine hundred and twenty-five Euro</p> <p style="text-align: center;"><i>Signed</i> <i>Signed</i> Name/ and signature of depositor Signature of the Housing Bank</p> <p><small>This document is not considered official as long as it does not contain the bank's treasury stamp and the treasurer's signature or a reference by the treasurer and in the case this document is not stamped by the treasurer's machine it has to be signed by two employees.</small></p> <p>Dikran Melkon Sarkis</p> |
|--|

Figure: Iraqi-controlled account, deposit receipt (June 5, 2002) (translated from Arabic) (names of nominee bank account holders redacted) (reflecting payment of €43,925 for “Source no. 3684”).

As discussed previously in this Chapter, Iraq commonly used bank accounts in Jordan to receive kickback payments. These bank accounts were held in the names of individual nominees in order to disguise the government’s control of the accounts. In the case of the Housing Bank account to which Siemens’s payments were made, two individual names appear on the account record. The Committee has located and interviewed one of these persons (an Iraqi national whose name cannot be disclosed) and confirmed that person’s role as a nominee bank account holder on behalf of the Ministry of Electricity. This person had responsibility for tracking kickback payments made for the benefit of the Ministry of Electricity. When shown one of the bank deposit receipts for Siemens, this person confirmed that the receipt was authentic and that the funds had been brought to the Housing Bank by a Siemens employee in Jordan.⁶⁸⁸

For Siemens-France, the Ministry of Electricity’s accounting spreadsheets reflect that the Ministry levied a total of \$418,891 in after-sales service fees in connection with eleven contracts for Phases VII through XII. The Ministry’s data further reflects \$321,256 in actual payments from the amounts levied. This information is partly corroborated by deposit records for four

⁶⁸⁸ Iraq official interview.

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deposits to the Housing Bank in Jordan, totaling €104,735. In addition, the Committee estimates that Siemens-France paid an undetermined amount in the form of inland transportation fees.⁶⁸⁹

For Siemens-Turkey, the Ministry of Electricity's accounting records reflect that the Ministry levied a total of more than \$6.1 million in connection with twenty contracts for Phases VII through XIII. The Ministry data shows actual payments of more than \$1.2 million. The Committee has obtained a Housing Bank deposit slip showing a \$500,000 kickback payment—to an account controlled by the Iraqi regime—for one Siemens-Turkey contract under the Programme and also a Ministry of Electricity receipt for \$20,000 in connection with the same contract. In addition, the Committee estimates that Siemens-Turkey paid an undetermined amount in the form of inland transportation fees.⁶⁹⁰

The Housing Bank deposit slips for both Siemens-France and Siemens-Turkey bear a depositor name of “Dikran Melkon Sarkis.” The Committee has been unable to locate this person or obtain other identifying information. Yet the appearance of the same name for both companies, and the fact that all contracts of Siemens-France and Siemens-Turkey were with a single Iraqi ministry, suggests a degree of coordination among these two Siemens subsidiaries.

While Siemens-France and Siemens-Turkey did business with the Ministry of Electricity, Osram-Middle East entered into several contracts with the North Oil Company of the Ministry of Oil. The North Oil Company was one of the Iraqi entities that most commonly required that kickback

⁶⁸⁹ Committee humanitarian kickback table, COMM nos. 702664, 801337, 801930, 802005, 802006, 802007, 802009, 802268, 802293, 901462, 1200846; Ministry of Electricity record, Spreadsheet data for COMM nos. 702664, 801337, 801930, 802005, 802006, 802009, 802268, 802293, 901462, 1200846; Housing Bank for Trade & Finance record, Iraqi-controlled account, deposit slips, COMM nos. 702664 (June 5, 2002) (relating to Iraq contract no. 224-5/2/39/3647 and involving a €5,810 deposit for source number “3647”), 801337 (May 12, 2002) (relating to Iraq contract no. 31-5/2/1/3989 and involving a €50,000 deposit for source no. “3989”), 801930 (June 5, 2002) (relating to Iraq contract no. 34-5/2/1M/3684 and involving a €43,925 deposit for source no. “3684”), 1200846 (Apr. 28, 2002) (relating to Iraq contract no. 210-5/2/39/85 and involving a €5,000 deposit for source no. “85”). As noted elsewhere in this Chapter, kickback payments were made to a variety of bank accounts and sometimes directly to an Iraqi ministry. Beyond the four Housing Bank deposit records for Siemens S.A.S., the Committee does not have third-party payment confirmation of the remaining kickbacks reflected as paid in the Ministry of Electricity’s records.

⁶⁹⁰ Committee humanitarian kickback table, COMM nos. 702892, 800589, 801541, 801171, 802070, 802073, 802330, 901471, 1000844, 1101329, 1102002, 1102013, 1200420, 1200519, 1200571, 1200572, 1200574, 1200855, 1300342, 1300428; Ministry of Electricity record, Spreadsheet data for COMM nos. 702892, 800589, 801541, 801171, 802070, 802073, 802330, 901471, 1000844, 1101329, 1102002, 1102013, 1200420, 1200519, 1200571, 1200572, 1200574, 1200855, 1300428; Housing Bank for Trade & Finance record, Iraqi-controlled account, deposit slips, COMM no. 802073 (May 1, 2002) (translated from Arabic) (relating to Iraq contract 106-5/2/40/3813 & 38 and involving a €500,000 deposit and a memo noting: “The Turkish Company Simko for order 3813. Paid in full”); Ministry of Electricity record, payment receipt (Dec. 8, 2002) (translated from Arabic) (“We confirm receipt of \$20,000, twenty thousand U.S. Dollars/price of first shipment Company SIMCO/Turkish for services after sales of order number 3813.”).

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side agreements be in writing. The Committee has recovered from Iraqi files three signed side agreements by Osram-Middle East; each of these agreements is signed in the name of Wilfried Grunewald, Sales Manager. According to Iraqi ministry data, Osram-Middle East paid a total of \$85,673 of kickbacks in connection with six contracts under the Programme. Furthermore, the Committee estimates that Osram-Middle East paid an undetermined amount in the form of inland transportation fees.⁶⁹¹

The Committee forwarded the kickback payment data and underlying ministry spreadsheet and bank deposit information to Siemens, requesting a response to this evidence suggesting that kickbacks were paid in connection with these contracts. On October 2, 2005, Siemens's chief compliance officer and representatives of Siemens-France advised Committee staff members that Siemens-France had conducted a review of its contracts, but could not identify evidence of illicit payments, including any evidence of payments to Jordan or Iraq. Siemens stated that its own employees, not agents, conducted its business transactions in Iraq, but that the employees who had signed contracts for which there were payment confirmations from Housing Bank deposit records had left the company.⁶⁹²

More recently, Siemens has advised the Committee by letter that "it cannot confirm the Committee's allegations and we see the Committee's conclusions regarding [Siemens-France, Siemens-Turkey, and Osram-Middle East] as . . . premature [and] unjustified." Siemens has not further substantiated its position to contradict the evidence of payments made in connection with its contracts.⁶⁹³

In summary, based on the available evidence, three Siemens companies—Siemens-France, Siemens-Turkey, and Osram-Middle East—knowingly paid kickbacks on humanitarian kickbacks in violation of the rules of the Programme and the United Nations sanctions resolutions against Iraq. The Committee calculates that these Siemens's companies paid more than \$1.6 million in after-sales-service fees and an undetermined amount in inland transportation fees.

⁶⁹¹ Company side agreements, COMM nos. 730985 (Dec. 11, 2000), 830186 (Dec. 11, 2000), 930139 (Dec. 11, 2000); Committee humanitarian kickback table, COMM nos. 730527, 730528, 730985, 830186, 901649, 930139.

⁶⁹² Committee letter to Siemens AG (Sept. 26, 2005); Michael Fichtmueller, Albrecht E.H. Schafer, and Ludwig Hahn interview (Oct. 2, 2005). Mr. Schafer is Vice-President of Compliance for Siemens AG; Mr. Fichtmueller is Director of Management of Siemens-France; and Mr. Hahn is Siemens-France's Chief Financial Officer. Ibid. When the Committee requested an opportunity to interview a Siemens-France employee, Pascal Lullier, who signed contracts for Siemens, Siemens advised that Mr. Lullier was no longer employed by the company. Ibid. However, further independent inquiry by a Committee investigator disclosed that Mr. Lullier is presently an employee at another French office of Siemens-France. Pascal Lullier interview (Oct. 11, 2005) (confirming that he had worked for Siemens during the Programme). Siemens now disputes that it told the Committee that Mr. Lullier had retired from Siemens. Siemens letter to the Committee (Oct. 19, 2005). Siemens did not make Mr. Lullier available for interview.

⁶⁹³ Siemens letter to the Committee (Oct. 17, 2005).

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E. VOLVO CONSTRUCTION EQUIPMENT

Volvo Group of Sweden describes itself as “one of the world’s leading manufacturers of heavy commercial vehicles and diesel engines.” Among its business subsidiaries is Volvo CE, a large manufacturer and worldwide seller of heavy construction equipment vehicles, including excavators, haulers, wheel loaders, and motor graders.⁶⁹⁴

Volvo CE sold approximately \$11.8 million of equipment directly to Iraq under the Programme. In December 2000, Volvo signed its largest Programme contract for the sale of thirty-five wheel loaders to the Ministry of Housing and Construction for approximately €6.6 million. The contract was signed in Baghdad on December 19, 2000 by Hakan Nirstedt, Volvo’s Marketing Director based at Volvo’s office in Eskilstuna, Sweden.⁶⁹⁵

Two weeks after Volvo CE signed this contract, it announced its intention to do business with Iraq through a Jordanian agent rather than directly with Iraq. Volvo CE’s President Rune Lundberg signed an “Authorization Announcement” appointing M/S International Engineering Group (“IEG”) of Jordan to act as “our sole distributor and consultant for the Iraqi market” and “authorized to bid and submit offers on our behalf, enter into contracts with Iraqi purchasers, supply spare parts to Iraq as well as handle all aftersales [*sic*] services.”⁶⁹⁶

Volvo CE previously had secured five contracts under the Programme, and it is unclear why it chose this time to do its business through an exclusive arrangement with a Jordanian sales agent. This shift, however, occurred within a few months after Iraq started requiring its vendors to pay ten percent kickbacks. Because Volvo CE has declined the Committee’s requests for information about its business dealings with Iraq under the Programme, the Committee does not have information on why Volvo CE decided to do business in Iraq under the name of an agent from Jordan.⁶⁹⁷

⁶⁹⁴ Volvo Group, “Volvo Construction Equipment,” <http://www.volvo.com/group/global/en-gb/Volvo+Group/our+companies/volvoconstructionequipment>; Volvo Group, “A Group of High-Power Companies,” http://www.volvo.com/trucks/global/en-gb/aboutus/about_Volvo_group. Volvo Group’s headquarters is in Sweden, and Volvo CE’s headquarters is in Belgium. Contract documents reflect that Volvo’s business in Iraq was conducted from its office in Eskilstuna, Sweden. See, e.g., Programme contracts, COMM nos. 630686 (Oct. 25, 1999), 702206 (July 22, 2000) (contracting with Volvo CE).

⁶⁹⁵ Committee humanitarian contractor table and TaR, COMM nos. 630686, 630819, 701956, 702206, 901216; Programme contract, COMM no. 901216 (Dec. 19, 2000) (originally assigned COMM no. 801979 in Phase VIII and subsequently transferred to Phase IX and dated March 2, 2001) (noting on the original contract that it was “signed in Baghdad” by Hakan Nirstedt, Marketing Director, on behalf of Volvo).

⁶⁹⁶ Rune Lundberg, “Authorization Announcement” (Jan. 1, 2001).

⁶⁹⁷ In addition to the contract described above for thirty-five wheel loaders, Volvo entered into four more contracts with Iraq in Phases VI and VII of the Programme. Committee humanitarian contractor table and TaR, COMM nos. 630686, 630819, 701956, 702206; Volvo e-mail to the Committee (Oct. 3, 2005)

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In any event, on May 31, 2001, IEG signed a contract with the Ministry of Housing and Construction to sell ten Volvo CE wheel loaders and spare parts. The contract documentation does not make clear who acted on behalf of IEG.⁶⁹⁸

Banking records show that kickbacks were paid for both Volvo CE's own contract to provide thirty-five wheel loaders and IEG's contract to furnish ten more wheel loaders. For Volvo CE's contract, deposit records show, in early April 2002, two deposits totaling €346,248 (about \$317,336) to Iraq's Central Bank account at the Housing Bank for Trade and Finance in Amman, Jordan. According to notations on the banking records, these transfers were made from the account of "Al-Adreesi for Engineering Consultancy" by "Khalil Yasr Hussein." Both credit advices to the Central Bank of Iraq's account state that the transfer was on behalf of "the Swedish company Volvo Contract no. MHC/MOU/VIII/024/2000." This contract number is the same number that appears as the Iraqi-assigned contract number for the Volvo CE contract in the United Nations contract file.⁶⁹⁹

Bank records for the IEG contract further show a kickback payment of €191,275 on March 20, 2002. Like the kickbacks paid for Volvo CE's other contract, this payment was made from the "Al-Adreesi Center for Engineering Consultancy," and the debit advice reflects that the transaction was made by "Mohammed Abdullah" of the "International Engineering Group."⁷⁰⁰

The Committee interviewed Mohammad Al-Farraj, the general manager of IEG. Mr. Al-Farraj acknowledged Iraq's ten percent kickback policy and that he personally paid kickbacks on behalf

(declining the Committee's request for meetings with Volvo personnel familiar with Volvo's business in Iraq under the Programme).

⁶⁹⁸ Programme contract, COMM no. 1000400 (May 31, 2001).

⁶⁹⁹ Housing Bank of Trade and Finance record, Al-Adreesi Center for Engineering Consultancy account, debit voucher (Apr. 8, 2002) (translated from Arabic) (debit of €146,248), Central Bank of Iraq account, credit voucher (Apr. 4, 2002) (translated from Arabic) (credit of €146,248), Al-Adreesi Center for Engineering Consultancy, account deposit form (Apr. 2, 2002) (translated from Arabic) (deposit of €200,000), Central Bank of Iraq account, credit voucher (Apr. 4, 2002) (translated from Arabic) (credit of €200,000); Programme contract, COMM no. 901216 (Dec. 19, 2000) (contract signed by Hakan Nirstedt and indicating Iraq contract no. MHC/MOU/VIII/024/2000); Volvo letter to 661 Committee (Jan. 19, 2000) (indicating Iraq contract no. MHC/MOU/VIII/024/2000); Committee humanitarian kickback table, COMM no. 901216 (noting payment of a \$317,336 kickback on a levy of \$555,397). The Committee does not have further information concerning the identity of Khalil Yasr Hussein or Al-Adreesi Engineering Consultancy. Efforts to locate them in Jordan were unsuccessful.

⁷⁰⁰ Housing Bank of Trade and Finance record, Al-Adreesi Center for Engineering Consultancy account, debit voucher (Mar. 20, 2002) (translated from Arabic) (debit of €191,275), Central Bank of Iraq account, credit voucher (Apr. 8, 2002) (translated from Arabic) (credit of €146,248); Committee humanitarian kickback table, COMM no. 1000400 (noting payment of a \$163,884 kickback). The debit advice is inscribed with the Iraqi-assigned contract number of "MHC/MOU/IX/146/2001," which corresponds to the Iraqi-assigned contract number in the United Nations contract file for this contract. Housing Bank of Trade and Finance record, Al-Adreesi Center for Engineering Consultancy account, debit voucher (Mar. 20, 2002) (translated from Arabic); Programme contract, COMM no. 1000400 (May 31, 2001).

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of Volvo CE. According to Mr. Al-Farraj, Volvo CE was aware of everything, and no transactions were conducted without Volvo CE's full knowledge. Mr. Al-Farraj did not identify specific persons who knew at Volvo CE, and he did not furnish documents to the Committee.⁷⁰¹

IEG obtained three other contracts under the Programme, including one more involving Volvo CE equipment. For these contracts (including the one with Volvo CE equipment), Iraqi ministry data reflects kickback payments. However, the Committee does not have confirming bank transaction data for these payments. Based on the timing of the contracts and Mr. Al-Farraj's concession that IEG paid kickbacks, the Committee calculates that IEG paid kickbacks in total of about \$580,000 for all three of these additional contracts.⁷⁰²

As for the Volvo-related wheel loader contracts, the Committee contacted Volvo CE and disclosed the bank transaction information that is discussed above. The Committee requested an opportunity to speak with relevant Volvo CE personnel concerning Volvo CE's contracts under the Programme, its relationship with IEG and any payments made to it, and the evidence of kickbacks. In response, Volvo CE denied having made any illicit payments, but declined to make witnesses, documents, or any other information available to the Committee.⁷⁰³

In summary, based on the available evidence—and in light of Volvo CE's decision not to furnish any contrary evidence—Volvo CE knowingly caused IEG to pay kickbacks in connection with Volvo CE's contract to sell thirty-five wheel loaders under the Programme. Based on the contract price, the bank record evidence of two payments totaling €346,248, and the known policy and practice to pay approximately ten percent of the pre-kickback-adjusted contract price, the Committee calculates that Volvo CE caused about \$535,000 in kickbacks to be paid in connection with one of its own contracts and two IEG contracts as Volvo CE's agent. For its part, IEG paid kickbacks of more than \$740,000 on four contracts, which included about \$215,000 in kickbacks relating to two contracts involving Volvo CE equipment and sold by IEG as Volvo CE's exclusive sales agent in Iraq.

⁷⁰¹ Mohamed Al-Farraj interviews (Oct. 6-7, 2005). Although the bank records indicate that the Volvo-related kickbacks were made to a bank account in Jordan, Mr. Al-Farraj recalled that kickback payments for Volvo were made in cash directly to Iraqi ministries. *Ibid.*

⁷⁰² Committee humanitarian contractor and kickback tables, COMM nos. 800838 (involving non-Volvo equipment and a projected kickback payment of \$359,068, where no ministry or bank data is available), 802522 (involving non-Volvo equipment, with bank deposit data showing a payment of €99,095 and a projected total kickback payment of \$167,239 based on ministry levy amount), 901289 (involving the sale of three Volvo motor graders and spare parts, and a projected kickback payment of \$54,028); see also Housing Bank for Trade and Finance record, Iraqi-controlled account, account deposit (Sept. 29, 2002) (deposit of €9,095 for Iraq contract no. 8/44/2000).

⁷⁰³ Committee letters to Volvo (Sept. 21, 26, and 29, 2005); Volvo e-mail to the Committee (Oct. 3, 2005). Volvo not only refused to make its own present employees available, but also declined to allow the Committee to speak with its former employee, Hakan Nirstedt, who had stated that he would be willing to speak with the Committee if Volvo consented.

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F. WEIR GROUP PLC

Weir of Scotland in the United Kingdom is a large engineering services company that employs nearly 8,000 people and conducts business operations in numerous countries across the world. In addition to one contract for Weir Engineering Services of the United Kingdom, Weir had two subsidiaries that participated in contracts under the Programme: WEMCO Envirotech Pump Systems (“WEMCO Envirotech”) of France and Weir Engineering Services Co. (“WESCO”) of the United Arab Emirates. These two companies collectively accounted for \$78.7 million in sales under the Programme to the North and South Oil Companies of the Ministry of Oil, as well as to the Baghdad Mayoralty. The companies sold a variety of pumping equipment and spare parts generally related to water and sewage treatment plants, oil field water injection operations, and pipelines.⁷⁰⁴

In July 2004, Weir issued a press release announcing that it had conducted an internal review of its Programme contracts and learned that “payments in addition to normal commissions were made to an agent acting on behalf of [Weir] Group subsidiaries.” According to the press release, Weir’s contract prices were inflated “at the request of certain Iraqi customers” by a total of £4.2 million and that “equivalent sums, in addition to normal commissions, were paid to [the] agent acting on behalf of Group subsidiaries.” Weir’s press release further stated that the company’s “investigations have not been able to establish the ultimate recipients of the payments [made by Weir] to the agent,” and “[t]herefore the Group cannot rule out the possibility that sums [paid by Weir to the agent] may have been returned to Iraq.”⁷⁰⁵

When contacted by the Committee, Weir explained that since 1987 it had worked through an agent in Baghdad. According to Weir, this agent advised Weir in June 2000 that the Baghdad Mayoralty was requiring that ten percent be added to tendered contract prices. Weir stated that it was “not prepared initially to alter the prices,” but then “[t]he impasse was resolved by [Weir’s] agent,” and Weir’s unnamed “representative” signed “a revised version of the contract which had been revised to increase the price by 10%.” As a result, Weir “ultimately paid additional commission, on the instruction of its agent, to designated accounts in Switzerland.” Weir further stated that “additional payments were made over a period from September 2001 to April 2004 on sixteen of Weir’s thirty-eight [Programme] contracts,” and “[t]hese sums amounted to circa £4.3m in total.” According to Weir, the company was unable to establish the ultimate recipients

⁷⁰⁴ Weir Group PLC, “Weir Group Profile,” <http://www.weir.co.uk>; Weir Group PLC, “Press Release -- Oil for Food Programme Contracts” (July 22, 2004); Committee humanitarian contractor table and TaR, COMM nos. 50708 (involving Weir Engineering Services); 342, 343, 344, 3573, 53247, 53248, 53252, 53494, 601561, 601632, 630970, 630971, 630972, 730541, 730839, 730919, 800972, 800998, 830455, 830470, 930195, 930196, 930197, 930219, 1001412, 1001460, 1001461, 1001462, 1200426, 1230248 (involving WEMCO); 1030484 (involving WESCO).

⁷⁰⁵ Weir Group PLC, “Press Release -- Oil for Food Programme Contracts” (July 22, 2004).

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of these additional payments. On July 8, 2005, Weir provided the Committee with relevant documents.⁷⁰⁶

Weir declined the Committee's request to meet with employees who were involved in Weir's business in Iraq. Most significantly, the Committee requested to speak with Andrew Macleod, a current Weir employee who appears as the contract signatory for WEMCO Envirotech and WESCO contracts in Iraq. Instead, Weir responded to inquiries through Alan Mitchelson, one of Weir's managing directors, who stated that he is familiar with Weir's internal investigation of this matter. According to Mr. Mitchelson, Weir was assured by its agent that the commission payments Weir was making would not go to the Iraqi regime. Weir identified two companies to which it had made its payments: Inprojex Establishment ("Inprojex") and Corsin Financial Ltd. ("Corsin Financial") of Switzerland. Mr. Mitchelson stated that Weir's own investigation has not revealed evidence of any agreement between one of its own employees and the Iraqi regime to pay contract kickbacks. Accordingly, Mr. Mitchelson advised that none of Weir's own employees—including the contract signatory, Mr. Macleod—had been terminated from employment with Weir as a result of the payments made by Weir to its agent.⁷⁰⁷

Despite Weir's insistence that its agent was to blame and that there was no agreement by its own employees to pay kickbacks to Iraq, documents obtained by the Committee from Iraq reveal that Mr. Macleod signed several agreements to pay kickbacks on Weir's behalf. These documents include four side agreements signed by Mr. Macleod, agreeing on behalf of WEMCO Envirotech to make kickback payments totaling €14,336 and to make the payments "in cash or through a mechanism, which is to be agreed upon between the two sides." These agreements make no mention of any agent acting on Weir's behalf.⁷⁰⁸

An example of one of these kickback agreements signed by Mr. Macleod is reproduced below. It promises the payment of €461,910 in relation to a WEMCO Envirotech contract for the sale of

⁷⁰⁶ Weir e-mail to the Committee (July 8, 2005) (attachment – filename "05-OFF Background – 270605.doc"). Weir identified two companies to which it had made its commission payments: Inprojex Establishment ("Inprojex") and Corsin Financial Ltd. ("Corsin") of Switzerland. It furnished a schedule of payments for each of sixteen contracts, totaling £2,688,676 and €7,801,944 paid by Weir to Inprojex and £1,848,829 and €3,581,535 paid by Weir to Corsin. Weir e-mail to the Committee (July 8, 2005) (attachments – filenames "04-Agents Details– 070705.doc" and "05-Schedule of Commission Payments– 060705.doc").

⁷⁰⁷ Alan Mitchelson interviews (June 22 and Oct. 6, 2005); Weir Group e-mails to the Committee (Oct. 7 and 18, 2005) (confirming that Andrew Macleod refused to meet with the Committee and that the Weir Group would not "compel employees to consent to interview"). Although Weir Group offered to make documents available for review at its office in Scotland, this request was declined because Weir refused to allow copies to be made of any relevant documents. Alan Mitchelson interview (Oct. 6, 2005).

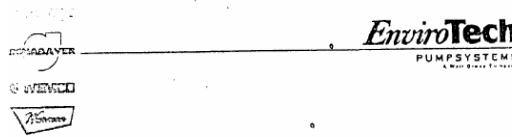
⁷⁰⁸ Company side agreements, COMM nos. 830470 (Jan. 31, 2001) (agreeing to pay €461,910), 730919 (Jan. 31, 2001) (agreeing to pay €23,898), 830455 (Jan. 31, 2001) (agreeing to pay €16,562), 1230248 (Jan. 11, 2002) (agreeing to pay €11,986). The dates reflected for these side agreements refer to the dates that appear in type under the signature of Mr. Macleod; the last of the agreements bears the date of June 22, 2002 in the upper right hand corner.

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approximately € million in oil pumping equipment parts. The contract was later approved by the United Nations.



TO : NORTH OIL COMPANY
P.O. BOX NO. 1, KIRKUK, IRAQ.

WE ENVIROTECH PUMP SYSTEMS (WEMCO), FRANCE,
UNDERTAKE TO PAY TO NORTH OIL COMPANY, WITHOUT ANY
CONDITIONS WHATSOEVER AND IRRESPECTIVE OF
WHATEVER REASONS, CIRCUMSTANCES OR EXCUSES, THE
SUM OF EUR 461910 (FOUR HUNDRED SIXTY ONE THOUSAND
NINE HUNDRED TEN EURO ONLY) TO BE PAID IN (GBP).

THE ABOVE SUM IS COMBINED WITH THE TOTAL
CONTRACT PRICE AS PER THE COMMERCIAL OFFER REF.
377990.377989 DATED 18-10-2000 AND 378115 DATED 9-1-2001
WHICH CONSTITUTES PART OF CONTRACT NO. NOC/08/8100.

BEFORE THE L/C FOR THE CONTRACT IS ESTABLISHED
BY THE (BNP) IN NEW YORK, WE WILL PROVIDE NORTH OIL
COMPANY WITH AN UNCONDITIONAL L/C FROM
A, RECOGNIZED BANK TO COVER THE SUM OF MONEY
MENTIONED ABOVE.

THE PAYMENT IS TO BE EFFECTED NOT LATER THAN
TWO WEEKS FROM THE TIME WHEN PAYMENT FOR THE
ABOVE-SAID CONTRACT IS RECEIVED, EITHER IN CASH OR
THROUGH A MECHANISM, WHICH IS TO BE AGREED UPON
BETWEEN THE TWO SIDES.

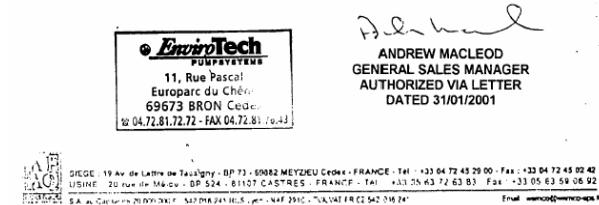


Figure: Company side agreement, COMM no. 830470 (Jan. 31, 2001) (relating to Iraq contract no. NOC/08/8100).

The signature of Mr. Macleod and the corporate stamp on this side agreement appear to be identical to the signature and stamp that appear on the official Programme contract that was signed later and obtained by the Committee from the United Nations contract file:⁷⁰⁹

⁷⁰⁹ Programme contract, COMM no. 830470 (Apr. 22, 2001) (involving WEMCO and the Ministry of Oil).

REPORT ON PROGRAMME MANIPULATION

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HUMANITARIAN GOODS TRANSACTIONS AND ILLICIT PAYMENTS

DONE AND SIGNED IN BAGHDAD ON 22/01/2001.

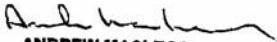
| | |
|---|--|
| FIRST PARTY (CLIENT) ECONOMICS AND FINANCE DEPARTMENT (EFD), MINISTRY OF OIL BAGHDAD - IRAQ TLX : 212216 MI OIL IK FAX : 964-01-8869432 | SECOND PARTY (SUPPLIER) ENVIROTECH PUMP SYSTEMS (WEMCO) 11, RUE PASCAL-EUROPARC DU CHENE 69673 BRON CEDEX - FRANCE TEL : 00 33 472 817 272 FAX : 00 33 472 817 643 |
|  DR. ABDULILAH M. MATIQUEEN DIRECTOR GENERAL |  ANDREW MACLEOD GENERAL SALES MANAGER AUTHORIZED VIA LETTER DATED 31/01/2001 |
|  R. A. Jassim RAFID ABDUL HALIM JASSIM NOC DIRECTOR GENERAL |  11, Rue Pascal Europarc du Chêne 69673 BRON Cedex 04.72.81.72.72 - FAX 04.72.81.76.43 |
| END USER : NORTH OIL COMPANY | |

Figure: Programme contract, COMM no. 830470 (Apr. 22, 2001) (excerpt).

According to a kickback payment summary maintained by the Ministry of Oil, a kickback of €461,906 was paid in connection with this contract. The payment was made to an Iraqi-controlled bank account at the Rafidain bank in Amman, Jordan on February 18, 2002. The Ministry's payment summary further reflects receipt of kickbacks for two of the three other side agreements signed by Mr. Macleod.⁷¹⁰ In addition, the Committee has obtained from Rafidain Bank the deposit records reflecting payment of €61,020 on behalf of WEMCO Envirotech for three of its contracts with the South Oil Company.⁷¹¹

More recently, the Committee interviewed Weir's agent, who furnished further information reflecting Weir's knowledge of the illegal nature of the payments it made. According to the agent, he dealt with Mr. Macleod, who came to Baghdad to negotiate Weir's contracts. After Iraq initiated its policy of requiring after-sales-service kickbacks, Mr. Macleod talked with the agent about a mechanism to pay the fee. Mr. Macleod suggested that the agent act as an intermediary, and the agent offered not only to be an intermediary, but also to provide the bridge financing for a

⁷¹⁰ Ministry of Oil record, Kickback payment summary. The Ministry of Oil furnished this summary spreadsheet in electronic form. In addition to reflecting receipt of a kickback on COMM no. 830470 (€461,910), it reflects kickback payments relating to two other side agreements signed by Mr. Macleod, corresponding to COMM nos. 730919 (€23,898) and 830455 (€16,562). The spreadsheet also indicates illicit payments in connection with COMM nos. 930219 (\$322,229) and 1030484 (€221,876). Ibid. The Committee does not have internal summaries of kickback payments from the Mayorality of Baghdad, with which Weir entered into several of its contracts.

⁷¹¹ Rafidain bank record, Iraqi-controlled account, credit note (Feb. 18, 2002) (reflecting payments corresponding to COMM nos. 930195, 930196, 930197).

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HUMANITARIAN GOODS TRANSACTIONS AND ILLICIT PAYMENTS

fee. The agent arranged for payments to be made through Corsin Financial to his account in Jordan and then to the Rafidain Bank. The agent made arrangements for his own commissions to be paid through the Inprojex account.⁷¹²

To corroborate his account, the agent provided copies of two e-mails from Mr. Macleod in January 2002 that requested the agent's assistance with kickback payment arrangements. In one of these e-mails, WEMCO Envirotech's Financial Manager advised Mr. Macleod of "this '10% AFTER SALES TAX'" and the need to make sure that the shipping company had proof of payments before "Iraqi Authorities" will "let the vessel discharge the goods." Mr. Macleod forwarded the e-mail to the agent with a list of four contract numbers and asked the agent to "supply" the payment information for these contracts: "Trust you will action accordingly."⁷¹³

⁷¹² Weir agent interview (Oct. 21, 2005).

⁷¹³ Weir agent record, Andrew Macleod e-mail to agent (Jan. 24, 2002) (forwarding an e-mail from Thierry Lestra to Andrew Macleod). The four contracts referenced in this e-mail correspond to contracts for which the Committee's data reflects Weir paid more than \$430,000 in after-sales-service kickbacks plus payments for inland transportation fees. Committee humanitarian kickback table, COMM nos. 930195, 930196, 930197, 930219.

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HUMANITARIAN GOODS TRANSACTIONS AND ILLICIT PAYMENTS

From: "MacLeod, Andrew" <am60954@weir.co.uk>
To: **Sent:** 11/09/2002 11:49
Subject: FW: CURRENT IRAQ SHIPMENTS

-----Original Message-----

From: MacLeod, Andrew
Sent: Thursday, January 24, 2002 4:04 PM
To: **@akurlink.net**
Subject: FW: CURRENT IRAQ SHIPMENTS
Importance: High

[REDACTED]
As you can see from the correspondence detailed below our shipping company require info. to allow the goods on the following orders to be released for shipment.

Can you supply info. requested on contracts.
1.) SOC/09/73
2.) SOC/09/78
3.) SOC/09/128
4.) NOC/09/85

Trust you will action accordingly.

Best Regards
Andrew Macleod

-----Original Message-----

From: Thierry LESTRA [mailto:t.lestra@envirotech-pumpsystems.fr]
Sent: Thursday, January 17, 2002 3:18 PM
To: Andrew MacLEOD
Subject: CURRENT IRAQ SHIPMENTS
Importance: High

Andy,

I got more information from my forwarder about this '10% AFTER SALES TAX'.

The Shipping Company should receive from the Shipper (Envirotech Pumpsystems):

1. One letter in Arabic language written by the Consignee to the Shipper certifying that this tax has been paid
2. One copy of the Bank Advice proving that the transfer has been done by the Shipper in favor of the Consignee

The Shipping Company will then send those documents to the Iraqi Authorities in Um-Qaser who will keep in their records. For lack to provide this, the Iraqi Authorities in Um-Qaser will not let the vessel discharge the goods.

I suspect that, as there is no communication between the Iraqi Banking system with the rest of the civilized world, the Bank Advice should show that the wire has been done in favor of a Jordan Bank or another country?

Best regards.

Thierry LESTRA,
Financial Manager
ENVIROTECH PUMPSYSTEMS
Telephone +33 04 72 81 72 72
Direct Dial +33 04 72 81 06 40
Fax +33 04 72 81 06 46
E-Mail t.lestra@envirotech-pumpsystems.fr

Figure: Andrew Macleod e-mail to Weir agent (Jan. 24, 2002).

The Committee calculates that a total of \$4.3 million was paid in the form of after-sales-service fees and an undetermined amount in inland transportation fees in connection with WEMCO's Programme contracts. Additionally, nearly \$200,000 was paid in after-sales-service fees in connection with a WESCO Programme contract.⁷¹⁴

The Committee contacted Mr. Macleod by telephone to request an opportunity to interview him about the side agreements that he signed to make cash payments to the Iraqi regime. Mr. Macleod advised: "I work for the company and I did as I was told." He further stated that he knew that it sounded like a "soldier's excuse, but I'm sure you understand I did what was

⁷¹⁴ Committee humanitarian kickback table, COMM nos. 730541, 730919, 800972, 800998, 830455, 830470, 930195, 930196, 930197, 930219, 1001412, 1001460, 100461, 100462, 1200426, 1230248 (involving WEMCO Envirotech); 1030484 (involving WESCO).

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required in Baghdad.” Mr. Macleod stated that he otherwise would take the advice of counsel and declined a formal interview.⁷¹⁵

In summary, based on the available evidence, Weir knowingly paid kickbacks in connection with sixteen of its contracts under the Programme. The Committee calculates that Weir made about \$4.5 million in illicit payments to the Iraqi regime.

⁷¹⁵ Andrew Macleod interview (Oct. 6, 2005).

REPORT ON PROGRAMME MANIPULATION

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HUMANITARIAN GOODS TRANSACTIONS AND ILLICIT PAYMENTS

XI. RESPONSES OF HUMANITARIAN GOODS COMPANIES

REPORT ON PROGRAMME MANIPULATION

CHAPTER THREE

HUMANITARIAN GOODS TRANSACTIONS AND ILLICIT PAYMENTS

A. RESPONSE OF ALIA FOR TRANSPORTATION AND GENERAL TRADE CO.



Alia for Transportation & General Trade Co.

Ref: L/8/913/2005
Date: Oct 8th 2005

MS. Susan M. Ringler
Counsel for Committee
Independent Inquiry Committee
New York, 10022
USA

Strictly Confidential

Dear Madam,

In pursuance of our letter dated September 26th 2005, and referring to your recent communication, we are pleased to inform you that in accordance with the arrangements made with your good selves the General Manager, Mr. Othman Al-Absi is traveling to New York on October 9th 2005 for having the privilege of meeting the IIC Member for discussing the appropriate matters and presenting whatever information is needed in this respect.

In the meantime, we would like to brief the esteemed committee with some useful information as follows:

- 1- The General Agency Agreement with the Iraqi Company For Water Transport in Jordan stipulates and empowers our company (Alia For Transportation and General Trade) to receive the amounts of ocean transport freight charges realized by the aforesaid company's operating vessels or any other amounts involved and have some transferred to Iraqi Company For Transport which represent only a small portion of the shipping agency activities.
- 2- Our company acts as an Agent for the Iraqi Overland transport company in accordance with an appropriate Agency Agreement likewise, our company maintains the General Sales Agent of Iraqi Airways.

Abdali - Aqarco Bldg. 9th Floor Fax : 9626 - 5603102 Tel. 9626 - 5656536 P.O.Box 911399 Amman - Jordan

E-mail : aliaco@go.com.jo

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HUMANITARIAN GOODS TRANSACTIONS AND ILLICIT PAYMENTS



Alia for Transportation & General Trade Co.

- 3- As a matter of fact, our company owns several Sea-going vessels and Aircraft as well as a fleet of road trailers. Moreover, we are actively involved in exceptionally large commercial business transactions. All these business activities were and are still being conducted outside the frame work of what you consider a frontal company.

- 4- As regards, the Avalon Saloon cars first contract covering 200 cars, there are no after sales services involved, as can be seen from the relevant attachments and documents of the pertinent contract.

Whilst we hope to have been all to furnish the esteemed IIC with some further enlightening information, we remain at your entire disposal for any further clarification and /or explanation needed.

We would like to seize this opportunity to thank your good self as well as the esteemed committee for the understanding and with best wishes and kindest regards, we remain.

Sincerely

Hussein Al-Khwam
Chairman of the Board

A handwritten signature in black ink, appearing to read "Hussein Al-Khwam".

Abdali - Aqarco Bldg. 9th Floor Fax : 9626 - 5603102 Tel. 9626 - 5656536 P.O.Box 911399 Amman - Jordan

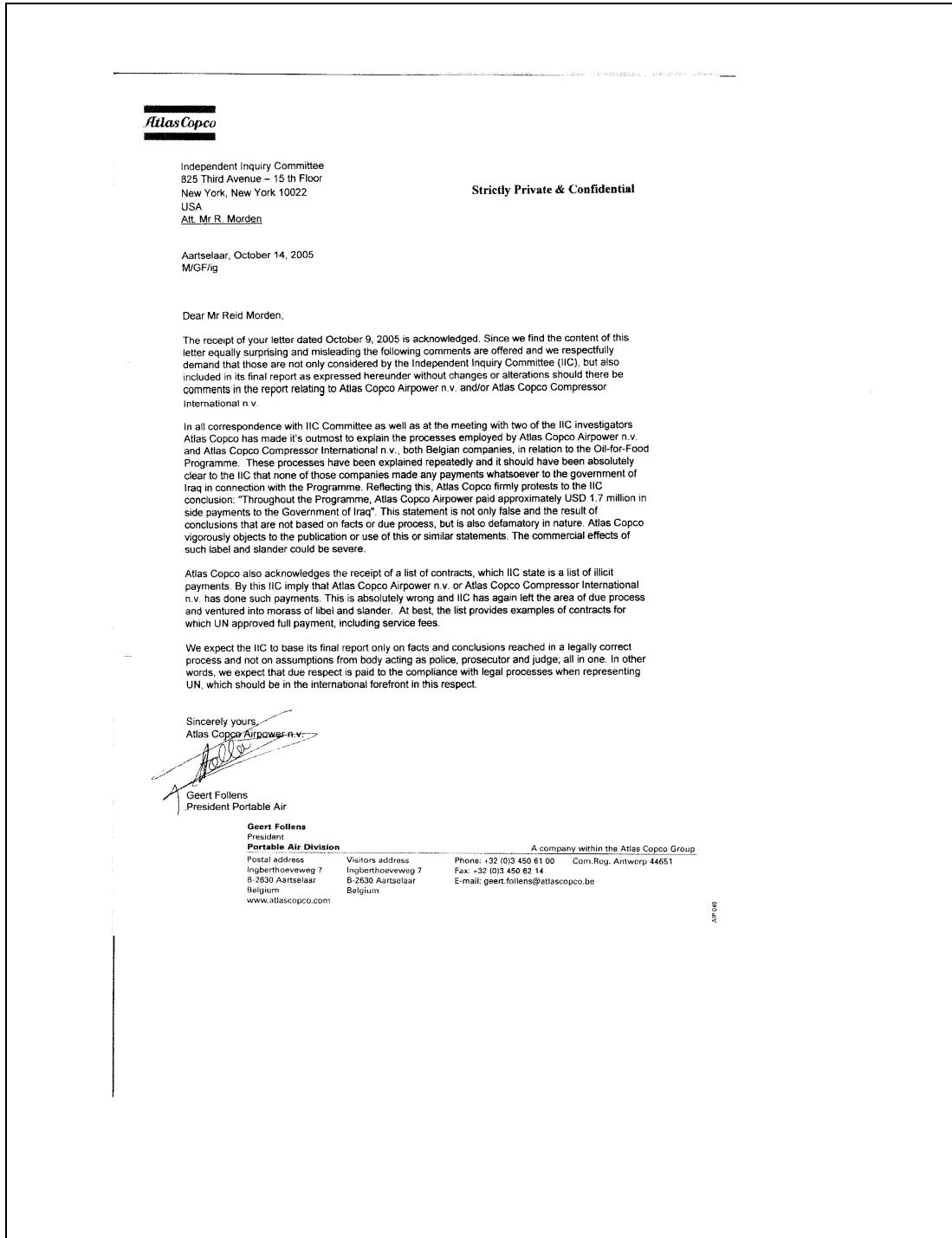
E-mail : aliaco@gc.com.jo

REPORT ON PROGRAMME MANIPULATION

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HUMANITARIAN GOODS TRANSACTIONS AND ILLICIT PAYMENTS

B. RESPONSE OF ATLAS COPCO N.V.



REPORT ON PROGRAMME MANIPULATION

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HUMANITARIAN GOODS TRANSACTIONS AND ILLICIT PAYMENTS

C. RESPONSE OF AUSTRALIAN WHEAT BOARD

| | | |
|--|--------------------------|-----|
| 25/10 2005 21:41 FAX 0396023436 | AWB LIMITED OFFICE OF MD | 002 |
|  <p>AWB LIMITED ABN 99 001 090 459 380 La Trobe Street, Melbourne, Victoria 3000, Australia GPO Box 4562, Melbourne, Victoria 3001, Australia</p> <p>Telephone 03 9209 2000 Facsimile 03 9670 2782 www.awb.com.au</p> | | |
| 25 October 2005 | | |
| <p>Paul A. Volcker, Chairman Independent Inquiry Committee 825 3rd Avenue New York, NY 10022</p> <p>Dear Mr. Volcker,</p> <p>Thank you for meeting with us on 12 October 2005. By way of summation, and for inclusion in your report, we would like to reiterate the following points on behalf of AWB.</p> <p>AWB has taken very seriously the Committee's findings that AWB payments to the trucking contractor Alia for Transportation and General Trade Co. ("Alia") were channeled to the government of Iraq and that Alia was a front company for the former regime.</p> <p>During the OFF Program, AWB did not view Alia to be a front company for the government, nor did AWB know that Alia was not providing trucking services. Indeed, based on what AWB knew about Alia from direct contacts, it still is surprising to now learn that Alia did not truck AWB's wheat inland.</p> <p>AWB never intended for payments to be channeled to the former Iraqi government. It is nonetheless of serious concern to AWB that any part of the trucking fees paid by AWB in the final phases of the OFF Program were channeled to the government.</p> <p>It remains the case that AWB never set out at any time to contravene Program requirements. AWB always acted in reliance on the fact that the United Nations had approved the contracts with the Iraqi Grain Board ("IGB") containing the inland transport terms by which AWB paid the inland transport fees to Alia. As the Committee has acknowledged, no evidence indicates that any representative of either the IGB or Alia ever informed anyone at AWB that paying trucking fees meant making illicit payments to the government. Indeed, one would expect the IGB and Alia not to have informed AWB of Alia's internal arrangements with the IGB or the ISCWTF if it had been the government's purpose to induce AWB to unwittingly make payments to the government under the guise of trucking fees.</p> <p>The Committee in its findings has referred to communications among AWB, the IGB, the ISCWTF, and Alia which AWB voluntarily produced to the IIC. As pointed out in AWB's 22nd April 2005 submission, there is nothing surprising about liaison between AWB (as seller), IGB (as buyer), ISCWTF (as port and vessel agents), and Alia (as the trucking contractor designated by the IGB). All such communications were strictly commercial. None suggests that Alia, the IGB or the ISCWTF ever disclosed to AWB the government's scheme to subvert the OFF Program by collecting inland transport fees. The Committee investigators have extracted from the countless communications between Alia and AWB's operations staff a handful of messages indicating, on close examination, that Alia might have been forwarding AWB's payments to the ISCWTF. Such scattered information, however, lends itself to the interpretation taken by the Committee only if pieced together in hindsight and read in the light of Iraqi documents not known to AWB at the time.</p> <p>As to the provision by AWB of payment schedules to the IGB, it is to be expected that AWB would document the inland transport fees that the IGB directed AWB to pay to Alia. The IGB was AWB's contract counterparty. Accounting for contractual payments to Alia was from a commercial standpoint altogether</p> | | |

REPORT ON PROGRAMME MANIPULATION

CHAPTER THREE

HUMANITARIAN GOODS TRANSACTIONS AND ILLICIT PAYMENTS

25/10 2005 21:42 FAX 0396023436

AWB LIMITED OFFICE OF MD

003



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1801a Flinders Street, Melbourne, Victoria 3000, Australia
GPO Box 4362, Melbourne, Victoria 3001, Australia

Telephone 03 9209 2000

Fax 03 9670 2782

www.awb.com.au

normal. AWB was never aware that Alia was not providing a transport service. Numerous communications corroborate AWB's belief that Alia was providing a trucking service. Nor was the fact that the IGB insisted on payment of the fees before ships were unloaded a matter of significance. In the light of the contractual arrangements, transportation arrangements would need to be in place before unloading began.

During the OFF Program, no one told AWB that Alia was a front company for the regime. The inland transport terms of AWB's contracts provided that the IGB would designate the trucking contractor. AWB had no reason to question the IGB's selection of Alia. The IGB had been given authority by the UN to negotiate contracts with suppliers under the OFF Program.

To understand why AWB paid the trucking fees including the increases, it is important to turn the calendar back to the start of the OFF Program, and to see the Program from AWB's perspective, as it evolved from year to year. It would be unfair to judge AWB's actions only in hindsight, and to focus only on the Program's final two years.

AWB is Australia's leading diversified agribusiness and one of the world's largest wheat exporters on behalf of Australia's 30,000 wheat farming families who predominantly own and control AWB. Since 1948, AWB has continually sold wheat to Iraq, dealing exclusively with the IGB, the agency responsible for Iraq's wheat imports. Throughout the OFF Program, AWB contracted only with its longtime counterpart the IGB. All AWB's contracts with the IGB were approved in accordance with the contract-review procedures instituted by the Security Council, including those contracts incorporating the "C.I.F. Free in Truck" term that became the basis for AWB's payments to Alia.

The Committee should also be mindful of what AWB should have known in the context of AWB's Iraq's unique port and transportation infrastructure. Due to the sanctions imposed in 1990, the regime had developed a Public Distribution System managed by the Ministry of Trade to regulate the distribution of foodstuffs throughout the country. As part of the OFF Program, the Iraqi government guaranteed to the UN that humanitarian supplies including foodstuffs would be distributed equitably to the Iraqi people. Because the state-controlled Public Distribution System nonetheless remained in place, the equitable distribution of food supplies could be achieved only in the manner permitted by Iraqi infrastructure.

Commencing in June 1999 (in phase 6 of the OFF Program), the IGB invited offers for wheat sales on contract terms that incorporated, for the first time, a price component for inland transport. The contract term used by the IGB—providing for wheat deliveries "Free into Truck to all silos within all Governorates of Iraq," and incorporating a "C.I.F. Free in Truck" price—was not itself a cause for concern. AWB had no reason to doubt the bona fides of the IGB, with whom it had been doing business for decades. The inland transport terms were consistent with OFF Program rules guaranteeing the equitable distribution of foodstuffs and with UN resolutions authorizing payments in connection with foodstuffs in humanitarian circumstances. Paying trucking fees in accordance with the inland transport terms did not violate the Iraqi sanctions resolutions, particularly when the 661 Committee approved all contracts that required AWB to include the costs of inland transport in its contracts. Indeed, it appears from the Committee's most recent report that the UN's Office of Legal Affairs did not view inland transport terms to contravene the sanctions resolutions.

The process in respect of each contract for the sale of wheat by AWB under the OFF Program was as follows -

- IGB issued a tender for the supply of grain.
- IGB and AWB agreed on terms of sale.

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HUMANITARIAN GOODS TRANSACTIONS AND ILLICIT PAYMENTS

25/10 2005 21:42 FAX 0396023436

AWB LIMITED OFFICE OF MD

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- Contract documents were prepared and signed by IGB and AWB.
- The signed contract and notification or request to ship goods were submitted to the Australian Department of Foreign Affairs and Trade ("DFAT") by AWB.
- DFAT submitted the contract to the Australian Mission to the United Nations in New York.
- The Australian Mission then sent the contract to the United Nations OIP in New York.
- United Nations OIP considered and approved the contract and granted permission to export and confirmed eligibility for payment.
- United Nations OIP sent confirmation of approval of the contract to the Australian Mission.
- Australian Mission notified DFAT of the approval of the contract.
- AWB was then notified of the approval of the contract.
- AWB arranged shipment of grain to Iraq. Bill of Lading issued to AWB (as shipper) by the carrier, shipment consigned to the order of the MOT, IGB.
- Notification to United Nations OIP and Banque Nationale de Paris ("BNP") of arrival of vessel at port in Iraq.
- The UN's Secretary-General's designee inspected and certified shipment and issued a certificate for each shipment. This was known as "authentication" and notification was sent to United Nations Treasury.
- AWB presented the documents called for under the letter of credit to BNP (NY) and when in order, payment by the UN from the escrow account to AWB was processed.

In more conventional circumstances, AWB might well have expected to contract directly with a transportation contractor whose costs it would pay, to negotiate those costs, and to monitor the contractor's performance. But there was nothing conventional about conditions in Iraq or how the OFF Program operated. The fact of the matter is that wheat was continually trucked to the interior, in accordance with OFF Program requirements, exciting no concern on AWB's part. AWB always understood that Alia was a commercial company performing transportation services that were arranged directly by the IGB. AWB always acted on the basis that the Security Council had approved the inland transport terms underlying AWB's payments to Alia.

There was plenty of evidence indicating that Alia was an established transportation company performing actual services. AWB and Alia regularly corresponded on a range of commercial issues normally associated with the provision of trucking services, including among other things why truck shortages delayed unloading, AWB's requests for additional trucks to speed up port operations and payment issues. From time to time AWB representatives met Alia representatives in their offices in Jordan or communicated by telephone to discuss expediting wheat shipments through the port to minimize demurrage costs; which unique to the Iraq market were borne by AWB. To all appearances Alia was a busy commercial company operating both in Jordan and Iraq (and remains so today). There was nothing in the relationship between AWB and Alia to suggest to AWB Alia was not performing a service.

AWB's conduct in not questioning the increases in the trucking fees can be understood.

First, AWB viewed the arrangements from the perspective that Alia was a legitimate trucking company and actually providing the inland trucking services.

REPORT ON PROGRAMME MANIPULATION

CHAPTER THREE

HUMANITARIAN GOODS TRANSACTIONS AND ILLICIT PAYMENTS

25/10 2005 21:43 FAX 0396023436

AWB LIMITED OFFICE OF MD

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Secondly, but for the amount of the fees nothing in the OFF Program changed insofar as AWB was concerned and AWB staff are used to operating in markets where fees fluctuate significantly. No one ever suggested to AWB that the trucking costs included "after sales service fees," and AWB never paid fees characterized in that way. Thirdly, the imposition of the fees was revenue neutral to AWB. Accordingly, those at AWB responsible for making the payments to Alia had little reason to focus on them closely. Fourthly, AWB's expectation was that the UN and in particular the 661 Committee were supervising the OFF Program. That reliance factor cannot be overstated. Hearing no objection from the 661 Committee, AWB continued to do what it was expected to do, namely, provide the large volumes of wheat required by its OFF Program contracts.

The payment of the higher trucking costs occurred entirely in circumstances condoned by the 661 Committee. As the IIC's 7th September 2005 report reveals, the 661 Committee considered the general question of trucking fees in April 2001, at roughly the time AWB started to pay the higher trucking fees. Not only did the 661 Committee take no action, but the history of the 661 Committee reveals the resolve of member countries to block efforts to prevent or even investigate so-called kickbacks under humanitarian contracts. Australia was not a member country of the 661 Committee and so had no way of knowing what the 661 Committee knew at the time.

Moreover, self evidently, AWB was part of an elaborate deception by the regime.

Assuming that it is concluded that some officer of AWB should have suspected that the transportation fees were unreasonable or that they were not being expended on transportation, that does not justify a conclusion that AWB should have known either of these matters. If AWB had made inquiry of Alia or IGB, there is nothing to suggest that inquiry would have discovered what the Committee has discovered after its intensive investigation. AWB had no capacity to investigate the correctness of such response as Alia and IGB might choose to give. And if AWB had made inquiry of the UN, based on findings made to date by the Committee, it most probably would have elicited the response that the payment of high inland transportation fees by suppliers was common and had not attracted any UN response. Accordingly, it would be incorrect to think that the making by AWB of an inquiry would have resulted in the acquisition by AWB of knowledge of wrongdoing. For this reason AWB's failure to make inquiry does not of itself justify a finding that AWB ought to have known what is now known.

On this issue, it is of fundamental importance that the focus of attention is on what was actually known to AWB at the relevant time, not on the facts as they have now been uncovered by the Committee after extensive investigation. A striking illustration of this point is the contrast between Alia as it is now described by the Committee (with the benefit of the knowledge it has acquired) and Alia as it was seen by AWB during the OFF program, as outlined above. The Committee has had access to the extensive records of the Iraqi authorities and other entities. These records were neither known to, nor accessible by, AWB at the material time. It is of note that these records do reveal that in fact part of the monies paid to Alia by way of transport fees were actually expended by the government on transport and related costs.

AWB should not be singled out because the size of its commercial contracts caused AWB to pay so much in trucking fees. AWB paid the largest amount of trucking fees only because it was the largest supplier of foodstuffs under the OFF Program. AWB never acted in a manner suggesting complicity in a wrongful endeavour. It never acted secretly. Not a single instance has emerged of any concealed payment by AWB to anyone in Iraq. All payments were recorded in AWB's books and records as Pool costs incurred in the ordinary course of business. AWB has fully cooperated with the Committee's investigation, making senior

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CHAPTER THREE

HUMANITARIAN GOODS TRANSACTIONS AND ILLICIT PAYMENTS

25/10 2005 21:44 FAX 0396023436

AWB LIMITED OFFICE OF MD

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officials available for interviews and providing 24,000 pages of documents to the Committee. It is always debatable what someone "should have known" particularly with the benefit of hindsight and after the completion of a thorough and rigorous investigation and analysis of all the circumstances. On balance, the fairest interpretation of the circumstances is that AWB was an unwitting participant in an elaborate scheme of deception devised by the regime.

Yours sincerely,

A handwritten signature in black ink, appearing to read "Andrew Lindberg".

Andrew Lindberg
Managing Director

A handwritten signature in black ink, appearing to read "Brendan Stewart".

Brendan Stewart
Chairman

REPORT ON PROGRAMME MANIPULATION

CHAPTER THREE

HUMANITARIAN GOODS TRANSACTIONS AND ILLICIT PAYMENTS

D. RESPONSE OF BELMETALENERGO

| | | |
|---|--|-------------------------|
| OT: | HOMEF ТЕЛЕФОНА: | OKT. 06 2005 13:31 CTP1 |
| <p style="text-align: center;"> BME Belmetalenergo 7, Ignatenko st., Minsk, 220035, Belarus Tel: +375 17 228-53-54; fax: +375 17 228-55-24 e-mail: info@bme.by</p> | | |
| To: Attn.: Mr. Reid Morden, Executive Director Mrs. Susan Ringler. | Independent Inquiry Committee into the United Nations Oil-For-Food Programme | |
| Date: | 6 October 2005 | |
| <p>Dear Mr. Morden,</p> <p>Thank you for the provided possibility to get acquainted with the fragment of your report with regard to the execution of contracts for supply of humanitarian goods to Iraq by Belmetalenergo under the Oil for Food Programme.</p> <p>Unfortunately there are two assertions in the report, with which we cannot agree. And namely, the draft report states that:</p> <ol style="list-style-type: none">1) <i>Throughout the Programme Belmetalenergo paid approximately \$17 millions in these side payments to the Government of Iraq.</i>2) <i>In connection with its oil contracts, Belmetalenergo knowingly paid surcharges to the Government of Iraq in the total amount of \$2.9 million. These payments were made in violation of the Programme and the UN sanctions imposed upon Iraq.</i> <p>We do not agree with these assertions, as Belmetalenergo has never made any payments (including side ones) to the Government of Iraq and has never paid to Iraqis any surcharges. It can be checked through bank statements of our company's payments where purposes of each payment are indicated. All bank operations in the Republic of Belarus have long been controlled. Therefore Belmetalenergo could not effect such illegal payments, which are prohibited by the existing legislation of the Republic of Belarus, in principle.</p> <p>Actually Iraqis required from time to time that representatives of our company provided guarantees on payment of "after sales service fee" and "inland transportation fee" but our company has never made such payments and did not plan to make them. We considered signing of this guarantees being forced mere formality.</p> <p>If you consider that oil companies or any other third companies made actual payments to the Government of Iraq referring to Belmetalenergo, we cannot be blamed for this, and we are not aware of any details of such payments.</p> <p>We regret once again that in the draft of your report there is an attempt to make our company responsible for possible illegal acts of the third parties, which in fact our company has not performed.</p> <p>We also ask to take into consideration that our small company suffered huge losses as the result of the war in Iraq in the form of our destroyed and robbed property, warehouses and service stations within Iraqi as well as in the form of investments to production of humanitarian goods that were intended to be supplied to Iraq under new contracts that appeared to be frozen after the war.</p> <p>Huge efforts are required to restore and reorient our business taking into account these losses. Publication of two above assertions in your report, with which we do not agree, will cause irreparable damage for our company and additional expenses connected with the necessity to rebut your assertions.</p> <p>In connection with the above Belmetalenergo kindly asks you to exclude two above-mentioned assertions from your draft report or to amend them in such a way as not to make our company responsible for illegal actions of the third parties.</p> <p>We hope for further cooperation.</p> <p>Yours sincerely,</p> <p>Vladimir Zhavrid Director</p>  | | |

REPORT ON PROGRAMME MANIPULATION

CHAPTER THREE

HUMANITARIAN GOODS TRANSACTIONS AND ILLICIT PAYMENTS

E. RESPONSE OF BUKKEHAVE

| | | | | |
|---|---|--|--------------------------------------|--|
| 12-10-2005 | 11:03 | FRA-BUKKEHAVE A/S | +4563212163 | T-633 P.001/001 F-511 |
| Norgesvej 2 P. O. Box 140 DK 5700 Svendborg | | Fax +45 63 21 21 63 buk@bukkehave.com | SE No. 15502002 www.bukkehave.com | Global Vehicle & Parts Supply since 1923 |
| Telefax | | | | |
| To | Independent Inquiry Committee into The United Nations Oil-For-Food Programme | | | |
| Attention | Ms. Susan Ringler | | | |
| Subject | Your fax dated October 9, 2005 | | | |
| Fax Number | 00 1 212 842 2555 | | | |
| Our reference | Wo 8247xx10KP | | | |
| Date | October 12, 2005 | | | |
| Pages | 1 including this page | | | |

Dear Ms. Susan Ringler,

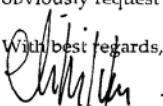
First of all we should like to confirm receipt of your letter. But secondly, we should like to make it abundantly clear that we do not agree to the contents of your letter.

We have informed the Committee in writing and latest at a meeting in London on September 30, 2005 that we have not made any payments outside the Programme and on September 12, 2005 we provided you with a correct list of contracts that we have fulfilled, since your list is incorrect. It is also incorrect that Bukkehav A/S have made side payments to the Government of Iraq and as explained during the meeting of September 30, 2005 we will provide you with documentation proving this point.

We are fully co-operating with () and provided them with contact information for Peter Post on October 7, 2005 and expect to provide them with the final information on October 17, 2005.

It seems that your reply has not taken into account the information provided to these two gentlemen and obviously this is not very comfortably.

After the two gentlemen's review of the information we provide we expect to receive copy of what you intend to include in the report, if anything, and if this is still incorrect we will obviously request a meeting in New York with the Committee to clear all misunderstandings.

With best regards,

Christian Haar
Bukkehav A/S

The names of Committee Investigators have been redacted from all letters included in the Appendices

REPORT ON PROGRAMME MANIPULATION

CHAPTER THREE

HUMANITARIAN GOODS TRANSACTIONS AND ILLICIT PAYMENTS

Bukkehave Ltd.
Norgesvej 2
P. O. Box 140
DK 5700 Svendborg

Tel. +45 63 21 21 21
Fax +45 63 21 21 63
buk@bukkehave.com

CVR No. 15502002
SE No. 15502002
www.bukkehave.com



Telefax

| | | | |
|---------------|---|----------------------|-------------------|
| To | Independent Inquiry Committee into The United Nations Oil-For-Food-Programme | | |
| Attention | Bukkehave Ltd. | Tel. +45 63 21 21 21 | CVR No. 15502002 |
| Subject | Your investigations | Norgesvej 2 | SE No. 15502002 |
| Fax Number | 00 1 212 842 2555 | P. O. Box 140 | www.bukkehave.com |
| Our reference | Wo 8263xx10KP | DK 5700 Svendborg | |
| Date | October 17, 2005 | | |
| Pages | 16 including this page | | |

Dear (),

With reference to our meeting in London we have now been through our files and we have enclosed the following documentation:

1. Comm. no. 930044

As you requested we have enclosed copy of the US Export License for these two US trucks.

In your statement "Total value of Disbursements under Programme" you include an inland transportation fee of USD 67,089 for this contract, but we have never paid such a fee and have enclosed copy of invoice from our freight forwarder Scan-Trans Shipping Middle East LLC, Dubai showing that we have paid a total of USD 4,600 for inland freight from Umm-Qasr to Basrah, where the buyer took over the trucks.

2. Contact details for Peter Post

This has been forwarded to you according to your request, but please bear in mind that it is approximately 4 years ago that Peter Post ceased his employment with our company.

3. Proof that after sales service fee / commission has been paid to Jordan

As per your request we have enclosed copy of bank transfer to our agent at the time in Jordan and copy of credit notes totalling EUR 62,071, covering Comm. No. 930277. As discussed in London this was how the procedure took place.

4. Contact person with UN

The person at the UN, with whom we had talks regarding the actual process of the Programme and who knew fully how this was operated, was a Mr. Darko Mocibob.

5. Original tender documents

We have not been able to locate copy of an original tender from Iraq. Hope you have located these through other sources.

Page 1

The names of Committee Investigators have been redacted from all letters included in the Appendices

REPORT ON PROGRAMME MANIPULATION

CHAPTER THREE

HUMANITARIAN GOODS TRANSACTIONS AND ILLICIT PAYMENTS

Bukkehove Ltd.
Norgesvej 2
P. O. Box 140
DK 5700 Svendborg

Tel. +45 63 21 21 21
Fax +45 63 21 21 63
buk@bukkehove.com

CVR No. 15502002
SE No. 15502002
www.bukkehove.com



6. "Total value of Disbursements under Programme"

As for your latest statement "Total value of Disbursements under Programme" we should like to make you aware that contract value for Comm. no. 930044 was EUR 1,500,400 and payment received for this contract was EUR 1,500,400. There seems to be a mistake in your statement since we have obviously not received a higher amount as you state.

In general we should like to confirm the following:

All contracts we have received under the Programme were approved by the Danish authorities, the 661 Committee and the authorities in the country where the goods had been produced and exported from. In these contracts after sales service has been mentioned as a specific line item and approved by the above mentioned authorities. In our line of business including after sales service is a standard procedure, since we ship vehicles all over the world and often to areas where no local dealer/distributor is available and this fee is therefore allocated to cover warranty and other service issues. In the case of Iraq there was obviously no dealers/distributors present and at the same time the embargo was in place. Therefore we were not able to provide the after sales service why this was the responsibility of our agent, at the time, in Jordan to whom we paid the after sales service fee, where after he took over responsibility for this area. This procedure was discussed with Mr. Darko Mocibob at the OIP and fully accepted.

Regarding the "side letters" you have forwarded us September 4, 2005, we have not been able to locate any of these in our files. Having investigated this further it is our understanding that these "side letters" had to be signed to obtain any contract, but there should be letters that afterwards are cancelling these, since they were made for the Iraqi officials to obey to guidelines issued by the Iraqi Government.

Finally, we should again like to make it abundantly clear that we have not made any unauthorized payments under the Programme and certainly none to Iraq.

We hope that this is satisfactory and look forward to receiving your conclusions.

With best regards,

A handwritten signature in black ink, appearing to read "Christian Haar".

Christian Haar
Bukkehove A/S

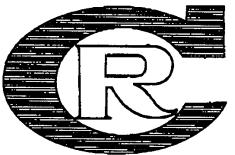
REPORT ON PROGRAMME MANIPULATION

CHAPTER THREE

HUMANITARIAN GOODS TRANSACTIONS AND ILLICIT PAYMENTS

F. RESPONSE OF CHAIYAPORN RICE CO, LTD.

04 OCT '05 11:15 022265863 P.1



บริษัท ชัยพร จำกัด
CHAIYAPORN RICE CO.,LTD.

RICE MILLERS
EXPORTERS
IMPORTERS

613-617 ถนนทรงวาด ถ. บ.ม.ก.ด 862 กรุงเทพมหานคร
613-617 SONGWAD ROAD, G.P.O. BOX 862 BANGKOK
E-mail : chiaporn@chayıaporn.com

โทรเลข : "CHAIYAPORN"
โทรศัพท์ : TH 82987
TH 82237
TELEFAX 0-22249864
TEL : 0-2224-0042 (9 สาย)
0-2225-4116-7

BY FAX TO FAX NO. 212.842 2555/4555

OUR REF.05/1176

INDEPENDENT INQUIRY COMMITTEE OCTOBER 04, 2005
INTO THE UNITED NATIONS OIL-FOR-FOOD PROGRAMME
825 THIRD AVENUE,
FIFTEENTH FLOOR,
NEW YORK, NEW YORK 10021, U.S.A.

ATTENTION: MR. REID MOJDEN
EXECUTIVE DIRECTOR

DEAR SIR,

WE ARE IN RECEIPT OF YOUR LETTER OF SEPTEMBER 26, 2005 WITH THANKS.

ALTHOUGH WE DO NOT HAVE ANY SPECIFIC QUESTION OR FURTHER INFORMATION
TO BE PROVIDED TO YOU, BUT WE DO NOT AGREE WITH YOUR CONCLUSION
THAT:

"THESE PAYMENTS WERE IN CONTRAVENTION OF THE PROGRAMME AND THE
UN SANCTIONS IMPOSED UPON IRAQ. FURTHER, CHAIYAPORN MADE THESE
PAYMENTS KNOWING THAT THE "FRONT COMPANIES" NEVER PROVIDED
ANY TRANSPORTATION SERVICES FROM UMM QASER."

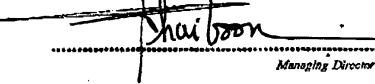
AND THAT:

"IN CONNECTION WITH ITS OIL CONTRACTS, CHAIYAPORN KNOWINGLY PAID
SURCHARGES TO THE IRAQI GOVERNMENT IN THE TOTAL AMOUNT OF
\$1,499,292.- THESE PAYMENTS WERE MADE IN CONTRAVENTION OF THE
PROGRAMME AND THE UN SANCTIONS IMPOSED UPON IRAQ."

WE WERE ASKED TO PAY THE "AFTER SALES SERVICE FEES" AND "INLAND
TRANSPORTATION FEES" AS WE WERE ADVISED THAT THE GOODS HAD TO
BE CARRIED FROM UMM QASER TO THE FINAL DESTINATION IN IRAQ AND
WE WERE ASKED TO PAY FOR SUCH CARRIAGE. WHO ACTUALLY DID THE
INLAND TRANSPORTATION FROM UMM QASER, WE HAD NO MEANS OF KNOWING.
THE SIMILAR EXPLANATION MAY BE OFFERED IN RESPECT OF THE PAYMENT
OF SURCHARGES.

VERY TRULY YOURS,

CHAIYAPORN RICE CO., LTD.


Managing Director

REPORT ON PROGRAMME MANIPULATION

CHAPTER THREE

HUMANITARIAN GOODS TRANSACTIONS AND ILLICIT PAYMENTS

G. RESPONSE OF DAIMLER CHRYSLER AG

| | | | |
|--|-----------------|--|--------------------------------|
| 14. Okt. 2005 18:24 | DR. WASKOENG RA | Nr. 4952 | S. 1 |
| DAIMLERCHRYSLER | | | |
| DaimlerChrysler AG - 70546 Stuttgart VIA FACSIMILE | | | |
| Susan Ringler, Esq. Counsel Independent Inquiry Committee into the United Nations Oil-for-Food Programme 825 Third Avenue, Fifteenth Floor New York, NY 10022 | | via Fax c/ Ringler 001-212 842 2555 O'Brien 001-248 512 1772 Houtman 001-248 512 1771 Raepple 7 40 41 DiBlanco 001-202 39 35 780 Mahoney 001-202 39 35 760 Smith 001-312 407 8512 Störmer 9 43 01 Laubert 9 44 52 <i>d. M. 08</i> Telefon/Phone +49-(0)711-17- 9 27 86 9 44 98 Telefax/Fax +49-(0)711-17- 9 44 98 | |
| Ihre Zeichen, Ihre Nachricht vom Your reference | | Unser Zeichen, unsere Nachricht vom Our reference | |
| | | Name | Hauspost-Code Internal Code |
| | | Dr. Waskönig-mn | O 431 |
| | | Datum / Date | |
| | | 14.10.2005 | |
| Re: <u>In the Matter of DaimlerChrysler AG</u> | | | |
| Dear Ms. Ringler: <p>We are responding to Reid Morden's letter, dated October 9, 2005, to Prof. Schrempp, providing a preview of the UN Independent Inquiry Committee's ("Committee") findings with respect to DaimlerChrysler's participation in the UN Oil-for-Food Program. First of all, thank you for offering us the opportunity to review this document. Although DaimlerChrysler has not been able to confirm certain aspects of the Committee's findings, we believe that it would be most productive to focus on two issues that we believe can be resolved quickly.</p> <p>DaimlerChrysler first respectfully requests that the Committee strike the word "knowingly" in the final paragraph of the findings. As currently drafted, the Committee's findings indicate that DaimlerChrysler "knowingly" made, or agreed to make, payments to the Government of Iraq in contravention of the Oil-for-Food Program's rules and regulations. During the Committee's interviews of DaimlerChrysler personnel, however, Wolfgang Denk (who signed the contracts with the Government of Iraq) expressed his confusion about the program's rules and regulations and said he had no recollection of signing the alleged side letters that he was shown by the Committee. In light of this confusion and uncertainty, we respectfully submit that it is unfair – and, indeed, unnecessary – to characterize the company's actions as a "knowing" violation of the program's rules.</p> <p>Furthermore, we question whether the Committee has sufficient evidence to impute Mr. Denk's knowledge and actions to DaimlerChrysler. Mr. Denk never indicated that he was instructed or authorized by senior management to sign the side letters. Moreover, Committee investigators also interviewed Mr. Denk's supervisor, Gert Uebel, who indicated that he had no knowledge of any payments made to the Government of Iraq. As far as we know, the Committee did not interview any other senior managers, officers, or directors to determine their knowledge of such payments. Therefore, imputation of Mr. Denk's actions and knowledge to the company is not justified based on the facts as we currently know them.</p> | | | |
| ..2 | | | |
| DaimlerChrysler, Stuttgart (D) und /and Auburn Hills (USA) Sitz und Registergericht/Domicile and Court of Registry: Stuttgart, HRB-Nr./Commercial Register No.: 19 360 Vorsitzender des Aufsichtsrates/Chairman of the Supervisory Board: Hilmar Kopper Vorstand/Board of Management: Jürgen E. Schrempp, Vorsitzender/Chairman; Günther Fleig, Rüdiger Grube, Thomas W. LaSorda, Andreas Renschler, Eric R. Ridenour, Thomas W. Sidlik, Bodo Uebber, Thomas Weber, Dieter Zetsche | | DaimlerChrysler AG 70546 Stuttgart Telefon / Phone +49-(0)711-17-0 Telefax / Fax +49-(0)711-17-2 2244 dialog@daimlerchrysler.com www.daimlerchrysler.com | |

REPORT ON PROGRAMME MANIPULATION

CHAPTER THREE

HUMANITARIAN GOODS TRANSACTIONS AND ILLICIT PAYMENTS

14. Okt. 2005 18:24 DR. WASKOENG RA

Nr. 4952 S. 2

- 2 -

DaimlerChrysler also requests that the Committee amend the findings to reflect the full extent of DaimlerChrysler's cooperation with the Committee's investigation. As the Committee Staff knows, DaimlerChrysler took the Committee's request for documents seriously, as evidenced by the numerous conference calls and meetings that have been held on the subject. In fact, the company gave the Committee's request due consideration even though U.S. Department of Justice and U.S. Securities and Exchange Commission investigations were pending. Based on the advice of outside counsel, however, the company concluded that producing the documents would expose it to liability under the German Data Protection Act. We attempted in good faith to negotiate a data protection agreement based on the standard clauses adopted by the European Union that would permit the company to share the documents with the Committee, but we unfortunately have been unsuccessful to date. We are willing to continue to work with the Committee on such an agreement so that DaimlerChrysler may produce documents.

Notwithstanding the obstacles presented by the Data Protection Act, DaimlerChrysler has cooperated with the investigation by arranging interviews of current and former employees. DaimlerChrysler urged Mr. Denk, a retired employee, and Klaus Euler, an independent contractor, to submit to interviews. In addition, the company made Mr. Uebel available on only 24 hours notice. The company also is in the process of arranging an interview of Erich Jonscher if the Committee still desires such an interview. Given DaimlerChrysler's efforts in facilitating the Committee's interviews, we request that the Committee amend the penultimate paragraph as follows:

The Committee contacted DaimlerChrysler and requested the production of DaimlerChrysler documents relating to the company's participation in the Programme. *The Committee and DaimlerChrysler have been unable to agree on the terms of a data protection and privacy agreement that DaimlerChrysler believes is necessary under Germany's Data Protection Act. Nevertheless, DaimlerChrysler has made current and former employees available for interviews, including one employee on 24 hours notice.* Committee investigators interviewed a former DaimlerChrysler employee, who identified his signature on the side letters but claimed that he could not recall signing them.

Finally, in consideration of Mr. Denk's voluntary compliance with your interview request, we ask that his name not be used in the public report. During his interview, Mr. Denk specifically raised data protection concerns about his name being published in any public report. The Committee's findings would not be undermined in any way by replacing Mr. Denk's name with "a former DaimlerChrysler employee" as above.

..3

REPORT ON PROGRAMME MANIPULATION

CHAPTER THREE

HUMANITARIAN GOODS TRANSACTIONS AND ILLICIT PAYMENTS

14. Okt. 2005 18:25

DR. WASKOENG RA

Nr. 4952 S. 3

- 3 -

As you can see, our requested changes are modest and justified. We urge the Committee to consider our requests and are willing to discuss these issues further prior to the issuance of the Committee's final report.

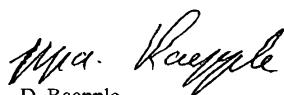
Please do not hesitate to contact us if you have any questions.

Very truly yours,

DaimlerChrysler AG



P. H. Waskönig



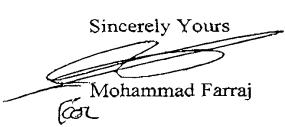
D. Raeppler

REPORT ON PROGRAMME MANIPULATION

CHAPTER THREE

HUMANITARIAN GOODS TRANSACTIONS AND ILLICIT PAYMENTS

H. RESPONSE OF INTERNATIONAL ENGINEERING GROUP

| | | |
|---|--|--|
| <p>INTERNATIONAL ENGINEERING GROUP FOR MOULDS . EQUIPMENT & STEEL STRUCTURES MANUFACTURING</p> <p>Our Ref.: 18/10/47 Date: 18 October 2005</p> <p>Independent Inquiry Committee The United Nations Oil-For-food Program New York, USA Fax: +1 212 842 2555</p> <p>Attention: Mr. Reid Morden-Executive Director Ms. Susan Ringler-Counsel ✓</p> | <p>PHONE NO. : </p> | <p>OCT. 18 2005 10:58PM P1 المجموعة الدولية للمهندسين لصناعة الفولاذ . المعدن والمعادن المصنوعة</p> <p>INTERNATIONAL ENGINEERING GROUP FOR MOULDS . EQUIPMENT & STEEL STRUCTURES MANUFACTURING</p> |
| <p>Dear Sirs,</p> <p>Reference is made to your following messages:</p> <p>(a) A letter in English dated 13 October 2005 signed by Mr. Reid Morden which Ms. Susan Ringler – Counsel to the independent inquiry Committee had faxed to us on 13 Oct 2005. (b) A letter in Arabic signed and faxed to us by () dated 6 October 2005</p> <p>In response to your messages regarding the role that existed between our company and Volvo CE and regarding the amounts that were deposited by Volvo CE to the Iraqi Ministries accounts at the Housing & Trading Bank and the Jordanian National Bank we wish to advise you the following:</p> <ol style="list-style-type: none">1. We advised the President of Volvo CE Mr. Tony Helsham by our letter reference 18/8/41/2027 and the Middle East Area Manager of Volvo CE Mr. Goran Blomquist by our letter reference 18/8/42/2027 both dated 15/8/2005 (copies attached) and asked for their instructions on how to reply to your inquiries mentioned above.2. Since they did not reply, we will copy you all the files in which Volvo CE have instructed us to pay these amounts to the above mentioned accounts.3. Also we will copy you the transfers whom Volvo CE had made to the accounts of the Iraqi Ministry of Housing & Construction and the Ministry of Transportation at the Housing & Trade bank and the Jordanian National bank both in Amman, Jordan. <p>Please provide us with your DHL account so we can dispatch to you all the files by DHL.</p> <p>Sincerely Yours  Mohammad Farraj GOL</p> <p>Attachments: 1x1 Letter to Volvo CE President 2x1 Letter to Volvo CE Middle East Area Manager 3x1 Your letter dated July 26, 05</p> <p>E-mail: a@al-jabori.com Um Othayna - Jeddah St. - Tel. +962 6 552 5861 Fax +962 6 552 5867 - B.O. Box 840069 Amman 11184</p> <p>The names of Committee Investigators have been redacted from all letters included in the Appendices</p> | | |

REPORT ON PROGRAMME MANIPULATION

CHAPTER THREE

HUMANITARIAN GOODS TRANSACTIONS AND ILLICIT PAYMENTS

| | | |
|---|-------------|-------------------------|
| FROM : | PHONE NO. : | OCT. 18 2005 10:59PM P2 |
| INTERNATIONAL ENGINEERING GROUP | | |
| FOR | | |
| MOULDS . EQUIPMENT & STEEL STRUCTURES MANUFACTURING | | |
|  | | |
| المجموعة الدولية الهندسية | | |
| لصناعة الفواید ، المعدات والهيكل الحديدي | | |
| Our Ref.: 18/8/41/1-27 | | |
| Date: 15/8/2005 | | |
| PRIVATE & CONFIDENTIAL | | |
| <p>Volvo Construction Equipment Avenue du Hunderenveldaan 10 B-1082 Brussels Belgium Fax: +32 2 482 58 78</p> | | |
| <p>Attention: Mr. Tony Helsham President & CEO</p> | | |
| <p>Dear Mr. Helsham,</p> | | |
| <p>We were your agent and representative in Iraq during the U.N. Oil for Food Program. During said period Volvo Construction Equipment had sold machines to the Iraqi Government.</p> | | |
| <p>You know very well that during said period you made and unauthorized payment to the Iraqi Government in fulfillment of your contract obligations contrary to U.N mandates as stated in the attached U.N letter.</p> | | |
| <p>Please refer to the attached letter from the Independent Inquiry Committee into the United Nations Oil-For-Food Program dated July 26, 2005 and advise on how we will revert to the U.N. on this issue.</p> | | |
| <p>Sincerely Yours</p> | | |
|  CEO A. Al-Jabori | | |
| <p>Tel: + 962 6 5525861 Email: a@al-jabori.com</p> | | |
| <p>Enclosures: Ix1 Independent Inquiry Committee into the United Nations Oil-For-Food Program letter dated July 26, 2005</p> | | |
| <p>E-mail: a@al-jabori.com Amman - شارع جده - هاتف: ٩٦٢ ٦ ٥٥٢ ٨٤٠٦٩ +٩٦٢ ٧ ٥٥٢ ٨٦٧ فاكس: ٩٦٢ ٦ ٥٥٢ ٨٤٠٦٩ عمان: ١١٧٦ الاردن Umm Othayna - Jeddah St. - Tel. +962 6 552 5861 Fax +962 6 552 5867 - B.O. Box 840069 Amman 11184</p> | | |

REPORT ON PROGRAMME MANIPULATION

CHAPTER THREE

HUMANITARIAN GOODS TRANSACTIONS AND ILLICIT PAYMENTS

| | | |
|---|--|----------------------------|
| FROM : | PHONE NO. : | OCT. 18 2005 10:59PM P3 |
| INTERNATIONAL ENGINEERING GROUP | | المجموعة الدولية للمهندسين |
| FOR | لصناعة القوالب ، المعادن والهيكل الحديدي | |
| MOULDS , EQUIPMENT & STEEL STRUCTURES MANUFACTURING | | |
| Our Ref.: 18/8/42/ <i>2021</i> | | |
| Date: 15/8/2005 | | |
| PRIVATE & CONFIDENTIAL | | |
| <p>Volvo Construction Equipment AB SE-631 85 Eskilstuna Sweden</p> <p>Fax: +46 16 15 29 97</p> | | |
| <p>Attention: Mr. Goran Blomquist Middle East Area Manager</p> | | |
| <p>Dear Mr. Blomquist,</p> <p>We were your agent and representative in Iraq during the U.N. Oil for Food Program. During said period Volvo Construction Equipment had sold machines to the Iraqi Government.</p> <p>You know very well that during said period you made unauthorized payment to the Iraqi Government in fulfillment of your contract obligations contrary to U.N mandates as stated in the attached U.N letter.</p> <p>Please refer to the attached letter from the Independent Inquiry Committee into the United Nations Oil-For-Food Program dated July 26, 2005 and advise on how we will revert to the U.N. on this issue.</p> <p>Sincerely Yours</p> <p><i>[Signature]</i></p> <p>C E O A. Al-Jabori</p> <p>Tel: + 962 6 5525861 Email: a@al-jabori.com</p> | | |
| <p>Enclosures: 1x1 Independent Inquiry Committee into the United Nations Oil-For-Food Program letter dated July 26, 2005</p> | | |
| <p>E-mail: a@al-jabori.com Amman - Jordan - شارع جبلة - هاتف. ٩٦٢ ٦ ٥٥٢ ٨٤٠٠٢ +٩٦٢ ٦ ٥٥٢ ٨٧٦٧ تاكسٌ ١١١٨٤ عمان الأردن Um Othayna - Jeddah St. - Tel. +962 6 552 5861 Fax +962 6 552 5867 - B.O. Box 840069 Amman 11184</p> | | |

REPORT ON PROGRAMME MANIPULATION

CHAPTER THREE

HUMANITARIAN GOODS TRANSACTIONS AND ILLICIT PAYMENTS

| | | |
|--|---------------|-------------------------|
| FROM : <u>International Engineering Group</u> | PHONE NO. : | OCT. 18 2005 11:00PM P4 |
| | | |
| <p style="text-align: center;">INDEPENDENT INQUIRY COMMITTEE INTO THE UNITED NATIONS OIL-FOR-FOOD PROGRAMME</p> <p style="text-align: center;">825 THIRD AVENUE FIFTEENTH FLOOR NEW YORK, NEW YORK 10022 TELEPHONE: 212.842.2500/4500 FACSIMILE: 212.842.2555/4555 www.iic-offp.org</p> | | |
| PAUL A. VOLCKER CHAIRMAN | July 26, 2005 | |
| RICHARD J. GOLDSTONE MARK PIETH MEMBERS | | |
| <i>Strictly Confidential</i> | | |
| <p>INTERNATIONAL ENGINEERING GROUP Sahab Industrial City - Street No 11 PO Box: 840069 Amman 11184 Jordan JORDAN</p> | | |
| <p>Dear Sir:</p> <p>The Independent Inquiry Committee Into the United Nations Oil-For-Food Programme ("the Committee") was appointed by the Secretary-General of the United Nations, with the approval of the Security Council to investigate the management and administration of the UN Oil-For-Food Programme in Iraq ("the Programme"), including allegations of fraud and corruption related to the Programme.</p> <p>Consistent with our mandate (see www.iic-offp.org) the Committee expects to issue a Report that will address, among other things, the operation of the humanitarian assistance aspect of the Programme. As a part of its Report the Committee will update the tables that it released on October 21, 2004 listing Humanitarian Goods and Oil Spare Parts Purchases.</p> <p>The Committee has determined that during the Programme, companies providing humanitarian goods to Iraq under the Programme were required by the Government of Iraq to make unauthorized payments to the Iraqi government or to an agent of the Iraqi government, in the amount of at least 10% of the contract value. The tables that will be included in the upcoming Report will include information drawn from Iraqi records and other information of company payments made to the Iraqi government that were not authorized under the Programme. The Committee has information indicating that your company had contracts during the Programme on which unauthorized payments were made. Such information will be reported in the tables accompanying one of our upcoming reports.</p> <p>At present, the Committee's investigation into this and other aspects of the Programme is continuing. If you have information regarding such payments that you would like the Committee to consider, please submit it in writing to the attention of Erin Loura, by August 15, 2005.</p> <p>Sincerely,</p> <p> Reid Morden Executive Director</p> | | |
| <p>Control No: 11096</p> | | |

REPORT ON PROGRAMME MANIPULATION

CHAPTER THREE

HUMANITARIAN GOODS TRANSACTIONS AND ILLICIT PAYMENTS

I. RESPONSE OF JAWALA CORPORATION SDN BHD

| | | | |
|--|--|---|-----------------------|
| 30-SEP-2005 05:04PM | FROM-JAWALA CORP. SDN BHD | +60-3-21427396 | T-370 P.001/003 F-877 |
|  <p>JAWALA CORPORATION SDN. BHD. LOT 17-02, 17TH FLOOR, MENARA PROMET, JALAN SULTAN ISMAIL, 50250 KUALA LUMPUR, MALAYSIA. P.O. BOX 11748, 50756 KUALA LUMPUR, MALAYSIA CABLE: JAWALACORP TEL: 603-21419700, 21419707, 21419709 TELEX: JAWALA MA21197 / MA 34028 FAX: 21427396 E-MAIL: jawala@po.jaring.my</p> | | | |
| Our Ref : 402/05 | | | |
| 30 September 2005 | | | |
| Ms. Susan Ringler Counsel Independent Inquiry Committee Into The United Nations Oil-For-Food Programme 825 Third Avenue Fifteenth Floor New York, New York 10022 U.S.A. Fax No. 1-212-8422555 / 8424555 sringler@iic-offp.org | Without Prejudice Strictly Confidential | URGENT | |
| Dear Madam | | | |
| <u>The United Nations Oil-for-Food Programme</u> | | | |
| <p>1) Thank you for your letter of 26 September 2005 together with enclosure of 4 pages and the opportunity you gave us to provide additional relevant information prior to the release of the Committee's report.</p> <p>2) Not all the purchases from Iraq under the United Nations Oil-For-Food Programme required payment of "After Sale Service Fee" (ASSF). Contracts for sale of vegetable ghee (palm oil) to the State Enterprise for Vegetable Oils (SEVO) are not subject to ASSF. They did not impose such condition. So there is no such payment.</p> <p>On the other hand, State Trading Company for Construction Materials (STCCM) imposed the ASSF as a condition in the contract. Therefore, we have to pay the ASSF.</p> <p>Consistent with the above, your Attachment should be amended as below:-</p> <p>(a) Under Contract No. 800271 for vegetable ghee, the ASSF of USD166,754 should be deleted as no ASSF was imposed.</p> <p>(b) Under Contract No. 702279 for plywood, ASSF of USD201,600 should be added.</p> | | | |
| Contd 2/- | |  | |

REPORT ON PROGRAMME MANIPULATION

CHAPTER THREE

HUMANITARIAN GOODS TRANSACTIONS AND ILLICIT PAYMENTS

30-SEP-2005 05:05PM FROM-JAWALA CORP SDN BHD

+60-3-21427396

T-370 P.002/003 F-877



JAWALA CORPORATION SDN. BHD. (118011-U)

Page 2

30 September 2005
Independent Inquiry Committee
Into The United Nations Oil-For-Food Programme

- 3) The inference that Jawala knew that ASSF and inland transportation fees were outside the United Nations Oil-for-Food Programme and were in contravention with the said programme and United Nations sanctions are completely wrong.

All the companies we dealt with in Iraq are Iraqi state companies. They are the implementing arms of the United Nations Oil-For-Food Programme. As aforesaid, STCCM imposed ASSF and SEVO did not do so. We just followed the rules set by the respective implementers of the programme.

All the export contracts we got from Iraq were obtained by competitive bids and on terms set by the programme implementers. Every exporter/supplier had to follow the terms and conditions strictly. We did not have the privilege to question them.

We certainly did not have prior knowledge that part of the condition is outside the United Nations Oil-For-Food Programme and that it contravened United Nations sanctions as we presume that all these Iraqi state agencies were appointed by the United Nations as implementers to execute the United Nations Oil-For-Food Programme.

The practice of imports by Iraq under the United Nations Oil-For-Food Programme was carried out for 7 years. Every importer/supplier paid the ASSF where it was imposed. It was only after the war that ASSF became payment outside the said programme and contravening United Nations sanctions. How Jawala could have known this especially when the rules were set by the United Nations Oil-For-Food Programme and its implementing arms/agencies?

We urge you to put the record right. We certainly did not have prior knowledge that the ASSF was a payment outside the United Nations Oil-For-Food Programme and that it contravened United Nations sanctions.

- 4) In respect of the oil purchases, we have informed your investigators that we did not make payment related to quantity of oil purchases. However, we did give assistance to the Iraqi Government on humanitarian grounds in the form of donations of T.V., vehicle, medical supplies and cash.

Contd 3/-

A handwritten signature consisting of a stylized, cursive letter 'U' or similar mark.

REPORT ON PROGRAMME MANIPULATION

CHAPTER THREE

HUMANITARIAN GOODS TRANSACTIONS AND ILLICIT PAYMENTS

30-SEP-2005 05:05PM FROM-JAWALA CORP. SDN BHD

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T-370 P.003/003 F-877



Page 3

30 September 2005
Independent Inquiry Committee
Into The United Nations Oil-For-Food Programme

We would like to state clearly that we did not promise payment; neither did any one in the State Oil Marketing Organization (SOMO) asked for payment nor the Iraqi Government ever demanded any payment from us for crude oil allocation from SOMO.

All the crude oil contracts we got were due to the excellent political relationship between the Governments of Iraq and Malaysia, our long term trading relationship with Iraq dating back to before the 1st war in Iraq and that we were one of the very few Malaysian national oil purchasers registered by the United Nations Oil Overseers under the United Nations Oil-For-Food Programme.

Please confirm to us that you will make the appropriate corrections in the narrative of your report to the Independent Inquiry Committee.

Thank you.

Yours faithfully
JAWALA CORPORATION SDN BHD

A handwritten signature in black ink, appearing to read "CHEE AH WHAT".

CHEE AH WHAT
General Manager

- CC : 1) Mr. Reid Morden, Executive Director, IIC
Refer your letter of 25 September 2005.
- 2) YBhg. Tan Sri Dato' Ahmad Fuzi Hj. Abdul Razak
Secretary General
Ministry of Foreign Affairs, Malaysia
Fax No. 60-3-88892867

/lcl

REPORT ON PROGRAMME MANIPULATION

CHAPTER THREE

HUMANITARIAN GOODS TRANSACTIONS AND ILLICIT PAYMENTS

J. RESPONSE OF MALONEY INDUSTRIES

October 26, 2005¹

Jeffrey A. Meyer
Senior Counsel
Independent Inquiry Committee into the
United Nations Oil-for-Food Programme
825 Third Ave., 15th Floor
New York, NY 10022

Dear Mr. Meyer,

Re: Independent Inquiry Committee into the United Nations Oil-for-Food Programme

Further to our correspondence and discussions with representatives of the Independent Inquiry Committee into the United Nations Oil-for-Food Programme I would like to confirm that Hanover Compressor Company has conducted a review of the matters raised by the Committee in connection with the transaction covered by the Oil-for-Food Purchase Order Contract (Ref. COMM 730924).

As part of this process we have reviewed our records relating to the transaction and spoken with our current employees with knowledge of the transaction. From this review we have determined that Maloney had no knowledge of any illegal payments to Iraq or Iraqi officials or knowledge of any improprieties associated with COMM 730924 and did not participate in nor authorize any transactions in violation of the U.N. sanctions regime.

We have provided you with copies of documents and other relevant information relating to the transaction and have cooperated with the Committee to the fullest extent possible and will continue to do so.

Sincerely,

Gary M Wilson
General Counsel
The Hanover Company
12001 North Houston Rosslyn
Houston 77086

GMWilson@Hanover-co.com
Office: 281 405 5161
Cell : 281 380 1815
Fax: 281 405 6203

¹ This e-mail communication has been converted into a Word document.

REPORT ON PROGRAMME MANIPULATION

CHAPTER THREE

HUMANITARIAN GOODS TRANSACTIONS AND ILLICIT PAYMENTS

K. RESPONSE OF PHOENIX INVESTMENT INTERNATIONAL

REPORT ON PROGRAMME MANIPULATION

CHAPTER THREE

HUMANITARIAN GOODS TRANSACTIONS AND ILLICIT PAYMENTS

PHOENIX INVESTMENT INTERNATIONAL

October 10, 2005

Reid Morden
Executive Director
Independent Inquiry Committee
Into The United Nations Oil for Food Programme

Dear Mr. Reid Morden,

I thank you for your letter dated October 3.

As you are well aware, in order to best cooperate with the committee, and to clarify all related issues, I provided detailed information in my letter dated October 16 addressed to yourself. I further explained the issues in my meeting with your colleagues () and () on October 25. I did not expect your report to blame Phoenix for illicit payments in the programme. In the above mentioned letter and during the meeting, referring to your Third Interim Report of August 8 and procedure of approval of the contract in OIP and 661 Committee, I emphasized that payment of internal land transport and after sales services were common, for all companies and were known to all officials of the UN involved in the programme.

Therefore, I emphasized that such payments could not be declared in violation of the UN programme. I stated in the meeting that several internal administrative documents from ministries files could not conclude that all executed contracts included payments of internal land transport and after sales services fees. Therefore attached table to your letter is not precise and its figures could not match with what was exactly done. As an example, in your list you have mentioned that we made payment under a contract of Soya bean meal. We did not deliver or execute this contract. You have calculated the total Contract Face Value as \$ 143.3 million while based on your own calculations "Phoenix" has received \$ 139.5 million in the programme altogether (figures contradict each other).

Dear Sir,

I would like to reiterate that in my above mentioned letter in response to your letter dated September 5, and in the meeting I had with your colleagues I have responded to all raised questions. I insist that the following points should be considered:

- 1- "Our Company has never taken any action contrary to or out of United Nations regulations for MOU contracts and the relevant escrow account."
- 2- "Concerning to the procedure of the approval of contracts in their technical and financial details, including the contract amount, detailed pricing and the process of their execution and payments, we were always subject to the same conditions and rules as (all) companies who participated in the execution of MOU contracts. There has not been even one exception to this rule in course of our dealings with Iraq for the past several years."
- 3- "This (payment of inland transport charges and after sales services fee) was a routine practice about which all relevant UN agencies and institutions were aware of."

REPORT ON PROGRAMME MANIPULATION

CHAPTER THREE

HUMANITARIAN GOODS TRANSACTIONS AND ILLICIT PAYMENTS

PHOENIX INVESTMENT INTERNATIONAL

4- "All the stages and details of the contracts from A to Z (from signing the contract till final payment of the LC) and in all aspects of technical and financial views were under the supervision of the UN, OIP and 661 Committee."

5- "The approval process would take several months in these organisations and through this process every detail of the contract including technical aspects (for dual usage parts) and financial aspects (especially the total amount and details of the prices figures) were scrutinized. As per the contract amount, obviously the international standard unit prices for the goods was known and the same was the base to check the contract prices by the relevant authorities of UN organizations especially (by) members of 661 Committee that supervised all the process of approvals."

6- "Approval and confirmation of the prices and total amount of the contract by the UN and 661 Committee authorities clearly affirmed that nothing was being carried out outside the rules and regulations of UN program for oil against food for Iraq and no unauthorized steps had been taken."

7- "Considering that after sales service and the inland transportation fees were "routine and involved all companies," one cannot characterize them as misappropriation or secret payments."

8- In addition to all above quoted points from my letter we need you consider that in our letters to you and the meeting with your staff, "Phoenix" has provided the Committee with several reports of the losses, damages and injustice behaviours which have faced during executions of MOU contracts and during and after war.

Dear Mr. Morden,

I would like to reiterate that without considering the above mentioned points and without noting the losses and damages we faced during execution of Humanitarian Contracts and after that till date (of which I have provided detailed reports both in my letter and in the meeting with your colleagues) your report would result to a one way and incorrect understanding. Thus accusing "Phoenix" for illicit payments is not correct at all, does not have any factual basics and will face me a considerable moral loss in addition to all financial damages and losses I have actually suffered. This will raise questions about and undercut your report's credibility. I would like to express and emphasize that:

1- Payments made outside Programme and in violation of Programme and UN escrow account and without knowledge of UN authorities are absolutely incorrect.

2- Figures and facts of the attached table to the report are not precise.

3- I conclude to suggest you not to mention "Phoenix" name in your report. However, if you insist to do so let us have another meeting in Europe so that I could rectify your misinterpretation about "Phoenix".

I assure you of my sincere wishes for your success in publishing the final report.

Best regards



Reza Maktabi

C.C.: Mr. Khaldoun Abu Jamous. Lawyer of Phoenix Investment International

REPORT ON PROGRAMME MANIPULATION

CHAPTER THREE

HUMANITARIAN GOODS TRANSACTIONS AND ILLICIT PAYMENTS

L. RESPONSE OF RUSSIAN ENGINEERING COMPANY

18/07/2005 15:09 70959048222 REC PAGE 82

 RUSSIAN ENGINEERING COMPANY

Independent Inquiry Committee into
the United Nations Oil-for-Food Programme
825 Third Avenue
Fifteenth Floor
New York, New York 10022
Tel. 212 842 2500/4500
Fax 212 842 2555/4555

Msx. от 04.10.05
№ 326/10

Dear Sirs,

Herewith we would like to acknowledge the receipt of a letter of your esteemed Committee dated 30th September 2005 regarding Russian Engineering Company activity within the framework of UN humanitarian program "Oil for Food". We have studied thoroughly your message and would like to note that in spite of a large amount of work carried out by the Committee a lot of data mentioned in your letter do not correspond to the real situation.

We definitely do not agree with the conclusions made by your Committee with regard to so called "side payments" which Russian Engineering Company had allegedly done beyond the scope of concluded and executed contracts.

Perhaps, undeliberate inaccuracy of your conclusions has occurred due to the fact that your Committee lacks some of important data. Thus it is necessary to note that Russian Engineering Company maintained close relations with former leaders of Iraq. It can be explained in particular by our active promotion of establishment and maintenance of regular air communication between Baghdad and Moscow and also by our direct participation in providing humanitarian aid to the Iraqi people, particularly, we supplied expensive medicines with the help and in accordance with UN Sanction Committee - 661 Committee approval, corresponding documents could be found in archives of this esteemed organization. Thereby we have never received from former Iraqi leaders any requests regarding payment of so called "after sales service fees" and "inland transportation fees". Your references to so called "Government of Iraq policy documents" in our view may only indicate that humanitarian aid provided by our company in one way or another was taken into account by the Iraqi side. Our company never made against UN sanctions any payments under either commodity or oil supplies contracts.

In our opinion the conclusions contained in your letter are evidently based on inadequate, false information with a definite political orientation, which has been incorrectly interpreted.

In this connection we would like to ask you to revise the conclusion you made and insert corresponding corrections in a document you prepare.

In case if you due to some reasons consider it impossible or inexpedient we kindly ask you to include this letter into your report as an attachment.

Best regards,

Sergei Issakov
Chairman of the Board

13, building 4, Cherskogo proezd, Moscow 127410, Russia
Telephone: +7(095) 904 8200, 904 8209, 904 8245 • Fax: +7(095) 904 8222 • E-mail: rec@garnet.ru

REPORT ON PROGRAMME MANIPULATION

CHAPTER THREE

HUMANITARIAN GOODS TRANSACTIONS AND ILLICIT PAYMENTS

10/07/2005 15:09 70959048222

REC

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РУССКАЯ ИНЖЕНЕРНАЯ КОМПАНИЯ

Независимый комитет по расследованиям
программы ООН
«Нефть в обмен на продовольствие»

Исх. от 07.10.05
№ 380/10

тел.: 212 842 2500/4500
факс: 212 842 2555/4555

Уважаемые господа!

Мы подтверждаем получение письма вашего уважаемого Комитета от 30 сентября 2005г. касательно деятельности Русской Инженерной Компании по гуманитарной программе ООН «Нефть в обмен на продовольствие». Мы внимательно изучили ваше послание и считаем необходимым отметить, что, несмотря на большой объем работы, проделанный вашим комитетом, многие данные, содержащиеся в вашем письме, не совпадают с реальной ситуацией.

Мы категорически не согласны с выводами, сделанными вашим Комитетом по так называемым выплатам, которые якобы Русская Инженерная компания осуществляла за рамками подписанных и исполненных контрактов.

Возможно, что непреднамеренная ошибочность ваших выводов связана с тем, что вами упущены из виду некоторые важные обстоятельства. Так, необходимо отметить, что в силу ряда обстоятельств Русская Инженерная Компания поддерживала близкие отношения с тогдашним руководством Ирака. Это объясняется, в частности, тем, что мы активно способствовали установлению и поддержанию регулярного авиационного сообщения между Багдадом и Москвой, принимали непосредственное участие в оказании иракскому народу гуманитарной помощи, в частности, поставляли дорогостоящие медикаменты при участии и по разрешению Комитета по санкциям - 661 Комитета ООН. Соответствующие документы вами могут быть найдены в архивах этой уважаемой организации. В силу этого обстоятельства тогдашним иракским руководством перед нами не выдвигалось требование о выплате так называемых «сумм на послепродажное обслуживание» (after sales service fees) и «сборов за транспортировку по стране» (inland transportation fees). Имеющиеся у вас ссылки на так называемые «документы по политике иракского правительства», по нашему мнению, могут свидетельствовать лишь об учете иракской стороной в том или ином виде гуманитарной помощи по нашей линии. Каких-либо платежей в обход режима санкций ООН нашей компанией ни по товарным, ни по нефтяным поставкам не осуществлялось.

По нашей оценке, содержащиеся в вашем письме выводы со всей очевидностью основываются на недостоверной, фальсифицированной и имеющей определенную политическую направленность, неправильно интерпретированной информации.

В этой связи просили бы вас пересмотреть сделанные вами выводы и внести соответствующие корректировки в подготавливаемый вами документ.

В случае если вы, по каким-либо причинам, сочтете это невозможным или нецелесообразным, просили бы вас включить данное письмо в качестве приложения к вашему отчету.

С уважением,

Председатель Совета директоров

С.В. Исаков

Россия, 127410, Москва, проезд Черского, 13, корпус 4
Телефон: (095) 904 8200, 904 8209, 904 8245 • Факс: (095) 904 8222 • Телекс: 612378 RENK

REPORT ON PROGRAMME MANIPULATION

CHAPTER THREE

HUMANITARIAN GOODS TRANSACTIONS AND ILLICIT PAYMENTS

M. RESPONSE OF SIEMENS AG

18/10 2005 11:43 FAX 0049 9131 722201 SIEMENS AG 001/001

SIEMENS

Confirmation Copy
per Telefax vorab

Reid Morden
Executive Director
Independent Inquiry Committee
Into The United Nations Oil-For-Food Programme
825 Third Avenue, Fifteenth Floor
New York, New York 10022

Erlangen, October 17, 2005

Dear Mr. Morden:

We write in reference to your letter to Dr. Schäfer dated October 9, 2005, regarding the Independent Inquiry Committee's intention to include in a forthcoming report allegations that Siemens France, Siemens Turkey and Osram Middle-East paid kickbacks totaling more than \$1.6 million to the Iraqi government in connection with contracts under the Oil-for-Food Programme in the amount of \$125 million.

Based on our own inquiries to date, Siemens France, Siemens Turkey and Osram Middle-East cannot confirm the Committee's allegations and we see the Committee's conclusions regarding the aforementioned Siemens companies as well as premature as unjustified.

To date, we have cooperated with the Committee's investigation by meeting twice with the Committee's Chief Legal Counsel and his staff, making available employees for interviews and providing documents to the Committee in the hope of a fair discussion that is in line with due process.

Consequently, we are puzzled and disappointed by the Commission's premature and unjustified conclusions regarding the conduct of Siemens France, Siemens Turkey and Osram Middle-East.

Respectfully,

Siemens Aktiengesellschaft

ppa.Burgard *[Handwritten signature]* cc/ Prof. Mark Pieth
Member of the IIC

cc/ Mark Califano
Chief Legal Counsel of the IIC

Corporate Personnel

Compliance Office
Leitung:
Dr. Wilfried Walisch
Rechtsanwalt

Briefadresse:
Siemens AG
Compliance Office
Postfach 3240
91052 Erlangen

Hausadresse:
Werner-von-Siemens-Str.50
91052 Erlangen
Telefon (09131) 7-0

Siemens Aktiengesellschaft - Vorsitzender des Aufsichtsrats: Heinrich v. Pierer - Vorstand: Klaus Kleinfeld, Vorsitzender des Aufsichtsrats: Thomas Ganswindt, Edward G. Knoblauch, Rudi Lamprecht, Heinz-Joachim Naubürger, Jürgen Rademaki, Erich R. Reinhardt, Uwe J. Sharif, Claus Weyrich, Klaus Wucherer
Sitz der Gesellschaft: Berlin und München - Registergericht: Berlin-Charlottenburg, HRB 12300; München, HRB 6684

REPORT ON PROGRAMME MANIPULATION

CHAPTER THREE

HUMANITARIAN GOODS TRANSACTIONS AND ILLICIT PAYMENTS

N. RESPONSE OF SINOCHEM INTERNATIONAL CORPORATION



SINOCHEM INTERNATIONAL CORPORATION

Address: 18/F., Jinmao Tower, NO.88 Century Boulevard , Shanghai 200121, P. R. China

Telephone: 021-50498899

Faxsimile: 021-50490909

October 13, 2005

INDEPENDENT INQUIRY COMMITTEE into
THE UNITED NATIONS OIL-FOR-FOOD PROGRAM

FAX NUMBER: 212-842-2555/4555

Attention: Susan Ringler

Dear Ms. Ringler,

We refer to the letter dated September 29, 2005 from Mr. Reid Morden, executive director of the committee referenced above, which was forwarded to us recently by Sinochem International Oil London Company Limited. We are shocked by the allegations contained in the above letter and currently investigating into them.

We have come across tremendous difficulties in our investigation. For your information, our former chief representative in Iraq, Mr. Fu Zhi-feng has deceased and his predecessor, Ms. Gong Ying-huan, and all the traders who used to handle our sales under the UN Oil-for-Food Program, no longer work with us. Further, due to the recent Iraq War, we have lost all the relevant files and records relating to the sales, which had been stored in our Baghdad representative office.

We will let you know as soon as we recover any of those files and we will try our best to locate our former employees who have personal knowledge about our sales under the UN Oil-for-Food Program and persuade them to meet with you.

Sincerely yours,

Pan Yuexin
Vice President

pan yuexin 10/13/05
Pan Yuexin
Sinochem International Corporation 2005. 10. 13

REPORT ON PROGRAMME MANIPULATION

CHAPTER THREE

HUMANITARIAN GOODS TRANSACTIONS AND ILLICIT PAYMENTS

13/10 05 09:48 FAX 0171 735 4508

SINOCHM OIL LONDON LTD

001



SINOCHM INTERNATIONAL OIL
LONDON CO. LTD.

11TH FLOOR, WESTMINSTER TOWER, 3 ALBERT
EMBANKMENT, LONDON, SE1 7SP, U.K.
Tel: 0044 20-77357878 Fax: 0044-20-77357121

October 13, 2005

STRICTLY CONFIDENTIAL

Via Facsimile 212-842-2555

Independent Inquiry Committee into
The United Nations Oil-For Food Program

Attention: Reid Morden, Executive Director

Dear Mr. Morden,

We have received your letter dated September 29, 2005 addressed to Sinochem International Oil London Company Limited, Sinochem International Company Limited and Sinochem International Tendering Company Limited, and we have forwarded your letter to the latter two companies.

We take your letter very seriously. However, due to the lapse of time and personnel changes, the current management and staff have no knowledge about the surcharge payment alleged in your letter. Anyway, we are conducting an inquiry into the allegations referred to in your letter and shall contact Susan Ringler in due course once we have completed our inquiry.

Sincerely yours,

Zhang Jie
Deputy General Manager
Sinochem International Oil London Company Limited

REPORT ON PROGRAMME MANIPULATION

CHAPTER THREE

HUMANITARIAN GOODS TRANSACTIONS AND ILLICIT PAYMENTS

13/10 2005 15:58 FAX

001



中化国际招标有限责任公司
SINOCHM INTERNATIONAL TENDERING CO., LTD

北京复兴门外大街 A2 号 中化大厦 9 层 邮编：100045 电话：88078001 传真：88079871
Sinochem Tower,A2 Fuxingmenwai Dajie,Beijing 1000045,China Tel:86-10-88078001,Fax:86-10-88079871

October 13, 2005

STRICTLY CONFIDENTIAL

Ms. Susan Ringler, Counsel for
INDEPENDENT INQUIRY COMMITTEE into
THE UNITED NATIONS OIL-FOR-FOOD PROGRAM

Fax: 212-842-2555

Ladies and Gentlemen:

We acknowledge receipt of your letter dated September 29, 2005 forwarded to us recently by Sinochem International Oil London Co. Ltd., and we apologize for the delay in our responding due to our week-long National Days holidays (our office was closed between September 30 and October 7).

We are looking into your accusations and find that we used to sell to Iraq under the UN Oil-for-Food Program. Our former representatives in Iraq, Ms. Gong Yinghuan and Mr. Fu Zhifeng, were primarily responsible for the sale referred to above. Please be advised that Mr. Fu Zhifeng passed away in 2004 and Gong Yinghuan's employment was terminated in 2001.

We will let you know as soon as we have further information.

Sincerely yours,

Zhao Hongmin
Assistant General Manager

REPORT ON PROGRAMME MANIPULATION

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HUMANITARIAN GOODS TRANSACTIONS AND ILLICIT PAYMENTS

O. RESPONSE OF VIETNAM NORTHERN FOOD CORPORATION (VINAFOOD 1)

| | | | |
|--|------------|--|-------|
| 04-OCT-2005 16:55 | VINAFOOD I | 9343894 | P. 01 |
| <p style="text-align: center;"> TỔNG CÔNG TY LƯƠNG THỰC MIỀN BẮC Vietnam Northern Food Corporation (VINAFOOD 1)</p> | | | |
| H.Q: 6 Ngo Quyen Str., Hanoi, Vietnam Tel: (84-4) 8.257069 - 8.253547 Fax: (84-4) 9.343894 - 8.267948 Telex: 412268 VINAFO - VT Email: KTDNLT@FPT.VN | | Branch : 58 Nguyen Binh Khiem Str. Dist. 1, Ho Chi Minh City Tel: (84-8) 8.230422 8.229677 Fax: (84-4) 8.224898 Email: VNF1@HCM.FPT.VN | |
| <p>Date: October 04, 2005</p> <p>To. INDEPENDENT INQUIRY COMMITTEE INTO THE UN OIL-FOR-FOOD PROGRAMME K.attn: Mr. Paul a Volcker, Chairman Mr. Reid Morden, Executive Director</p> <p><u>Ref. Oil-for-Food Programme</u></p> <p>Dear Sirs,</p> <p>The Vietnam Northern Food Corporation (Vinafood 1) hereby acknowledges the receipt of your letter dated September 27, 2005 regarding the captioned subject. As expressly clarified in the recent meeting with your investigators on July 19, 2005 in Hanoi, Vinafood 1 hereby reiterates that we have signed the rice contracts with the Iraqi Buyer on basis of cargo delivery to all Iraqi governorates. The Iraqi Buyer requested the Seller to transfer such inland transportation charge to their nominated transportation companies then they arranged for cargo receiving and trucking at their end deliberately. The said inland transportation charge was included in the contractual price which had already been approved by the UN for implementation. The payment was effected to the transportation companies for trucking purpose only. In fact, Vinafood 1's rice was delivered to the Iraqi governorates successfully and Vinafood 1 has already received full payment from the UN designated Bank as per the Oil-for-Food Programme schedule.</p> <p>For the above, Vinafood 1 would like to propose the Independent Inquiry Committee to make a proper revision in your report accordingly.</p> <p>Highly appreciate your cooperation, We remain,</p> <p></p> <p>Tran Ba Hoan General Director</p> | | | |

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P. RESPONSE OF VOLVO CONSTRUCTION EQUIPMENT

Reid Morden, Executive Director
Independent Inquiry Committee into The United Nations Oil-For-Food Programme
825 Third Avenue
Fifteenth Floor
New York, NY 10022

Dear Mr. Morden,

I refer to your letter of October 6, 2005. Please note that we did not receive your letter until October 11, and it was subsequently agreed that we would have until October 17 to respond, rather than October 13 as stated in your letter.

We believe it is appropriate to point out to you several facts respecting the summary of the proposed narrative that you included in your letter. First, with respect to Volvo CE's appointment of International Engineering Group (IEG) as its "sole distributor", you should be aware that Volvo CE effectively terminated this relationship in July 2002 in response to what it saw as deceitful actions by IEG, as I explained to your colleague [IIC investigator]¹ during my telephone conversations with him. Moreover IEG, as "sole distributor" acted in its own name, for its own account and on its own expense. For your further information, Mr. Rune Lundberg was President of Volvo CE International AB and Mr. Håkan Nirstedt was Area Director Project Sales of Volvo CE International AB.

Second, per the request of [IIC investigator], we have reviewed the documentary evidence he provided to us (copies of two contracts and certain bank payment data), and we have repeatedly told [IIC investigator] that we at Volvo CE are unfamiliar with the banks named and do not recognize the accounts referenced. Nor do we have any knowledge of the names appearing on those bank payment documents.

Third, I have asked [IIC investigator] to provide us with copies of any other documents or materials he believes are evidence of any wrong-doing with which Volvo CE might have been involved for our review, investigation, and comment, and to date no additional documents or other evidence have been presented to us.

Finally, with respect to the final paragraph of your proposed narrative, we believe that the statement "Volvo knowingly made or caused to be made illicit kickback payments to the Government of Iraq" is not supported by any of the documents the Committee provided to us, namely either the copies of the contracts attached to [IIC investigator's] September 21 letter or the copies of bank payment documents attached to his September 26 letter. We do not believe it would be just or responsible of the Committee to level these sorts of accusations given the documents before it and our comments and responses regarding those documents.

¹ The Committee has converted Volvo's e-mail response into a Word document. The names of Committee investigators have been redacted from all letters included in the Annexes and Appendices to the Report.

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In light of the above, we trust that the Committee will take a balanced and considered approach to its investigation and conclusions regarding this matter, and will reconsider the inclusion of Volvo CE in its forthcoming report.

Very truly yours,

Edvard

Edvard Carleson
Vice President & General Counsel
Volvo Construction Equipment
Avenue du Honderenveld 10
BE-1082 Brussels
Belgium
edvard.carleson@volvo.com
direct line +32 2 482 50 92
telefax +32 2 675 15 32
mobile +32 478 53 14 17

REPORT ON PROGRAMME MANIPULATION

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HUMANITARIAN GOODS TRANSACTIONS AND ILLICIT PAYMENTS

Q. RESPONSE OF THE WEIR GROUP PLC

| | | |
|---|---|--|
| 25-OCT-05 19:12 FROM: MCGRIGORS | ID: | PAGE 1/2 |
| McGrigors Edinburgh | | |
| Princes Exchange 1 Earl Grey Street Edinburgh EH3 9AQ 723301 Edinburgh43 | Tel +44 (0) 131 777 7000 Fax +44 (0) 131 777 7003 www.mcgrigors.com E-mail jim.cormack@mcgrigors.com | |
| To Susan Ringler | From McGrigors | |
| Company Independent Inquiry Committee | Direct Dial 0131 777 7356 | |
| Your Ref | Our Ref JSC/KS | |
| Fax No 001 212 842 2555 | Date 25 October 2005 | |
| No of Pages 2 | Subject Andrew MacLeod The Weir Group plc | |
| Cc | | |
| Dear Madam | | |
| We act for Andrew MacLeod. Our client has passed to us a copy of Reid Morden's letter to Mr Mitchelson of The Weir Group plc ("Weir") dated October 11 2005. Please note that our client only received a copy of that letter on Friday 21 October 2005 on his return from vacation. | | |
| We understand that it is proposed to issue the report of the Committee on Thursday of this week, 27 October 2005, less than a week after our client received a copy of the letter. To issue a report naming our client in such circumstances would quite clearly be unfair and oppressive. If the Committee nonetheless elects to proceed to issue a report naming or otherwise identifying our client, then we hereby reserve all his rights and remedies in that regard. | | |
| It is highly relevant to note that our client remains an employee of Weir and subject to the conditions of his contract of employment with Weir. As we understand it, Weir has already responded to the Committee at a corporate level through Mr Mitchelson. Our client considers this to be the appropriate means of responding to the Committee, in the very limited time which the Committee has allowed, given that he has no capacity in any matter related to Iraq except as an employee of Weir acting in the course of his employment. There is no legal obligation on an individual to give an interview to the Committee which is enforceable in Scotland and in such circumstances anyone in the position of our client, whose relevant status is solely as an employee, is well advised to refer any communication from the Committee to his or her employer as our client has done. | | |
| The request to our client to be interviewed was apparently made over the telephone by one of your investigators who "cold called" our client. Any such request should have been made in writing but in any event the request was reported by our client to Mr Mitchelson as required by his contract of employment. Our client told your investigator that any enquiry should be directed to Weir as his employer. We understand that Weir has provided information to the Committee. | | |
| The principal place of business is Pacific House, 70 Wellington Street, Glasgow G2 6SB where a list of partners' names is open to inspection. | The information in this fax is confidential and may be legally privileged. It is intended solely for the addressee and others authorised to receive it. If you are not the intended recipient, any disclosure, copying, distribution or action taken in reliance on its contents is prohibited and may be unlawful. | This is a legal communication not a financial communication. Neither this nor any other communication from this firm is intended to be or should be construed as, an invitation or inducement (direct or indirect) to any person to engage in investment activity. We are regulated by the Law Society of Scotland |

REPORT ON PROGRAMME MANIPULATION

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HUMANITARIAN GOODS TRANSACTIONS AND ILLICIT PAYMENTS

25-OCT-05 19:13 FROM:McGRIGORS

ID:

PAGE 2/2

McGrigors

In such circumstances, it would be misleading to say that our client has declined to be interviewed by the Committee. Our client referred your investigator to Weir as his employer as was appropriate.

It would also be unfair and oppressive to quote from or otherwise to refer in the report to anything which our client may have said when contacted by your investigator by telephone. As we say, our client was given no prior warning of the call and he was not advised to seek legal advice or that anything he said might be recorded and/or used for any particular purpose.

We would respectfully suggest that it will afford no credit to the Committee if it identifies an individual in such circumstances where that individual is simply an employee of a corporation and properly subject to contractual obligations as such in relation to any contact with the Committee. We formally request that any reference identifying or tending to identify our client, including without limitation reference to his name or position within Weir, be deleted from the report referred to in your letter. Reference to his conversation with your investigator should also be deleted. Reference to our client in the proposed report is plainly not necessary for any proper purpose of the Committee and would not be in due accordance with the Terms of Reference.

We look forward to hearing from you by close of business today Eastern time. Please respond by e-mail to the writer at the e-mail address at the top of this fax.

Yours faithfully

A handwritten signature in black ink that reads "McGrigors". The signature is written in a cursive, flowing style with a prominent "M" at the beginning.

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HUMANITARIAN GOODS TRANSACTIONS AND ILLICIT PAYMENTS

The Weir Group PLC

149 Newlands Road
Glasgow G44 4EX
Scotland

Tel: +44(0)141 637 7111
Fax: +44(0)141 637 2221
www.weir.co.uk

From the office of
Alan Mitchelson
Direct Line: 0141 308 3720

Excellent
Engineering
Solutions



Mr Reid Morden
Executive Director
Independent Inquiry Committee
825 Third Avenue
Fifteenth Floor
New York 10022

18 October 2005

Dear Mr Morden

We have received your letter of 11 October 2005 with attachments in relation to the Oil for Food Programme.

As you say in your letter we have provided you with information, a table of payments and correspondence in relation to payments to agents. Additionally, individual contract files have been made available to you in the UK for inspection but unlike some of the other investigations into the Oil for Food Programme you have chosen not to carry out a review of these files. I can confirm information and assistance has been provided to all investigations on a consistent basis.

You also state within the summary of the proposed narrative contained within your letter that the Company has declined to require an employee to be interviewed by your Committee as a condition of his continuing employment by the Company. This is not the case and I am somewhat surprised that you continue to apply US regulations to a non US forum. As confirmed to () as recently as 7 October 2005, in the UK, a company cannot compel employees to consent to third party interviews without itself committing a breach.

In relation to the attachments to your letter and information provided by me to the Committee I can confirm that, prior to receipt of your correspondence, I was not aware of any agreement by the Company to make additional payments.

I confirm that the contract files remain available for review by you and that a copy of your letter has been forwarded to Andrew Macleod.

Yours sincerely

A handwritten signature in blue ink, appearing to read "AM".

Alan Mitchelson
Director & Secretary

Registered in Scotland
Number 2934

Registered office:
149 Newlands Road
Glasgow G44 4EX

The names of Committee Investigators have been
redacted from all letters included in the Appendices

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HUMANITARIAN GOODS TRANSACTIONS AND ILLICIT PAYMENTS

R. RESPONSE OF ZARUBEZHNEFT

| | | |
|--|--------------|--|
| 18/10 05 TUE 10:40 FAX 2801305 | ZARUBEZHNEFT | 001 |
| <p>Открытое акционерное общество ЗАРУБЕЖНЕФТЬ</p> <p> Joint Stock Company</p> <p>ZARUBEZHNEFT</p> | | |
| Our Ref № <u>MA - 11- 2962</u> | | «18» October 2005 |
| Your Letter dated October 13, 2005 | | Mr. Reid Morden Executive Director Independent Inquiry Committee into the United Nations Oil-for-Food Programme |
| <p>Dear Mr. Morden,</p> <p>Please be advised that the position of JSC "Zarubezhneft" concerning allegations of the Independent Inquiry Committee into the United Nations Oil-for-Food Programme (the Committee) has been sent to the Committee on October 12, 2005, our reference number 19-11-2903, as a response to your letter control number 13685 dated October 11, 2005.</p> <p>We would like to draw your attention to the fact that the sources of information for the Committee concerning the activity of JSC "Zarubezhneft" during the Programme are absolutely unsubstantiated allegations based only on unrealistic "assessments" and "extrapolations" of the Committee's staff.</p> <p>Regards</p> <p> M.M. Arustamov</p> | | |
| <p>Российская Федерация, 101990, г. Москва, Армянский пер., д. 9/1/1, строение 1 Building 1, 9/1/1 Armiinsky perelok, Moscow, 101990, Russian Federation Тел./Tel.: (095) 748-65-00 Факс/Fax: (095) 748-65-05, 956-14-91 Телекс/Telex: 113303 STEK RU E-mail: nestro@nestro.ru</p> | | |

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HUMANITARIAN GOODS TRANSACTIONS AND ILLICIT PAYMENTS

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REPORT ON PROGRAMME MANIPULATION

CHAPTER FOUR

THE ESCROW BANK AND CONFLICTING INTERESTS

I. INTRODUCTION AND SUMMARY

In 1996, the Secretary-General selected Banque Nationale de Paris S.A., now BNP Paribas (“BNP” or the “Bank”), a French banking corporation, to serve as the Programme’s escrow bank.⁷¹⁶ The United Nations and BNP negotiated a Banking Services Agreement (“Banking Agreement”), setting forth BNP’s duties principally to include: (1) establishing and managing an escrow account to receive proceeds from the sale of Iraqi oil and to disburse funds for Iraq’s purchase of humanitarian goods; (2) confirming letters of credit issued from banks retained by companies buying oil from Iraq; and (3) issuing letters of credit for the purchase of humanitarian goods. The Agreement further provided that all of the requirements of Resolution 986, the Iraq-UN MOU, and the 661 Committee’s rules and procedures for review and approval of transactions under the Programme were “essential and fundamental terms and conditions” of the agreement.⁷¹⁷

Over the course of the Programme, BNP confirmed all letters of credit (“L/Cs”) for the purchase of oil, and it maintained the account into which \$64.2 billion in oil proceeds ultimately was deposited. BNP also issued letters of credit for all of the Government of Iraq’s humanitarian purchases under the Programme, which totaled approximately \$34.5 billion.⁷¹⁸

One highly significant provision of the Banking Agreement allowed BNP not only to confirm letters of credit issued by other banks for oil purchases, but also to “issue [letters of credit] directly as the Purchaser’s Bank on behalf of its customers who are approved purchasers of Iraqi petroleum and petroleum products.” BNP frequently availed itself of this option—either directly or through subsidiaries and affiliates, principally BNP’s offices in Geneva, Switzerland, which together issued approximately three-fourths of all letters of credit for oil transactions during the Programme.⁷¹⁹

For BNP, already a major provider of financial services for the oil sector, the opportunity to issue a letter of credit in the first instance rather than simply to confirm a letter of credit issued by another bank meant that BNP acquired a second customer, and with it, the possibility for a conflict of interest with its primary customer—the United Nations. BNP operated during the Programme through various branches, subsidiaries, and affiliates, including BNP New York, the

⁷¹⁶ As later discussed in Section II.A below, the Bank undertook several acquisitions and mergers after 1996, including the acquisition of United European Bank and the merger with Banque Paribas. Accordingly, the term “BNP” as it is used in this Chapter refers to the Bank in its entirety.

⁷¹⁷ “First Interim Report,” pp. 73-83 (describing the process leading to BNP’s selection); Agreement for Banking Services between BNP and the United Nations (Sept. 12, 1996) (hereinafter “Banking Agreement”), pt. I, art. 1.3 (regarding escrow account), and Part II, arts. 1.2 (incorporating Resolution 986, the Iraq-UN MOU, and the 661 Committee’s rules and procedures), 2.2 (regarding oil letters of credit), 2.3 (regarding humanitarian letters of credit). The Chief Executive Officer of BNP’s subsidiary in New York signed the agreement on behalf of BNP’s President and Chief Operating Officer. *Ibid.*

⁷¹⁸ TaR (1997-2003); “Programme Management Report,” vol. II, p. 15.

⁷¹⁹ Banking Agreement, art. 2.2.8; TaR (1997-2003).

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THE ESCROW BANK AND CONFLICTING INTERESTS

branch responsible for maintaining the escrow account. These other branches, subsidiaries, and affiliates will hereinafter be referenced by the designation “BNP,” followed by the location of the branch, subsidiary, or affiliate (e.g. BNP Geneva, BNP Hong Kong, and BNP New York).

This Chapter of the Report does not re-examine the operation of Iraq’s oil surcharge scheme or the many opportunities presented and lost for the Security Council and others within the United Nations to have redressed the surcharge scheme. Instead, it addresses (1) the manner in which BNP—conflicted by its allegiance to private party contractors and financers—was inhibited from disclosing fully the firsthand knowledge it acquired of the true nature of financial relationships that fostered the payment of illicit surcharges, and (2) the way in which surcharge payments passed through BNP and what steps, if any, BNP took to detect and interrupt them.

Part II of this Chapter briefly reviews BNP’s structure and functions under the Programme, as well as fees associated with client work under the Programme. Part II also reviews the Banking Agreement and the manner in which Resolution 986 functioned as its context.

Part III describes the manner in which BNP failed to question layered banking relationships that evolved over time and that facilitated the making of surcharge payments without detection. Part III also describes BNP’s involvement in two examples of oil purchase transactions that resulted in the payment of oil surcharges: (1) the sale of two million barrels of oil to ACTEC of Russia and financed by Glencore International AG, and (2) the sale of two million barrels of oil to Bulf Oil of Romania and financed by Texaco, Inc. These examples demonstrate not only the manner in which BNP was positioned within the Programme to identify relationships and transactions that undermined the administration of the Programme, but also the manner in which BNP facilitated these transactions rather than disclosing them to the United Nations.

Part IV discusses evidence of approximately \$10 million of surcharge payments made through customer accounts held at BNP (including its Swiss subsidiary and affiliate).⁷²⁰ This discussion will examine the adequacy of the due diligence BNP performed upon payment authorization requests by lesser known companies that were clients of the Bank (principally its Geneva affiliate) and who sought approval from the Bank for the transfer of funds. This Part will also examine the Bank’s level of scrutiny in light of standards at the time and against the backdrop of its claim to the Committee that it exceeded minimal anti-money laundering and due diligence requirements.

Part V details the response of the Bank to the Committee’s anticipated findings.

Part VI discusses the Committee’s evaluation of how the Bank managed its apparent conflicts of interests and the rigor of its due diligence on high-risk transactions in the Programme.

⁷²⁰ See Table 3 (below). All transactions conducted in euros were converted to USD using daily currency exchange converter from OANDA.com. OANDA, “The Currency Site: Foreign Exchange Services and Trading,” <http://www.oanda.com>.

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THE ESCROW BANK AND CONFLICTING INTERESTS

II. BACKGROUND

A. STRUCTURE OF BNP AND ITS PROGRAMME ACTIVITIES

BNP is a French *société anonyme*, or public company, that has been listed on the Paris Stock Exchange since 1993. BNP is licensed to do business in New York, and is the parent of various subsidiaries and affiliates located throughout the world, including the Americas, Europe, and Asia.⁷²¹

Over the course of the Programme, the Bank grew through acquisitions and a merger, both of which increased its profile in oil trade finance and heightened its degree of participation in aspects of the Programme. First, in 1998, BNP acquired United European Bank (“UEB”) in Geneva, and later, in 2000, it merged with another significant French bank, Banque Paribas, to form BNP Paribas S.A.⁷²²

As noted above, the Bank’s main duties under the Banking Agreement were to confirm letters of credit for the purchase of oil and ensure that deposits were fully credited to the escrow account, maintain the account, and issue letters of credit and make payments to vendors for humanitarian purchases. In previous reports, the Committee assessed receipts to the escrow account, the management of funds in the account, and transfers from the account for the payment of humanitarian goods. The Committee found no exceptions in these areas and therefore has no remarks critical of the Bank’s performance with respect to these functions.⁷²³

This Chapter is mainly concerned with potential conflicts resulting from the Bank’s activities in issuing letters of credit for the purchase of oil. Over the course of the Programme, the Bank taken as a whole, meaning its various branches, subsidiaries, and affiliates, issued seventy-two percent of the letters of credit used to purchase oil in the Programme, amounting to \$45.7 billion.⁷²⁴ Table 1 below lists the number and amount of letters of credit for oil purchases issued by the Bank. For ease of presentation, the Table combines the figures for BNP entity by city.⁷²⁵

⁷²¹ BNP record, BNP annual report (2004); BNP, Corporate Leaflet 2005; BNP Paribas, “The Bank for a Changing World,” <http://www.bnpparibas.com>; Banking Agreement. Currently, the Bank operates in over eighty-five countries; while in 1997, the Bank operated in over seventy-nine countries with more than 2,000 branches worldwide. BNP record, BNP annual reports (1997 and 2004).

⁷²² BNP’s purchase of the UEB was effective on September 30, 1998. UEB, “UEB (SWITZERLAND),” <http://www.ueb.com>. The merger between BNP and Banque Paribas was approved by the shareholders on May 23, 2000. BNP record, BNP annual report, p. 89 (2000).

⁷²³ “First Interim Report,” pp. 217-18; “Programme Management Report,” vol. IV, 1-39, 85-108, 173-76.

⁷²⁴ TaR (1997-2003).

⁷²⁵ The data for this table, with the exception of the surcharge delineation, was derived from the United Nations Treasury database of oil purchase contracts and associated letters of credit. The information tying letters of credit to surcharge payments is derived from SOMO surcharge payment records.

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Table 1 – BNP Letter of Credit Issuance by Branch/Subsidiary/Affiliate

| BNP by City | Number of L/Cs | Value of L/Cs |
|-----------------------------|----------------|-------------------------|
| Geneva | 1,224 | \$25,897,061,250 |
| Paris | 495 | \$9,716,040,610 |
| London | 172 | \$3,507,013,659 |
| Milan | 60 | \$856,101,638 |
| Hong Kong | 52 | \$1,157,795,138 |
| Basel | 36 | \$727,568,066 |
| Other (13 branches) | 195 | \$3,905,122,639 |
| Total BNP | <u>2,234</u> | <u>\$45,766,703,001</u> |
| Total Programme | 3,120 | \$64,181,293,181 |
| % of BNP to Total Programme | 71.6% | 71.3% |

As shown in Table 1, the BNP entities in Geneva had an especially important role within the Programme. The Geneva subsidiaries and affiliates (“BNP Geneva”) collectively issued nearly forty percent of the letters of credit used to purchase oil in the Programme and, by the testimony of Bank officials, operated more or less as independent banks with respect to the Bank’s contractual roles in the Programme.⁷²⁶

B. FEES EARNED FOR PROGRAMME ACTIVITIES

The Committee has estimated the Bank’s fees regarding the major Programme activities in which it engaged. The Committee does not take issue with the fees in regard to their amount, which appears fair. Rather, it identifies the fees in order to gain a fuller understanding of the Bank’s Programme related client relationships. The fees fall into several categories corresponding to major Programme activities:

1. *Issuing letters of credit for the sale of humanitarian goods.* The Bank was solely responsible for issuing letters of credit guaranteeing payment for humanitarian goods imported by Iraq. From the inception of the Programme through May 2005, the Bank has earned, according to United Nations records, \$84 million in fees for the issuance of, and subsequent amendments to, humanitarian letters of credit. These fees are based on prices established in the Banking Agreement.⁷²⁷

⁷²⁶ TaR (1997-2003); BNP Geneva officials interviews (Oct. 3-5, 2005).

⁷²⁷ Banking Agreement, Annex 5; Amendment Four to Banking Agreement (hereinafter “Amendment Four”) (Nov. 13, 2000); Teklay Afeworki e-mail to the Committee (Nov. 2, 2004); Teklay Afeworki e-mail to the Committee (Oct. 7, 2005) (attaching a schedule of banking fees charged by BNP). Prior to November 2000, L/C fees were borne by the escrow account in conformity with the Agreement. In

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THE ESCROW BANK AND CONFLICTING INTERESTS

2. *Confirming letters of credit for the purchase of oil.* In addition to issuing humanitarian letters of credit, BNP was also tasked with confirming letters of credit issued by other banks for the purchase of Iraqi oil. The Banking Agreement stipulated that BNP could charge up to a five basis-point fee for confirming another bank's letter of credit, assuming that the other bank is of "investment grade." BNP could charge a higher fee at its discretion for non-investment-grade banks. Based on a review of a sample of letter of credit files provided by BNP New York, it appears that fees charged by BNP were generally lower than these benchmarks. BNP charged a three basis-point fee (as opposed to five) for the confirmation of letters of credit issued by other banks. It is estimated that BNP earned approximately \$7 million in fees for confirming letters of credit issued by other banks. These fees are described in the Banking Agreement.⁷²⁸
3. *Negotiating, advising, and amending letters of credit for the purchase of oil.* In addition to the fees for issuing humanitarian letters of credit and confirming oil letters of credit, the New York branch charged a payment/negotiation fee which typically amounted to eight basis points of the value of the payments drawn on the oil letter of credit, regardless of issuing bank. This rate is less than the ten basis-point rate stipulated in the Banking Agreement. This fee was charged to compensate the bank for its work in negotiating the payment of the letter of credit with the purchaser, ensuring that documents were consistent and properly executed. It is estimated that the Bank earned approximately \$51 million in payment/negotiation fees throughout the course of the Programme.⁷²⁹
4. *Issuing letters of credit for the purchase of oil.* Because these fees were paid by the purchasers of the oil and were not charged to the escrow account, the United Nations accounting records do not indicate the amount of such fees earned by BNP; nor is the basis for the fee established in the Banking Agreement. However, based on a sample review of letter of credit files, it appears that the Bank charged an issuance fee of between 3.75 and 10 basis points of the value of the letter of credit. It appears that lower fees were assessed to preferred clients, whereas certain other clients were assessed the

November 2000, the United Nations and BNP amended the Agreement to reflect that fees related to the issuance of letters of credit for humanitarian purchases were no longer to be borne by the escrow account, but instead were to be charged to the vendors supplying the goods. Under this amendment, BNP collected its issuance fee from the escrow account and reimbursed the escrow account upon collection of the fee from the vendor at the time payment was rendered under the letter of credit. Of the \$84 million in fees earned by BNP, approximately \$50 million was paid from the escrow account prior to this change. Amendment Four; Teklay Afeworki e-mail to the Committee (Jan. 26, 2005).

⁷²⁸ Banking Agreement, Annex 5; see, e.g., BNP L/Cs, nos. W733232, W732681, N730032, J712070, P724993, X735312, D727451, N730272, N729342, V718801, N732032, N731013, N730417.

⁷²⁹ Eva Millas Russo interview (Oct. 20, 2005). Ms. Russo, a Vice-President in the Commodity Trade Finance Group of BNP New York, played an integral role in preparing BNP's response to the United Nations' solicitation for banking services and was involved in the Programme for its entire duration. Ibid.; see Banking Agreement, Annex 5; see, e.g., BNP L/Cs, nos. W733232, W732681, N730032, J712070, P724993, X735312, D727451, N730272, N729342, V718801, N732032, N731013, N730417.

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higher fee. For purposes of its own fee estimate, the Committee uses a straight average fee rate of 6.875 basis points. By applying this rate to the value of letters of credit issued by BNP (and UEB), it is estimated that the Bank earned approximately \$30 million for the issuance of oil letters of credit under the Programme.⁷³⁰

There are several additional Programme-related activities in which the Bank is known to have engaged, and earned fees, but which the Committee cannot estimate because of incomplete information. These include fees for making assignments of proceeds on humanitarian letters of credit, and fees for providing financing to vendors supplying goods.⁷³¹

Table 2, below, provides a summary of the fees earned by the Bank throughout the Programme. The fees are described and listed in Annex five to the Banking Agreement.⁷³²

Table 2 – Estimated Fees Earned by BNP (in millions)

| Humanitarian L/C Fees | |
|------------------------------------|----------------|
| Issuance fees* | \$84 |
| Assignment fees | <i>unknown</i> |
| Humanitarian supply financing fees | <i>unknown</i> |
| Total Humanitarian Fees | \$84 |
| Oil Fees | |
| Payment/Negotiation fees* | \$52 |
| Issuance fees | \$30 |
| Confirmation fees* | \$7 |
| Total Oil Fees | \$89 |
| Total Estimated Fees Earned | \$173 |

* These fees are described in Annex 5 of the Banking Agreement

⁷³⁰ See, e.g., BNP L/Cs, nos. L/CIM1168254, L/CIM4174132, L/CIM4226651, L/CIM4226671, L/CIM4274701, L/CIM2212108, L/CIM4226285, L/CIM 4235400, L/CIM4214632, L/CIM2218878, L/CIM 2148386, L/CIM2145412, L/CIM2148639; Banking Agreement, art. 2.2.8, and Annex 5; TaR (1997-2003).

⁷³¹ This is based on assignment requests in which the beneficiary stated that it agreed to the Bank's charge of amounts resulting from the application of twenty-five basis points. The Bank has indicated that it made a substantial number of assignment payments. BNP Paribas Interim Report to the United States House of Representatives, House International Relations Committee, "Payments under UN Oil-For-Food Program Letters of Credit to Persons Other than Beneficiaries and Banks Providing Direct Loans to Beneficiaries" (April 25, 2005); see, e.g., Al Wasel and Babel record, Al Wasel and Babel letter to BNP New York (June 26, 2001) (assigning letter of credit payment to BNP Vietnam); BNP New York record, BNP Frankfurt SWIFT message to BNP New York (Feb. 12, 2002) (accepting assignment of proceeds from Belmetalenergo).

⁷³² Banking Agreement, Annex 5.

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While the amount of fees earned by BNP is substantial, it is important to bear in mind that BNP's decisions and actions related to its dealings in the Programme were not driven by these fees alone. Many of the Bank's longstanding clients, especially in the oil market, became participants in the Programme, and the Bank had an interest in ensuring the continuation of these relationships beyond the Programme's duration.⁷³³

C. CONTRACTUAL CONTEXT FOR BNP'S PROGRAMME ACTIVITIES

The Banking Agreement between BNP and the United Nations specifically contemplated that all letters of credit would be issued, executed and confirmed "in accordance with Resolution 986 and the 661 Committee Procedures." A principal concern of Resolution 986 was transparency. The Resolution reads that oil could be sold subject to the following conditions:

- a) Approval by the Committee established by resolution 661 (1990), in order to ensure the transparency of each transaction and its conformity with the other provisions of this resolution, after submission of an application by the State concerned, endorsed by the Government of Iraq, for each proposed purchase of Iraqi petroleum and petroleum products, including details of the purchase price at fair market value, the export route, the opening of a letter of credit payable to the escrow account to be established by the Secretary-General for the purposes of this resolution, and of any other directly related financial or other essential transaction;
- (b) Payment of the full amount of each purchase of Iraqi petroleum and petroleum products directly by the purchaser in the State concerned into the escrow account to be established by the Secretary-General for the purposes of this resolution.⁷³⁴

Resolution 986 was also referenced throughout the Banking Agreement. Article 1.2 of the Banking Agreement states that "[t]he procedures and requirements set forth in SCR 986, the Memorandum of Understanding and the 661 Committee Procedures constitute essential and fundamental terms and conditions of this Agreement." Article 1.4 provides that "[t]ransactions with respect to ... the United Nations Iraq Account shall be only those authorized by the Security Council in and pursuant to SCR 986." Specifically concerning letters of credit, the Agreement provides that "[t]he Bank undertakes to provide the Services ... with respect to Letters of Credit... in accordance with SCR 986, the Memorandum of Understanding, the 661 Committee Procedures...."⁷³⁵

Based upon the language in the Agreement, it was therefore clearly incumbent upon the Bank to consider the principles and concerns espoused in Resolution 986 in connection with the

⁷³³ BNP Geneva officials interview (Oct. 3-5, 2005); Committee Meeting with BNP (Oct. 20, 2005).

⁷³⁴ S/RES/986, para. 1 (Apr. 14, 1995) (emphasis added).

⁷³⁵ Banking Agreement, arts. 2.1.1, 2.1.2, 2.1.4; S/RES/986, para. 1(a) (Apr. 14, 1995).

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performance of its banking services. In particular, Resolution 986 and the underlying sanctions resolution (Resolution 661), in addition to the 661 Committee's procedures, contemplated in both express and implied terms that the United Nations would be made aware of, and approve, the parties to whom Iraq sold its oil.⁷³⁶

To this end, the Banking Agreement prohibited the Bank from selling, assigning, or transferring its letters of credit to any third party. This was in keeping with the standard provisions of the SOMO sales contract approved by the United Nations that prohibited the assignment of an oil buyer's contract rights without the approval of the 661 Committee and that generally restricted the buyer from reselling Iraqi oil to third parties.⁷³⁷

It is clear from the Agreement that the Bank had a duty to the United Nations to fulfill the basic parameters of Resolution 986 and act in a manner consistent with the interests of the United Nations under this Resolution. Despite BNP's suggestion to the Committee that banks do not generally owe fiduciary duties to their customers, the Banking Agreement and its incorporation of the terms of Resolution 986 and the SOMO standard sales contract plainly required BNP to perform the contract in a manner consistent with the transparency purposes of Resolution 986—to ensure capture of the full value of oil sales for the escrow account (rather than for middlemen) and to prevent the illegal diversion of funds to the Iraqi regime.⁷³⁸

⁷³⁶ S/RES/986, para. 1 (Apr. 14, 1995); S/RES/661, paras. 3(c), 4 (Aug. 6, 1990); “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),” S/1996/636, para. 2 (Aug. 12, 1996) (hereinafter “661 Committee Procedures”).

⁷³⁷ Banking Agreement, arts. 2.2.2(c) (requiring terms of letter of credit to provide that “This Letter of Credit is not assignable and not transferable”), 2.2.11 (stating that “[t]he Bank hereby undertakes not to sell, assign or transfer any LOC to any person or entity, whether governmental or otherwise”), 2.2.4 and 2.2.6 (referencing the standard SOMO sales contract); “Programme Management Report,” vol. II, pp. 128-30 (discussing non-transfer provisions of standard SOMO sales contracts).

⁷³⁸ Banking Agreement, arts. 2.1.1, 2.1.2, 2.1.4; BNP letter to the Committee (Oct. 22, 2005) (citing the common law rule that banks do not owe a fiduciary duty to their customers).

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III. LETTERS OF CREDIT AND TRANSPARENCY

This Part describes the layered financing arrangements that were typical of the transactions in the later phases of the Programme. These developments occurred despite the contractual provisions that nominally restricted the rights of the parties to assign their rights and to resell Iraqi oil. Part A discusses in general the way in which letters of credit came to work in the Programme, and Part B reviews two case examples.

A. LETTERS OF CREDIT ISSUED IN THE NAME OF PARTIES OTHER THAN THE CONTRACT HOLDER

Although many purchases of Iraqi oil under the Programme were the result of direct transactions between the purchaser as the contracting party, and SOMO as the seller of oil, numerous other transactions were infused by the addition of third parties that financed the purchases of oil for the contracting party and ultimately received the oil from the original purchaser.⁷³⁹ These companies will be referred to throughout as “third-party purchasers.” One of the reasons given by staff members of BNP Geneva for intercession of a third party in such transactions was that contract holders who obtained the right to buy oil from SOMO often did not have sufficient credit to finance the purchase, nor the technical expertise to fulfill the obligations of the oil transaction (i.e., to charter a ship to lift the oil and deliver it to a refinery). Therefore, the contracting party turned to established oil traders and oil companies with capability to receive the requisite financing from a financial institution.⁷⁴⁰ On the other hand, as discussed in Chapter One of this Report, a more nefarious purpose for an oil trader or oil company to purchase oil from a contractor rather than directly from SOMO was to maintain an apparent distance from the payment of any illicit oil surcharges.

⁷³⁹ While the Committee has been unable to establish the percentage of letters of credit financed by third parties over the history of the Programme, it has been able to assemble a relatively complete view of the surcharge period. During the surcharge period, at least seventy-five percent of all letters of credit were financed by underlying parties. The Committee was prohibited from posing questions to, or requesting information from, BNP bank employees concerning specific transactions of BNP's clients based upon BNP's representation, as confirmed by the Swiss regulatory authority representative present for the interviews, that such disclosure could violate Swiss bank secrecy law. The Committee was advised that this prohibition extended to information outside the bank if the information related to a client of the Bank. Examples of such information includes details of parties on both sides of wire transfers, even if one of the parties is not a client of the bank. BNP letter to the Committee (Oct. 22, 2005); BNP Geneva officials interviews (Oct. 3-5, 2005); Alan Suchley interview (Oct. 20, 2005). Alan Suchley joined BNP New York in 2001 as a Vice-President in the Commodity Trade Finance Section. Ibid.

⁷⁴⁰ BNP Geneva officials interviews (Oct. 3-5, 2005); Morten Buur-Jensen interview (Sept. 9, 2004); “The Programme Management Report,” vol. II, p. 145. The Committee has agreed, at the request of BNP’s counsel, that the employees of BNP Geneva who were interviewed would not be mentioned by name. This restriction applies only to the interview and does not extend to any other relevant information gathered by the Committee. BNP letter to the Committee (Oct. 22, 2005).

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BNP Geneva financed many letters of credit within the Programme on behalf of third-party purchasers. Often, the third-party purchaser requested BNP Geneva to withhold any mention of its company's name from the letter of credit, as illustrated in the figure below showing such a request by Vitol in connection with the purchase of oil in the name of Al-Rasheed International:⁷⁴¹

TO: BNP PARIBAS (SUISSE) S.A., GENEVA
ATTN: VANESSA DE CABODA / HELLEN BARBIER

FROM: VITOL S.A., GENEVA

TEST: 9759

RE : L/C OPENING REQUEST FOR EURO 40 000 000.--
FAVOUR THE UNITED NATIONS BY ORDER OF AL RASHEED
VITOL REF 40.944

WITHOUT ANY MENTION OF OUR COMPANY'S NAME AND UPON RECEIPT BY YOU OF
THE AUTHORISATION FROM AL-RASHEED INTERNATIONAL COOPERATION, WE
HEREBY REQUEST YOU TO ISSUE FOR OUR ACCOUNT BY THE DEBIT OF
OUR ACCOUNT WITH YOURSELVES AND UNDER OUR FULL AND ENTIRE
RESPONSIBILITY AN IRREVOCABLE L/C F/O UNITED NATIONS IN THE
FRAME OF THE UNCOMMIMTED CREDIT LINE YOU ARE EXTENDING TO OUR
COMPANY IN ACCORDANCE WITH THE BELOW MENTIONED TEXT.

SINCE SUCH L/C HAS TO BE ISSUED BY USING THE NAME OF AL-RASHEED
WE HEREBY CONFIRM TO YOUR BANK THAT OUR COMPANY:

Figure: Sample instruction requesting that the Bank not disclose the financer's identity in the letter of credit (excerpt).

BNP Geneva did not disclose the third-party purchaser involvement to its own affiliate in New York that received all letters of credit for the United Nations; nor did it disclose to the United Nations itself. When interviewed, employees of BNP Geneva explained that these financing arrangements, and the non-disclosure of the purchasing entity's identity, were routine in the oil trade business. These officials offered three reasons for this practice: (1) that the third-party purchaser client requested non-disclosure; (2) that the disclosure would cause complications to the confirmation process and would place the letter of credit in a position of likely rejection by the beneficiary if a name other than the purchaser was identified; and (3) that disclosure might violate Swiss bank secrecy laws.⁷⁴²

⁷⁴¹ BNP Geneva record, L/C request (May 17, 2001) (excerpt). For a discussion of Vitol, see Chapter 2 of this Report.

⁷⁴² BNP Geneva officials interviews (Oct. 3-5, 2005); see also Eva Millas Russo interview (Oct. 20, 2005).

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The Committee does not dispute the first reason—that BNP Geneva’s clients requested non-disclosure; however, BNP’s other client was the United Nations who did not share in the request. The latter two reasons offered by BNP Geneva are less compelling. Certainly, the issuance of a letter of credit in another party’s name would cause complications with confirmation by the beneficiary, but this would not be a detrimental result—as such disclosure *should have* caused complications. Lastly, it is evident that Swiss law would not restrict such disclosure to the Bank’s parent and, in any event, the Bank could have sought a waiver from its immediate client for such disclosure (similar to the Bank’s conduct at the request of the Committee in anticipation of interviews with employees of BNP Geneva in seeking waivers from clients to provide information to the Committee).⁷⁴³ However, the Bank did not avail itself of this opportunity. Instead the Bank substituted the interests of its oil buying clients for those of its principal client in the Programme, the United Nations, to the detriment of its principal client.

Notwithstanding the purportedly commonplace nature of such financing arrangements, the failure to disclose the name of the third-party purchasers of oil resulted in a lack of transparency between BNP offices, as well as between BNP and the United Nations. This was contrary to the obligations to the United Nations imposed on the Bank by the Banking Agreement.

The Bank has stated to the Committee that it fulfilled its obligations to the United Nations as defined by the Banking Agreement and further, that it had no greater fiduciary responsibility to the United Nations. Specifically, bank employees on repeated occasions indicated that they undertook no efforts to perform due diligence upon the contract holder, and did not believe they had an obligation to undertake this responsibility. The Bank asserted that because all contract holders were vetted through the 661 Committee, it believed that the United Nations had given its explicit approval and clearance to the contract holders after they had been approved by Iraq.⁷⁴⁴ However, the following examples demonstrate the conflict between the Bank’s competing obligations, first, to the United Nations to which it owed an obligation to perform in light of Resolution 986, and second, to its client, the third party purchaser, from which it received requests to keep its identity in the transaction confidential. The examples demonstrate the potential conflict of interest faced by the Bank, and describe the manner in which the United Nations’ interests were not fully honored as a result of BNP’s competing interests.

B. CASE STUDY: ACTEC, GLENCORE, AND BNP PARIBAS GENEVA

An example that clearly illustrates the exploitation of the Programme through the concealment of the third party that ultimately financed and controlled the transaction, and the payment of surcharges, is that of Council for Trade and Economic Cooperation with Middle East and North

⁷⁴³ “Loi Fédérale sur les banques et les caisses d’épargne de L’Assemblée Fédérale de la Confédération Suisse” (Swiss Federal Banking Law), arts. 4^{quinquies}, 23^{sexies}, 23^{septies} (status as of June 8, 2004).

⁷⁴⁴ BNP letter to the Committee (Oct. 22, 2005); BNP Geneva officials interviews (Oct. 3-5, 2005); Bill Greten interview (Oct. 14, 2005); Alan Suchley interview (Oct. 20, 2005). Bill Greten was manager of the Letter of Credit Unit at BNP New York throughout the Programme. Bill Greten interview (Oct. 14, 2005).

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Africa Countries (“ACTEC”).⁷⁴⁵ This example shows how: (1) the Bank allowed a third party to step into the initial transaction to buy oil, seemingly in violation of contractual restrictions against assignment and resale of the oil, and (2) the Bank cooperated with a request by the third party to hide its identity in a Programme-related transaction; and (3) effects transfer of ownership.

The transaction proceeded in the following manner. At the outset of Phase XI, the Iraqi regime allocated nine million barrels of oil jointly to “Russia - Communist Party” and to ACTEC. According to records held by the United Nations Treasury Department, ACTEC secured three letters of credit from BNP Geneva to pay for the oil. Each letter of credit lists ACTEC as the ordering party and the United Nations as the beneficiary.

Records from BNP Geneva, however, present a much different picture of the genesis of the transaction. BNP Geneva records do not show that ACTEC was the true party responsible for securing from BNP Geneva any of the letters of credit involved with this contract. Two of the three letters of credit were ordered from BNP Geneva not by ACTEC, but by Glencore. The third letter of credit was ordered from BNP Geneva by a company called Scandinavian T. LTD (“Scandinavian”).⁷⁴⁶ As established in Chapter One of this Report, Scandinavian was also a Russian company and was related to ACTEC.

Further, the written request submitted to BNP Geneva for the second letter of credit under this contract had language requesting that the true ordering party not be mentioned in correspondence, identical to the language described above. In this case, Glencore specifically instructed BNP Geneva not to reveal its name. The ordering document also makes clear that Glencore, and not ACTEC, was the true party in interest and principal behind the transaction—stating that Glencore had full responsibility for the transaction and that the costs of the transaction were to be drawn from Glencore’s credit line with the Bank. By accepting these instructions, the Bank effectively represented ACTEC as the purchaser in the transaction, concealing from the United Nations Glencore’s identity and participation in the transaction. Significantly, Glencore’s request was repeated three times in the body of the request for the letter of credit. In addition to the first instance, Glencore writes: “We repeat that Glencore International AG’s name must not appear on

⁷⁴⁵ In its official record of the allocation, SOMO assigned contract M/11/39 to the allocation. This was not the only allocation and contract for ACTEC. Rather, as described fully in Chapter 2 of this Report, between Phases V and XIII, ACTEC was allocated a total of 99.5 million barrels. ACTEC eventually lifted seventy-two million barrels for which \$1.5 billion was paid. As in the case of the Phase XI allocation, each was a joint allocation with a Communist Party, either of Russia, Belarus, or Slovakia. SOMO sales contract, no. M/11/39 (Dec. 22, 2001) (contracting with ACTEC); Committee oil company table, contract no. M/11/39.

⁷⁴⁶ BNP L/Cs, nos. L/CIM2216348, L/CIM4226285, L/CIM4229292; Committee oil company table, contract no. M/11/39; UN record, “Notice of BNP NY approval”; BNP Geneva record, Instructions for issuing L/CIM4226285.

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any correspondence you send to third parties . . . We remind you that there must be absolutely no mention of the name of Glencore International AG.”⁷⁴⁷

Glencore also instructed the Bank to include in the body of the letter of credit, among the “Special Conditions” required by the United Nations, the condition that the letter of credit was not assignable and not transferable. This restriction is a special condition which flowed from the Bank’s contract with the United Nations and the 661 Procedures that are included in it as an annex. While the addition of Glencore’s interests in the initial transaction to buy the oil was properly neither an assignment nor a transfer of the letter of credit per se, it was, as noted, constructively a replacement of one party by another. Such a substitution has the same effect as an assignment or transfer of rights under the contract, a circumstance specifically prohibited by the oil purchasing contract and the Banking Agreement. The underlying concern of the United Nations which led to the prohibition of assignments, as expressed by the United Nations Treasurer Suzanne Bishopric, was that the value of the proceeds that would flow to the escrow account would be diminished if there were multiple parties in succession in the initial transaction. In fact, in this instance, at least three parties had economic interests in participating in this initial transaction as a result of the Bank’s execution of Glencore’s request. The Bank’s actions inserted another layer of interest into the transaction which already had two, the Russian Communist Party and ACTEC.⁷⁴⁸

In order for the Bank to insert ACTEC’s name into Glencore’s transaction, ACTEC submitted a power of attorney to the Bank giving the Bank the power to, among other things, use ACTEC’s name in the letter of credit to be issued. In the power of attorney, ACTEC recognized that the transaction was at Glencore’s risk and responsibility. The power of attorney also included a statement from ACTEC that it effectively divested its rights in the transaction to Glencore. ACTEC also instructed the Bank to endorse the bills of lading which were otherwise in its name to any entity named by Glencore. ACTEC wrote: “We hereby confirm that, as per the terms of our agreement with Glencore International AG, we relinquish and forfeit any and all of our rights to interest in and claims in respect of, 1) the material purchased, 2) the receivables arising from the sale of the material, 3) the proceeds arising from collection of the receivable.”⁷⁴⁹

The Bank followed the instructions of both Glencore and ACTEC, including endorsing the bills of lading and other ownership documents to Glencore. Documents internal to BNP Geneva and

⁷⁴⁷ BNP Geneva record, Instructions for issuing L/CIM4226285. A comparison between the BNP record of the request for the letter of credit and the United Nations record of the letter of credit, cited above, makes it clear that the United Nations had no indication that Glencore was involved in the transaction. See *ibid.*; BNP L/C, no. L/CIM4226285.

⁷⁴⁸ BNP Geneva record, Instructions for issuing L/CIM4226285; Banking Agreement, art. 2.2.11; S/RES/986, para. 1(a) (Apr.14, 1995); 661 Committee Procedures, Annex 2; SOMO sales contract, no. M/11/39, sect. 1, art. 9, para. 6 (Dec. 22, 2001) (providing that “assignment of the rights or obligations of the seller or the buyer shall be subject to approval by the 661 Committee”); Suzanne Bishopric interview (Oct. 4, 2005); Committee oil company table, contract no. M/11/39.

⁷⁴⁹ ACTEC fax to BNP Geneva (Mar. 21, 2002).

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BNP Paris show the transaction was controlled by Glencore notwithstanding the fact that documents regarding payment and timing sent to BNP New York and to the United Nations were in the name of ACTEC.⁷⁵⁰

The Bank's acceptance of the instructions of Glencore and ACTEC clearly violated the letter and the spirit of the Bank's contract with United Nations. The Banking Agreement, under which Resolution 986 and the 661 Procedures are significant components, contains provisions to ensure relative transparency in transactions. Importantly, in terms of this transaction, the Bank's acceptance of the instructions from ACTEC and from its client may have also violated the contract between SOMO and ACTEC, which was the predicate condition for this transaction. The contract clearly states, in Article 9, Paragraph 6 that "Assignment of the rights or obligations of the SELLER or BUYER shall be subject to the approval of the 661 Committee." There was no approval from the United Nations sought by any party, neither the seller, the nominal buyer, the buyer, nor by the Bank.⁷⁵¹ Therefore, the assignment of rights by ACTEC in favor of Glencore was not valid, and the Bank impermissibly allowed Glencore to assume the rights and duties of ACTEC.

Some days after the payments within the Bank were settled and the United Nations account at BNP New York was credited in the amount of the oil purchase, the Iraqi Embassy in Moscow began receiving cash payments from ACTEC credited as surcharge payments to the same SOMO contract.⁷⁵² A total of \$1,190,000 was deposited between May 24 and June 26, 2002.⁷⁵³

C. CASE STUDY: BULF DRILLING, TEXACO, AND BNP NEW YORK

A further example that similarly illustrates the lack of transparency in the Programme is that of Bulf Drilling and Oil Servicii, SRL ("Bulf"). Importantly, the Bulf example was transacted in New York, the branch of the Bank directly involved with the United Nations in relation to the Programme.

⁷⁵⁰ BNP Geneva records; BNP Paris records.

⁷⁵¹ Banking Agreement, art. 2.2.11; S/RES/986, para. 1(a) (Apr. 14, 1995); 661 Committee Procedures, Annex 2; SOMO contract sample, art. 9, para. 6; BNP Geneva officials interviews (Oct. 3-5, 2005).

⁷⁵² Committee oil surcharge and company table, contract no. M/11/39; BNP Geneva record, Instructions for issuing L/CIM4226285; BNP Geneva telex to BNP Paris (May 3, 2002); BNP Paris telex to BNP Geneva (May 6, 2002); BNP Geneva telex to BNP New York (Mar. 22, 2002); SOMO invoice to United Nations Treasury (Apr. 20, 2002); Banking Agreement, art. 2.2.11; S/RES/986, para. 1(a) (Apr. 14, 1995); 661 Committee Procedures, Annex 2; SOMO sales contract, no. M/11/39 (Dec. 22, 2001); BNP New York record, BNP New York telex to BNP Geneva (May 2, 2002); BNP Geneva record, credit advice (May 6, 2002); Iraq embassy records (May 24 and June 26, 2002).

⁷⁵³ Iraq embassy records (June 23 and 26, 2002); Committee oil surcharge table, contract no. M/11/39; SOMO sales contract, no. M/11/39 (Dec. 22, 2001).

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Bulf, through its United States representative, Midway Oil of Reston, Virginia, secured two letters of credit issued by BNP New York by assigning its interests in the transaction with Texaco, without notice to the United Nations. Associated with this transaction, the Bulf representative made five separate surcharge payments amounting to nearly half a million dollars over the course of Phases IX and X of the Programme. In this example, BNP New York acted as both the issuing and receiving bank for the letter of credit.⁷⁵⁴

The transaction proceeded in the following manner. In February 2001, SOMO signed a contract with Bulf that allowed Bulf to lift two million barrels of Iraqi oil under the Programme for shipment to Europe. On March 12, 2001, Bulf executed a power of attorney in favor of its US representative, Midway Oil, to act on its behalf, awarding Midway Oil the right to sign contracts, to open letters of credit, and to make payments in the name of Bulf. Immediately, the representative of Midway, on Bulf letterhead, exercised the Power of Attorney to provide Texaco, Inc. (“Texaco”) the authority to open a letter of credit at BNP New York in favor of the United Nations under the SOMO contract, and on behalf of Bulf. A few days later on March 15, 2001, the Midway representative, together with Texaco, communicated with BNP New York to request the Bank to open a letter of credit for the purchase of one million barrels of oil, to be issued in the name of Bulf, in favor of the United Nations. The Midway representative agreed that in doing so, Texaco would have full authority regarding any future transactions related to the financing of the letter of credit, as well as to the possession, movement, and disposition of the oil. Despite earlier referenced prohibitions in the SOMO contract, and despite similar limitations in the Banking Agreement between the United Nations and BNP, by this action the representative of Midway effectively re-assigned Bulf’s oil allocation to Texaco without the required approval of the 661 Committee.⁷⁵⁵

Thereafter, Texaco directed and controlled the transaction as the purchaser, including providing instructions to BNP and the United States representative of Bulf. On March 16, 2001, and again on April 3, 2001, as directed by Texaco, the Bank opened oil letters of credit in Bulf’s name in favor of the United Nations. These letters of credit, which were forwarded to the United Nations, did not include any reference to Texaco, except, as the Bank points out, on one transmittal document, as the ultimate buyer and financing entity of the letter of credit. In this case as well, Texaco specifically requested that the letter of credit be issued in the name of Bulf. In both

⁷⁵⁴ Bulf fax to Caroline Watkins (Mar. 12, 2001); Bulf letter to BNP New York and Texaco International Trader Inc. (Mar. 15, 2001); Committee oil surcharge and company tables, contract no. M/11/39 (Dec. 22, 2001).

⁷⁵⁵ SOMO sales contract, no. M/09/55, sec. I, arts. 2-3 (Feb. 11, 2001); BNP New York record, Texaco-Bulf power of attorney (Mar. 2001) (translated from Romanian); Bulf fax to Caroline Watkins (Mar. 12, 2001); Bill Greten interview (Oct. 14, 2005); Bulf letter to BNP New York and Texaco International Trader Inc. (Mar. 15, 2001); Rebecca Dwyer letter to Bill Greten (Mar. 15, 2001); SOMO sales contract, no. M/09/55, sect. 2, art.6 (Feb. 11, 2001) (requiring approval of 661 Committee for assignment of rights); Banking Agreement, art. 2.2; BNP New York record, Midway Trading letter to BNP New York and Texaco International Trader Inc. (Mar. 15, 2001).

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instances, BNP failed either to seek approval, or notify the United Nations of, Texaco's role in the transaction.⁷⁵⁶

SOMO records reflect that a total of \$490,790 in illicit surcharge payments was made to the Iraqi regime between February 8, 2001 and November 25, 2001 in connection with the Bulf transaction. However, the surcharge payments were not disclosed to the United Nations. To the contrary, Texaco requested, and Bulf provided, an attestation that *no* surcharges were paid to the Iraqi regime.⁷⁵⁷ An excerpt of the letter is reproduced below:

SELLER SPECIFICALLY WARRANTS THAT NO SURCHARGE OR ANY OTHER PAYMENT WAS MADE TO SOMO BY THE SELLER, OR TO SELLER'S KNOWLEDGE BY ANY OTHER THIRD PARTY OUTSIDE THE UN ESCROW ACCOUNT IN OBTAINING THE CRUDE OIL SOLD TO BUYER HEREUNDER.⁷⁵⁸

The document below is a portion of SOMO's surcharge payment record reflecting the five surcharge payments deposited by Bulf in favor of SOMO paid against these lifts.

⁷⁵⁶ Diane Cortese fax to Bill Greten (Apr. 2, 2001); William W. Mulvhill letter to Bill Greten (Apr. 2, 2001); Martin Fuller fax to Midway Trading (May 2, 2001); Martin Fuller fax to Bulf (May 1, 2001); Rebecca Dwyer letter to Bill Greten (Mar. 15, 2001); BNP L/Cs, nos. D726367, D726647; Bill Greten interview (Oct. 14, 2005); BNP letter to the Committee (Oct. 22, 2005); Eva Millas Russo interview (Oct. 20, 2005); Alan Suchley interview (Oct. 20, 2005); Suzanne Bishopric interview (Oct. 19, 2005).

⁷⁵⁷ SOMO records reflect that this surcharge payment, made in two installments on the same day, was effected by Midway Trading against the contract held by Bulf Drilling. SOMO record, Ledger of surcharge payments into SOMO bank accounts (Aug. 23, 2004); Dun & Bradstreet record, Midway Trading report (establishing a relationship between Midway and Bulf); Midway Trading handwritten ledger (Feb. to Apr. 2001) (showing payment of \$225,000, one of five surcharge payments); Midway money transafer report, ref. no. 010404-001811 (undated); Committee oil surcharge table, contract no. M/09/55; Bulf letter to "Whom it may concern" (Mar. 12, 2001); Confidential witness interview (Oct. 21, 2005) (confirming that Texaco requested a document stating that no surcharges were paid on the purchased oil).

⁷⁵⁸ Bulf letter to Texaco (Mar. 12, 2001).

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شركة تسويق النفط / التحصيلات

الى

تفاصيل التحصيلات للفترة من

| نوع | اسم المورد | اسم العميل | بلة بالعملة الموردة | رقم الاصدار | تاريخ الشمار |
|--------|----------------------------|------------------------------|---------------------|-------------|------------------|
| عمولات | SVETLAND | BELPHARM | دولار | 269.966-00 | 2001/06/17 44944 |
| عمولات | SVETLAND KHREBTENKO | BELPHARM | دولار | 99.973-00 | 2001/05/15 35097 |
| عمولات | RULE EUROPEAN | BELPHARM | دولار | 49.983-00 | 2001/03/12 16890 |
| عمولات | AMBERTEY ASSOCIDES | BULA RESOURCES | دولار | 99.985-00 | 2001/07/26 57858 |
| عمولات | BULF DREILING AND OIL SER' | BULF DREILING AND OIL SERVIC | دولار | 50.000-00 | 2001/02/08 9819 |
| عمولات | BULF DREILING AND OIL SER' | BULF DREILING AND OIL SERVIC | دولار | 385-00 | 2001/11/25 95878 |
| عمولات | لسانیل ابراهیم سردا | BULF DREILING AND OIL SERVIC | دولار | 215.410-25 | 2001/10/01 80773 |
| عمولات | MIDWAY TRADI | BULF DREILING AND OIL SERVIC | دولار | 200.311-25 | 2001/04/08 24436 |
| عمولات | MIDWAY TRADI | BULF DREILING AND OIL SERVIC | دولار | 24.683-75 | 2001/04/08 24436 |
| عمولات | شركة كانتك | CAMTECH | دولار | 150.000-00 | 2001/03/15 17910 |

Figure: Ledger of surcharge payments into SOMO bank accounts (Aug. 23, 2004).

While these surcharge payments did not pass through BNP New York, the Bulk case nevertheless illustrates the manner in which the Programme ultimately lacked transparency through the infusion of third parties that were not divulged to the United Nations. Significantly, BNP New York, a party to the Banking Agreement, executed documents and processed the letters of credit in the name of Bulk, with an awareness of Texaco's role in the transaction. The true purchaser and party of interest in the transaction was not the "end user" for whom approval was sought and obtained for the oil sales. The transaction shows how BNP's interest in maintaining its private client's confidentiality conflicted with the transparency requirements of the Banking Agreement.

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IV. SURCHARGE PAYMENTS AND DUE DILIGENCE

Iraq derived approximately \$229 million from illicit oil surcharges. BNP was among the banks that transferred surcharge payments to Iraqi-controlled accounts in Jordan, Lebanon, and the United Arab Emirates.⁷⁵⁹

A. BNP AND SURCHARGES

As detailed in the chart below, BNP branches, subsidiaries and affiliates accounted for approximately \$10 million of surcharge payments—with most of the payments flowing through Geneva.⁷⁶⁰

⁷⁵⁹ “Programme Management Report,” vol. I, pp. 85-87 (discussing surcharge payments).

⁷⁶⁰ Committee oil surcharge and company tables, contract nos. M/10/48 (involving AMEP); M/08/13, M/09/113, M/10/10, M/11/06 (involving China National United Oil Corporation); M/09/07 (involving Italtech); M/08/38 (involving Zangas); M/08/37 (involving Machinoimport); M/08/02 (involving Zarubezhneft); M/08/05 (involving ACTEC); UEB Geneva record, Ben Hur account, debit advice (Oct. 17, 2001); Fransabank record, SOMO account, SWIFT messages (Feb. 21 and Nov. 30, 2001; June 6, 2002) (relating to Glasford Shipping); UEB Geneva record, Italtech account, credit advices (May 3, 2000; Apr. 19, 23, and 30, 2001); Fransabank record, SOMO account, SWIFT messages (Sept. 20 and Oct. 16 and 25-26, 2000) (relating to Taurus Petroleum Ltd. Nassau (“Taurus Nassau”)); UEB Geneva record, Taurus Nassau account, account statements (Sept. 30 and Oct 31, 2000); UEB Geneva record, Taurus Nassau fax to UEB Geneva (Sept. 18, 2000); Fransabank record, SWIFT messages (Oct. 20 and 24 and Nov. 6, 2000) (relating to Scandinavian). Euro transactions were converted to USD using daily currency exchange converter from OANDA. See OANDA, “The Currency Site: Foreign Exchange Services and Trading,” <http://www.oanda.com>.

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Table 3 – Examples of surcharges that flowed through BNP

| Company Name | BNP Branch or Affiliate | Date of Surcharge Payment | Recipient | USD Amount | Euro Amount |
|---|-------------------------|---------------------------|--|-----------------------|----------------------|
| Ben Hur (affiliate of African Middle East Petroleum) | UEB Geneva | October 17, 2001 | SOMO controlled account, Jordan National Bank, Amman | | €177,978.00 |
| Glasford Shipping Limited | BNP Hong Kong | February 21, 2001 | SOMO controlled account, Fransabank, Beirut | \$227,358.00 | |
| Glasford Shipping Limited | BNP Hong Kong | November 30, 2001 | SOMO controlled account, Fransabank, Beirut | \$1,777,970.40 | |
| Glasford Shipping Limited | BNP Hong Kong | June 6, 2002 | SOMO controlled account, Fransabank, Beirut | | €1,235,370.61 |
| Italtech | UEB Geneva | April 19, 2001 | Al-Wasel and Babel, Abu Dhabi Commercial Bank | | €1,531,943.00 |
| Italtech | UEB Geneva | April 23, 2001 | Al-Wasel and Babel, Abu Dhabi Commercial Bank | | €2,258,341.00 |
| Italtech | UEB Geneva | April 30, 2001 | Al-Wasel and Babel, Abu Dhabi Commercial Bank | | €1,717,518.00 |
| Italtech | UEB Geneva | May 3, 2000 | Mohammed Ibrahim, Arab Bank, Geneva | \$200,000.00 | |
| Taurus (Identity masked by UEB Geneva) | UEB Geneva | September 20, 2000 | SOMO controlled account, Fransabank, Beirut | \$230,220.90 | |
| Taurus (Identity masked by UEB Geneva) | UEB Geneva | October 16, 2000 | SOMO controlled account, Fransabank, Beirut | \$130,000.00 | |
| Taurus (Identity masked by UEB Geneva) | UEB Geneva | October 25, 2000 | SOMO controlled account, Fransabank, Beirut | \$160,000.00 | |
| Taurus | UEB Geneva | October 26, 2000 | SOMO controlled account, Fransabank, Beirut | \$200,000.00 | |
| Scandinavian T. Ltd. | UEB Geneva | October 20 2000 | SOMO controlled account, Fransabank, Beirut | \$100,000.00 | |
| Scandinavian T. Ltd. | UEB Geneva | October 24, 2000 | SOMO controlled account, Fransabank, Beirut | \$100,000.00 | |
| Scandinavian T. Ltd. | UEB Geneva | November 6, 2000 | SOMO controlled account, Fransabank, Beirut | \$100,000.00 | |
| Total | | | | \$3,225,549.30 | €6,921,150.61 |

When asked about the degree of diligence performed on clients of the Bank, BNP employees responded that they exercised a greater degree of scrutiny upon newer customers. The Bank claimed to have examined some customers to a greater degree. The Committee's investigation of the Bank's activities comprised a thorough examination of Bank documents, witness interviews including BNP Geneva and New York staff, as well as a review of information supplied to the

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Committee by counsel for BNP. This examination did not reveal thorough scrutiny of new customers.⁷⁶¹

Several of these new customers made surcharge payments to the Iraqi regime, a number of which flowed through BNP as detailed in Table 3. The Committee does not have evidence that BNP was specifically aware of these illegal payments. BNP officials in Geneva and New York acknowledged awareness at the time of the Iraqi oil surcharge policy as a condition precedent for the purchase of Iraqi oil. Nevertheless, the Bank failed to implement an adequate system to identify such payments.

B. REVIEW OF HIGH RISK TRANSACTIONS

Several account officers at BNP Geneva stated that they learned through media reports and otherwise, that Iraq was imposing a requirement that purchasers of oil pay a sum of money for the benefit of contracting to purchase Iraqi oil under the Programme. However, the account officers recognized that the Bank did not issue a formal policy or implement any particular practice to address this issue. While these officials claimed that they exercised a greater degree of scrutiny of payment requests, they were unable to point to any policies or procedures that required a standard of care. Nor did the Bank increase the level of scrutiny of payment requests in general as a uniform practice. The account officers did, however, assert that they received anti-money laundering training on a regular basis which was provided by and through the Bank.⁷⁶²

Regardless of the customer, account officers who handled client accounts as front line representatives of BNP were vested with discretion in approving payment requests. Only expense payments of significant amounts required the signature of a supervisor or the signature of the head of the Commercial Group. Despite this requirement, very few requests were directed to managers or higher level bank officials for approval, and bank employees conceded that they were not aware of any payment requests that were rejected. No bank official with whom the Committee staff spoke identified any payment request that was not granted.⁷⁶³

Some account officers informed Committee staff that they posed questions to clients seeking authorization for payments, and that this practice increased during the time frame that the surcharge payments were demanded. However, very few officials acknowledged that more was done than accept the explanation provided by the client. In most, if not all cases, clients' explanations for the payments were accepted at face value without further scrutiny. The beneficiary of the funds was typically not scrutinized.⁷⁶⁴

⁷⁶¹ BNP Geneva officials interviews (Oct. 3-5, 2005); Eva Millas Russo interview (Oct. 20, 2005).

⁷⁶² BNP Geneva officials interviews (Oct. 3-5, 2005); Bill Greten interview (Oct. 14, 2005).

⁷⁶³ BNP Geneva officials interviews (Oct. 3-5, 2005).

⁷⁶⁴ Ibid. Committee staff were prohibited from speaking with BNP Geneva representatives about the details of client transactions and particular payments.

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Most account officers recounted that their review of client requests depended upon the history of the client with the Bank, the client's track record, and the nature and amount of the request. Account officers were of the view that they instituted a higher level of scrutiny for lesser established companies that had less of a history with the Bank. Bank officials stated that they provided a greater degree of deference to account holders with an established track record with the Bank and long term customers with established reputations as oil traders. It seems reasonable to the Committee that Bank customers with established risk profiles would face less scrutiny than newer, lesser established customers of the Bank. One account officer stated that he was told, as part of the regular Anti-Money Laundering training offered by the Bank, to scrutinize large unusual proposed transactions, or a series of large incoming deposits, followed shortly thereafter by large disbursements.⁷⁶⁵

However, as previously described, the Committee has identified a number of surcharge payments made at the request of lesser known clients of the Bank (companies established for the sole purpose of engaging in transactions under the Programme such as Alcon, Fenar and Italtech) that were directed to SOMO linked bank accounts in Jordan, Lebanon and the UAE. While the Bank may not have been able to discern that SOMO maintained secret accounts in Jordan or Lebanon, in light of the publicity that the Iraqi surcharges generated at the time and the duty the Bank owed to the United Nations under the Agreement, it should have inquired of its less established clients concerning the business purpose of the transactions and to make sure the economics of the deal were consistent with the explanation of its business purpose.⁷⁶⁶

Among the surcharge transactions noted above, are several that should have been given a greater degree of scrutiny under the Bank's self-imposed definition. In April 2001, Italtech, which maintained an operating account at UEB, requested that the Bank issue three wire transfers amounting to approximately \$5 million to Al-Wasel and Babel, an Iraqi controlled company operating in Abu Dhabi, and a contractor in the Programme. While the Bank made an inquiry to Italtech regarding Al-Wasel and Babel's background, it failed to request adequate information about the business purpose of these multimillion dollar transactions, despite the fact that Italtech was a relatively new customer, and heavily reliant on Bayoil to actively participate in the Programme. Even though Italtech's business only involved transactions under the Programme, the Bank failed to engage in the requisite due diligence to determine if these payments were linked to the widely-known allegations of corruption in the Programme.⁷⁶⁷ However, as the examples set forth in Table Three demonstrate, no such monitoring occurred. The Bank made four such surcharge payments on behalf of Italtech in 2000 and 2001.

⁷⁶⁵ BNP Geneva officials interviews (Oct. 3-5, 2005).

⁷⁶⁶ Ibid. For further discussion on Taurus and Bayoil, see Chapter 2.

⁷⁶⁷ UEB bank record, Italtech account, wire transfers; Ibrahim S. Lootah interview (May 3, 2005) (acknowledging that Al-Wasel and Babel was an Iraqi-controlled company); Committee oil surcharge table, contract no. M/09/07; UEB bank record, Customer profile information (June 6, 2000); BNP Geneva officials interviews (Oct. 3-5, 2005).

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According to a confidential source whose information has been verified by the Committee, a BNP compliance officer in the year 2000 identified Augusto Giangrandi of Italtech as a party involved in legal proceedings in South Florida in connection with an illegal sale of controlled American technology to Iraq, as well as money laundering activity. As a result, the compliance officer voiced the view to BNP that based upon Giangrandi's past record, a close monitoring of all accounts opened was necessary.⁷⁶⁸

Furthermore, some of the movements of funds, such as large deposits followed quickly by similarly large withdrawals from the account, combined with other factors, including the identity of the recipient of the funds, are examples of possible money laundering behavior perpetrated by some of these lesser known companies, which went undetected by the Bank.⁷⁶⁹ An example of such activity was found within the operating accounts of Alcon Petroleum and Fenar Petroleum, both of which maintained accounts at BNP Geneva. These companies clearly engaged in high risk banking activity. Their transactions were limited to large, often six-figure incoming wire transfers from Taurus, another customer of the Bank and their parent. These companies, in turn, disbursed similarly large sums to Jabal Petroleum and Petrocorp, companies located in Lebanon and associated with the Iraqi regime.⁷⁷⁰

⁷⁶⁸ Confidential source (verified by the Committee). Mr. Giangrandi's involvement with Italtech and manipulation of the Programme by Bayoil is described in Chapter 2 of this Report.

⁷⁶⁹ Financial Action Task Force on Money Laundering (“FATF”), “The Forty Recommendations,” recs. 11, 15, 21, 22 (2003); FATF Non Cooperative Countries and Territories (“NCCT”) List, Annex 3. Lebanon was first identified as an NCCT jurisdiction on June 22, 2000, and it was de-listed on June 21, 2002, hence Lebanon was on the NCCT List throughout most of the surcharge period.

⁷⁷⁰ BNP Geneva record, Fenar account, statements of account, credit advices, and debit advices (2001-2002); BNP Geneva record, Alcon account, statements of account, credit advices, and debit advices (2001-2002); Fenar internal cost accounting analysis (2001-2002); Alcon internal cost accounting analysis (2001-2002); Alcon record, Alcon internal cost accounting analysis (2001-2002); Fenar record, Fenar and Petrocorp invoices; Alcon record, Alcon and Jabal invoices; UEB Geneva record, Taurus account, statements of account (2001-2003); Patrick Hilty interview (Apr. 13, 2005); BNP Geneva officials interviews (Oct. 3-5, 2005).

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Table 4: Examination of Fenar's BNP Account Transactions⁷⁷¹

| Fenar's receipts from Taurus | | Fenar's Payments to Petrocorp | | Shipping Details | |
|--|-----------------------------|-------------------------------|--------------------------|--------------------|---------------------|
| Date of Receipt of Funds from Taurus | Amount Received from Taurus | Date of Payment to Petrocorp | Amount Paid to Petrocorp | B/L Date | Vessel |
| September 17, 2001 | \$355,508.42 | September 25, 2001 | \$324,140.00 | July 18, 2001 | Crude Tria |
| September 18, 2001 | \$896,824.70 | October 5, 2001 | \$849,623.00 | August 14, 2001 | Kraka |
| September 24, 2001 | \$321,368.32 | October 3, 2001 | \$321,368.00 | August 22, 2001 | Bosco Tapias |
| September 25, 2001 | \$291,015.58 | September 28, 2001 | \$291,015.00 | August 23, 2001 | Crude Horn |
| October 15, 2001 | \$228,000.00 | October 25, 2001 | \$174,000.00 | September 13, 2001 | Napa |
| October 30, 2001 | \$651,313.92 | November 7, 2001 | \$651,314.00 | September 25, 2001 | Berge Phoenix |
| January 16 & 22, 2002 | \$704,334.48 | January 23, 2002 | \$662,903.00 | December 13, 2001 | Berge Phoenix |
| April 11, 2002 | \$282,300.93 | May 28, 2002 | \$271,845.00 | February 27, 2002 | Iria Tapias |
| March 6, 2002 | \$616,222.62 | March 11, 2002 | \$571,133.00 | March 5, 2002 | Olympia Spirit |
| April 11, 2002 | \$175,612.92 | April 23, 2002 | \$169,341.00 | March 8, 2002 | Atalandi |
| May 2, 2002 | \$738,749.31 | June 7 & July 17, 2002 | \$700,824.00 | March 27, 2002 | Olympic Breeze |
| June 27, 2002 | \$193,434.82 | September 16, 2002 | \$254,519.00 | May 30, 2002 | Crude Star |
| August 7, 2002 | \$54,197.20 | September 23, 2002 | \$57,603.00 | June 24, 2002 | Gelibolu |
| September 3, 2002 | \$281,427.24 | October 15, 2002 | \$162,931.00 | July 12, 2002 | Kristhild |
| September 23, 2002 | \$95,000.00 | October 15, 2002 | \$115,000.00 | July 13, 2002 | Stena Concept |
| September 24, 2002 | \$120,000.00 | October 15, 2002 | \$75,000.00 | July 21, 2002 | Nuria Tapias |
| October 29, 2002 | \$61,968.84 | October 30, 2002 | \$56,804.00 | August 1, 2002 | Crude Star |
| October 29, 2002 | \$78,827.20 | October 30, 2002 | \$88,680.00 | August 9, 2002 | Crudemed |
| November 25, 2002 | \$59,062.29 | November 29, 2002 | \$100,000.00 | September 22, 2002 | Ness |
| November 25, 2002 | \$60,000.00 | November 25, 2002 | \$60,000.00 | September 24, 2002 | Stena Constellation |
| Totals | \$6,265,168.79 | | \$5,958,043.00 | | |
| Percentage of funds received by Fenar from Taurus and forwarded to Petrocorp: | | | | 95.10% | |

⁷⁷¹ BNP Geneva record, Fenar account, statements, credit advices, and debit advices (2001-2002); BNP Geneva record, Alcon account, statements, credit advices, and debit advices (2001-2002); Fenar record, Fenar internal cost accounting analysis (2001-2002); Alcon record, Alcon internal cost accounting analysis (2001-2002); Fenar record, Fenar and Petrocorp invoices; Alcon record, Alcon and Jabal invoices.

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As can be noted in Table 4, Fenar received more than \$6.2 million from Taurus during a 15-month period for specific Programme-related oil contracts, and Fenar used these funds to issue over \$5.9 million in wire transfers to Petrocorp's bank account in Lebanon, representing roughly ninety-five percent of these deposits to the account. Similarly, as described in Table 5, Alcon received more than \$8.6 million from Taurus or one of its affiliates over the course of a 16-month period for specific Programme related oil contracts. Alcon used these funds to disburse more than \$8.4 million in subsequent wire transfers to Jabal Petroleum's account in Lebanon, also close to ninety-eight percent of these deposits. It should be noted that Taurus was the only identified source of deposits into the accounts of Alcon and Fenar.⁷⁷²

Both Fenar and Alcon's outbound wire transfers had similar characteristics in that they were generally of high dollar volumes (five or six figure wire transfers) and were often issued immediately following large incoming wire transfers from Taurus. The outbound wire transfers were labeled as loading and handling fees associated with the purchase of Programme related oil, however, the handling fees were as high as forty-five cents per barrel, approximately nine times what a BNP banker who handled these accounts anticipated would be a reasonable fee. During the period of these wires, both of these clients were newly-established and therefore, should have been subjected to additional scrutiny of the business purpose of their transactions. These were newly-formed companies that received contracts for oil in the Programme around the same time the bankers' acknowledged their awareness that the former Government of Iraq was requesting kickbacks. In addition to being new customers involved in a high risk business, the vast majority of each company's wire transfers were issued to a particular counterparty banking in Lebanon, which at the time, was listed as a Non-Cooperative Country or Territory (NCCT) in fighting Money Laundering.⁷⁷³

⁷⁷² BNP Geneva record, Fenar account, statements, credit advices, and debit advices (2001-2002); BNP Geneva record, Alcon account, statements, credit advices, and debit advices (2001-2002); Fenar record, Fenar internal cost accounting analysis (2001-2002); Alcon record, Alcon internal cost accounting analysis (2001-2002); Fenar record, Fenar and Petrocorp invoices; Alcon record, Alcon and Jabal invoices; UEB Geneva record, Taurus account, statements (2001-2002). The December 24, 2001 deposit of \$644,768.96 was received from Sonatrach, a company that shares an address with Taurus in London. BNP Geneva record, Alcon account, credit advice (Dec. 24, 2001); Touch London, "Touch London local business directory," <http://www.touchlondon.co.uk>.

⁷⁷³ BNP Geneva officials interviews (Oct. 3-5, 2005); Patrick Hilty interview (Apr. 13, 2005).

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Table 5: Examination of Alcon's BNP Account Transactions⁷⁷⁴

| Alcon's receipts from Taurus | | Alcon's Payments to Jabal Petroleum | | Shipping Details | |
|---|-----------------------------|-------------------------------------|--------------------------------|-----------------------|----------------------|
| Date of Receipt of Funds from Taurus | Amount Received from Taurus | Date of Payment to Jabal Petroleum | Amount Paid to Jabal Petroleum | B/L Date | Vessel |
| August 28, 2001 | \$752,269.66 | August 31, 2001 | \$613,693.00 | July 16, 2001 | Eastern Power |
| August 30, 2001 | \$680,434.02 | September 6, 2001 | \$599,429.00 | July 19, 2001 | Dorset |
| August 30, 2001 | \$282,167.76 | September 4, 2001 | \$231,780.00 | July 20, 2001 | Shravan |
| September 7, 2001 | \$364,644.35 | September 11, 2001 | \$302,133.00 | August 8, 2001 | Front Champion |
| October 12, 2001 | \$310,927.52 | November 5, 2001 | \$320,957.00 | September 7, 2001 | Crudehorn |
| October 15, 2001 | \$498,194.28 | October 25, 2001 | \$401,323.00 | September 14, 2001 | Napa |
| October 30, 2001 | \$380,261.06 | November 5, 2001 | \$360,247.00 | September 24, 2001 | Crudestar |
| November 26, 2001 | \$310,746.48 | November 23, 2001 | \$370,891.00 | October 26, 2001 | Crudemed |
| November 27, 2001 | \$319,527.85 | November 28, 2001 | \$329,835.00 | October 28, 2001 | Venetia |
| November 30, 2001 | \$671,174.70 | December 3, 2001 | \$719,115.00 | October 30, 2001 | Eaton |
| December 24, 2001 | \$644,786.96 | January 8, 2002 | \$765,663.00 | November 25, 2001 | Dundee |
| January 22, 2002 | \$115,500.00 | February 1, 2002 | \$112,000.00 | December 12, 2002 | Berge Ingrid |
| February 4, 2002 | \$572,791.47 | February 8, 2002 | \$553,040.00 | December 31, 2001 | Pride Independ. |
| February 13, 2002 | \$754,323.12 | February 13, 2002 | \$712,416.00 | January 12, 2002 | Front Champion |
| February 19, 2002 | \$667,429.00 | February 19, 2002 | \$648,359.00 | January 15 & 16, 2002 | Ancona |
| February 27, 2002 | \$216,000.00 | February 28, 2002 | \$278,755.00 | January 28, 2002 | Orient Tiger |
| August 20, 2002 | \$62,755.02 | | | | |
| June 27, 2002 | \$280,795.41 | July 23, 2002 | \$270,395.00 | May 22, 2002 | Karvounis |
| August 16, 2002 | \$257,384.75 | August 16, 2002 | \$288,270.00 | July 3, 2002 | Unicorn |
| September 2, 2002 | \$141,677.93 | August 15, 2002 | \$61,599.00 | July 24, 2002 | Seasong |
| September 23, 2002 | \$33,300.00 | October 28, 2002 | \$29,600.00 | July 30, 2002 | Tamara |
| October 29, 2002 | \$299,968.20 | October 28, 2002 | \$173,665.00 \$205,241.00 | August 12, 2002 | Berge Boss |
| November 25, 2002 | \$48,000.00 | October 26, 2002 | \$96,000.00 \$28,000.00 | November 28, 2002 | Stella Constellation |
| Subtotal | \$8,665,059.54 | | \$8,444,406.00 | | |
| Percentage of Funds Received by Alcon from Taurus (and Taurus linked party) and forwarded to Jabal | | | | | 97.80% |

⁷⁷⁴ BNP Paribas Geneva record, Alcon account, statements (Aug. 2001 to Nov. 2002); BNP Paribas Geneva record, Alcon account, debit advices (Aug. 2001 to Nov. 2002); BNP Paribas Geneva record, Alcon account, credit advices (Aug. 2001 to Nov. 2002); Alcon record, internal financial analysis (2001-2002); Alcon record, Taurus invoices; Alcon record, Jabal invoices.

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The lack of review by the Bank should be assessed in light of anti-money laundering standards in effect at the time. Anti-money laundering efforts worldwide were not as advanced as they are currently, including in Switzerland. During the Programme, Switzerland's Money Laundering Act ("MLA") of 1997 was in effect. The Act has since been amended by the passage of an additional statute in 2003 which largely expanded requirements on banking institutions to engage in a systematic mapping of all high risk business.⁷⁷⁵

However, the 1997 law did impose baseline requirements on BNP Geneva to exercise due diligence in certain types of transactions. Article 5 of the MLA required that banks engage in verification within the meaning of the Act "[w]hen in the course of business relations, doubts arise as to the identity of the customer or beneficial owner of funds." Article 6 required banks to "clarify the economic background and the purpose of a transaction or business relationship when . . . a) the transaction or business relationship appears unusual, except where it is manifestly legal; or, b) there is reason to suspect that assets are the proceeds of a crime or that a criminal organization has power of disposal over them." Article 8 provided that "[f]inancial intermediaries shall in their respective fields take all steps necessary to prevent money laundering. They shall in particular ensure that their staff receive adequate training and that checks are carried out."⁷⁷⁶ Surely, the financing of oil transactions involving Iraq between 1996 and 2003 within an international sanctions framework qualifies as high risk activity.

BNP contends that Swiss bank secrecy laws prohibited it from disclosing client information to anyone other than its parent, including officials at other BNP affiliates outside of Switzerland (including BNP New York). The Bank contends that such a prohibition extends to details of all transactions, including those which are considered high risk. The Swiss Federal Banking Commission, the government regulatory body charged with the responsibility of oversight of all financial institutions operating in Switzerland, did not dispute this claim. However, it appears that BNP Geneva could have shared such information with its parent entity.⁷⁷⁷ It will be for the Swiss authorities to determine whether the Bank has met the standard set by Swiss domestic law.

⁷⁷⁵ Switzerland Federal Act on the Prevention of Money Laundering in the Financial Sector (Money Laundering Act, MLA) (Oct. 10, 1997).

⁷⁷⁶ Ibid., arts. 5, 6, 8.

⁷⁷⁷ BNP Geneva officials interviews (Oct. 3-5, 2005). A Swiss Federal Banking Commission (EBK) representative was present at the BNP Geneva interviews as an observer and did not play an active role; "Loi Fédérale sur les banques et les caisses d'épargne de L'Assemblée Fédérale de la Confédération Suisse" (Swiss Federal Banking Law), arts. 4^{quinquies}, 23^{sexies}, 23^{septies} (status as of June 8, 2004).

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V. THE BANK'S RESPONSE

A. THE BANK'S CONTENTIONS

BNP has cooperated in part with the Committee's investigation and raised several objections to the Committee's anticipated conclusions in this Report.⁷⁷⁸ Three of its objections warrant discussion. First, to the extent that BNP suggests that it operated through subsidiaries and affiliates that could not freely share all customer information with one another, this contention is unpersuasive in light of evidence that information about market developments and practices could be shared among BNP entities without intruding upon the privacy interests of particular customers. Indeed, the degree to which BNP now seeks refuge in legal secrecy provisions underscores the costs of the initial choice that BNP made to undertake financial transactions on behalf of private customers while at the same time subject to the interests of the United Nations in transparent market transactions and the capture of the full value of oil transactions for the escrow account.

Second, to the extent that BNP suggests that it did not violate any particular provision of the Banking Agreement, its financing practices were plainly inconsistent with the numerous provisions of the Banking Agreement and the SOMO contract that were designed to impede the substitution of additional parties into these transactions. BNP's performance of the Banking Agreement was compromised by its conflicting loyalty to private party customers. In the service of the interests of its private clients, BNP did not affirmatively disclose the full range of information peculiarly known to it or take steps to restore normal financial conditions to the Iraqi oil market.

Third, to the extent that BNP suggests that the role of oil traders was generally known to the United Nations, this is not disputed. The scope of knowledge of the United Nations oil overseers and the Security Council has been thoroughly described in the Committee's Programme Management Report.⁷⁷⁹ Nevertheless, this did not relieve BNP from complying with its own contractual obligations. With primary access to the true parties in interest and control over whether any letters of credit would be approved, BNP stood in a unique position within the Programme's financial and transactional framework to take further action. BNP had sole access to specific transaction information and the ability through its worldwide affiliates to monitor payments it controlled involving the escrow account and the accounts of its private clients.

⁷⁷⁸ The Committee provided the Bank with a notice letter on October 15, 2005, and the Bank responded raising a number of issues by letter dated October 19, 2005, and raised these issues again with the Committee in a meeting on October 20, 2005.

⁷⁷⁹ "Programme Management Report," vol. II, pp. 134-51 (describing the evolution of the surcharge scheme and the repeated warnings of the oil overseers concerning distorted market conditions).

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In support of its contention that the United Nations was aware of the third parties involvement in these deals, counsel for the Bank refers the Committee to telex messages sent to Treasury which contain references to third parties. These documents certainly do not provide an explanation of the full nature and scope of the participation of these entities in these transactions, let alone the Programme in general. These documents further do not represent the third party is purchasing and receiving the oil, and stood fully behind the front line purchaser whose interest in the transaction was virtually ministerial. The documents were not sufficient notice to the United Nations of the full scope and nature of the transactions involving the third party purchasers, and the full extent of their involvement in these transactions.

B. THE UNITED NATIONS' KNOWLEDGE OF PROGRAMME ABUSES

The United Nations bears responsibility for the lack of transparency in the Programme as well. It is evident that third party financing arrangements were brought to the attention of the United Nations oil overseers, who in turn, alerted the United Nations Office of Legal Affairs (“OLA”) of this circumstance. The oil overseers were advised by OLA that enforcement of this provision was outside the scope of the overseers’ authority, but that the Overseers could bring this issue to the attention of the [661] Committee. As such, on February 20, 2001, the oil overseers wrote to the 661 Committee that “there are very few companies that can be classified as end-users of crude oil,” and that “contract holders seem to be intermediaries who are not known in the petroleum industry” and “are very small in size and seem to have limited credit facilities.” In this correspondence, the Overseers further informed the 661 Committee that Iraqi oil sales under the Programme had “gradually evolved from a situation in which SOMO by and large [was] directly selling to end-users,” then was “selling via traders to end-users,” and “now...[was] selling via intermediaries to traders who on-sell to end-users.” According to the overseers, the result was that there were now two “companies in the contractual chain between SOMO and the end-users, both of which naturally want to make a profit.”⁷⁸⁰

However, this circumstance does not mitigate BNP’s obligations in the first instance to likewise advise the United Nations of matters, transactions and circumstances that amounted to violations of the principles underlying its agreement with the United Nations. BNP was under a separate obligation from the oil overseers, although they should have shared similar concerns.

⁷⁸⁰Ibid., pp. 138-39; Morten Buur-Jensen interviews (Sept. 9, 2004 and Aug. 12, 2005); Eva Millas Russo interview (Oct. 20, 2005).

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VI. THE COMMITTEE'S EVALUATION

As noted above, BNP was obliged in the first instance to the United Nations to conduct transactions in light of the requirements of Resolution 986 and the Banking Agreement—requirements that were designed to provide for financing of Programme transactions in a transparent manner and to discourage subterfuges of the sanctions regime. By contrast, with BNP's choice to issue letters of credit for private party oil purchasers, it acquired a duty to maintain each private party's confidentiality, including related financing relationships and affiliations with other companies, such as oil traders. In other words, BNP acquired a competing incentive to act in the interests of the private purchaser or true financer of its letters of credit rather than in the interests of the United Nations. This duty of secrecy to a private contracting or financing party was potentially inimical to the interests of full disclosure to BNP's primary customer—the United Nations—of the true financial arrangements underlying transactions conducted under the Programme.

The Committee notes that BNP was permitted under the terms of the Banking Agreement to issue letters of credit for oil purchasers (or to confirm letters of credit issued from one of its own affiliates). BNP was not otherwise contractually barred from doing business with parties such as oil traders that furnished financing for many of the thinly capitalized companies that won contracts for oil under the Programme. Moreover, there appears to be nothing in the Security Council resolutions and the Banking Agreement to prevent the Bank from issuing the letters of credit in the name of a front company and authorizing payments for expenses, had the fact of the role of the financing party been adequately disclosed and the purpose of the expenses examined.

The conflict began when the Bank agreed to the concealment of the financing party in letter of credit arrangements and in payments ordered by the financing party. It deepened when the Bank acted as agent for the financing party and facilitated the arrangement.

In opposition to its concealment of the identity of the true financing party, BNP was obligated to the United Nations to perform its duties under the Agreement in full contemplation of Resolution 986 and the 661 Committee's procedures. Therefore, when third party purchasers were thrust into these transactions unbeknownst to the United Nations and with full knowledge and participation by BNP, the Bank's actions ran afoul of its duty to the United Nations. Similarly, when BNP authorized and permitted illicit payments, it failed to perform adequate review of client transactions.

In short, BNP's dual role burdened it with divided loyalties that ultimately facilitated—among many other factors described elsewhere in the Committee's reports—the success of Iraq's oil surcharge scheme. The success of the scheme relied on the ability of the true parties in interest to conceal their roles and the flow of funds stemming from oil purchase transactions.

And once the surcharge scheme took root, BNP itself became an instrument for the payment of millions of dollars in illegal surcharges while doing little to detect or prevent such payments. In these instances, the Bank failed to implement an adequate system to identify such payments otherwise disguised as legitimate expenses proposed for the Bank's approval. This is especially true for those customers of the Bank that lacked an established track record of otherwise proper

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conduct outside the Oil-for-Food Programme. There are examples of customers for whom the Bank claimed it exercised a greater degree of scrutiny. However, the Committee's investigation, which consisted of witness interviews (including employees of BNP Geneva and BNP New York), examination of BNP bank documents, and a review of information supplied to the Committee by counsel for BNP, did not find examples in which the Bank scrutinized relatively new customers who caused the delivery of surcharge payments through accounts at the Bank. As a result, it appears that not one surcharge payment was interrupted by any BNP affiliate during the Programme.

BNP's loyalty to the interests of its private clients—in the midst of well-publicized allegations of Iraq's surcharge policy—apparently inhibited BNP's undertaking a system-wide review of its practices to prevent such surcharge payments, much less adopting proactive measures to redress market practices that distorted the implementation of Resolution 986. Although there is no evidence that BNP knew of, or approved of the use of its own facilities to pay illegal surcharges, BNP was uniquely positioned to probe such payments—but failed to do so.

Under standards existing today, including advances in the law and the additional measures the Bank asserts that it now employs, it would appear that the Bank's existing practices, as set forth in its recent statement regarding ethics and compliance, would be sufficient to have identified and interrupted these impermissible surcharge payments. Unfortunately, the Bank did not impose the same level of scrutiny at the time even though it had a special obligation arising from its contract with the United Nations to do so. The Bank also appears not to have instituted earlier its conflict of interest policy dated December 2002. According to the statement of policy, “when conflicts of interest put at stake significant matters” certain steps should be taken including defining “a clear road map for the solution of the potential conflict” and steps ensuring “adequate communication.”⁷⁸¹.

⁷⁸¹ BNP record, “Managing conflicts of interest within BNP Paribas” (Dec. 2002); BNP record, BNP Paribas annual report (2004).

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I. INTRODUCTION AND SUMMARY

Both Resolution 986 and the Iraq-UN MOU provided for the appointment by the Secretary-General of independent agents to inspect the oil exported from Iraq and the humanitarian goods entering Iraq. The oil inspections were to occur at the loading facilities for Iraqi oil exports in Ceyhan, Turkey, and at the Mina al-Bakr offshore terminal in the Persian Gulf, and such inspections were required to include both “quality and quantity verification.” The inspection of humanitarian imports was intended to confirm the delivery of the shipments to Iraq and to occur “at relevant Iraqi entry points, custom areas or other locations” chosen by the United Nations in consultation with Iraq where defined inspection functions could be performed. Specifically, the inspection agents were to “compare the appropriate documentation, such as bills of lading, other shipping documents or cargo manifests, and the documents issued by the 661 Committee, against goods actually arriving in Iraq.” The inspection agents were permitted “to perform duties necessary for such confirmation, including: quantity inspection by weight or count, quality inspection including visual inspection, sampling and, when necessary, laboratory testing.”⁷⁸²

Significantly, the inspections of oil and humanitarian goods were commercial in nature, designed merely to ensure that oil exports and humanitarian goods imported under the Programme conformed to contracts approved by the United Nations. There was no provision in Resolution 986 or the Iraq-UN MOU for the Programme’s inspection contractors to interdict or report smuggling of oil and goods that were not financed under the Programme.

On August 16, 1996, the United Nations awarded the Programme’s oil inspection contract to a Dutch company, Saybolt Eastern Hemisphere BV (“Saybolt”). On August 23, 1996, it awarded the humanitarian goods inspection contract to a British firm, Lloyd’s Register Inspection Ltd. (“Lloyd’s”). In December 1998, the United Nations selected a Swiss company, Cotecna Inspection S.A. (“Cotecna”), to replace Lloyd’s after the contract was put up again for re-bid. Cotecna served until the Programme’s end in 2003. Earlier Committee reports reviewed the circumstances surrounding the selection of these independent inspection agents, and specifically whether the procurements complied with United Nations regulations, were conducted in a fair and transparent manner, and were free from improper or illicit influence.⁷⁸³

The Committee has not undertaken a full-scale performance review of all aspects of these contractors’ activities. Such a review has not been possible because of time and resource limitations and because, as detailed below, Saybolt has declined to provide timely cooperation. Where relevant, internal audits conducted by the United Nations Office of Internal Oversight Services (“OIOS”) are noted. The Committee has focused its efforts on allegations of significant wrongdoing and, in particular, allegations in the nature of corruption as opposed to instances of

⁷⁸² S/RES/986, paras. 6, 8(a)(iii) (Apr. 14, 1995); Iraq-UN MOU, paras. 18, 25-28, 31, and Annex II, para. 4.

⁷⁸³ “First Interim Report,” pp. 85-119; “Second Interim Report,” pp. 3-80; “Programme Management Report,” vol. III, pp. 195-277.

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deficient performance. In cases in which allegations have been fully investigated but not substantiated, the Committee does not recite the nature of these allegations.

Part II of this Chapter reviews Saybolt, with particular attention to the improper conduct of Peter Boks, then Saybolt's managing director, in recommending to the Iraqi Minister of Oil an allocation of oil for a private Dutch company that was a client of Saybolt. Part III reviews the conduct of Lloyd's during the first two years of the Programme. Part IV reviews the conduct of Cotecna during the Programme's later years, including a brief review of payments made by Cotecna to Michael Wilson and an official of a United Nations specialized agency, the World Intellectual Property Organization, shortly after Cotecna obtained its inspection contract with the United Nations.

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II. SAYBOLT

The objective of the initial contract between the United Nations and Saybolt was the monitoring of the export of petroleum and petroleum products from Iraq. Specifically, Saybolt was obligated to provide qualified inspectors to perform this monitoring and report on its results. In addition, in a contract executed in June 2000, Saybolt was further charged with monitoring of oil spare parts and the state of the oil infrastructure within Iraq, and to report upon the results of that monitoring.⁷⁸⁴

Saybolt has disclosed documents in response to the Committee's request and has allowed interviews of some of its senior management. However, it has declined more recently to allow the Committee to interview its field inspectors and inspection supervisors. According to Saybolt, it was "not in a position to accommodate the [Committee's] pending request for interviews with up to ten current company employees," because it had "reached the financial limits of its cooperation." As a result, the Committee's investigators were able to interview only two Saybolt inspectors (who no longer worked for Saybolt). Because the interview of those who conducted Saybolt's inspection work is essential to evaluating Saybolt's performance, Saybolt's decision to limit its cooperation has impeded the Committee's ability to assess the company's performance.⁷⁸⁵

Notwithstanding the limits placed by Saybolt on its cooperation, the Committee has reviewed extensive documentation produced by Saybolt, documentation created by Saybolt during the Programme within United Nations records, and an audit by OIOS of OIP's management of the Saybolt contract.⁷⁸⁶

The OIOS audit focused on OIP's management of the Saybolt contract, taking note as well of some deficiencies of Saybolt in executing the contract. Specifically, the audit found that OIP had failed to implement sufficient controls to verify some of Saybolt's charges, and it identified instances in which Saybolt overcharged OIP and/or OIP overpaid Saybolt. In addition, the audit

⁷⁸⁴ UN Contract, PTD/127/0065-96 (Aug. 16, 1996); UN Contract, PD/CO114/00 (June 6, 2000); Peter Boks interview (Aug. 11, 2005).

⁷⁸⁵ Saybolt letter to the Committee (May 10, 2005). In assessing Saybolt's claim of financial distress, the Committee notes that Saybolt earned in excess of \$31 million from its contracts with the Programme. Accounting entries posted to the Programme accounting ledgers (1997-2003). The Committee interviewed an inspector who worked for Cotecna but who also used to work for Saybolt; this interview was arranged without Saybolt's assistance. Gordon Schoeman interview (May 1, 2005) (former inspector who worked for Saybolt from January 2001 until March 2003 and who stated his view that Saybolt did a satisfactory job in monitoring oil exports). The Committee also interviewed former Saybolt inspector Armando Carlos Costa Oliveira; this interview, as discussed below, was solely with respect to allegations that he accepted a bribe to allow smuggling of oil from the Mina al-Bakr terminal. Armando Carlos Costa Oliveira interview (May 14, 2005).

⁷⁸⁶ OIOS, "Audit of the Management of the Oil Inspection Services Contract," AF2001/30/6 (July 3, 2002).

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noted that OIP did not exercise its contractual prerogative to review and approve candidates for inspector positions. OIOS made recommendations relating to these issues, many of which OIP accepted. OIOS did not render findings with regard to the adequacy of the inspections undertaken by Saybolt, and its findings did not suggest fraud or corruption on the part of Saybolt management or staff.⁷⁸⁷

Apart from performance issues raised in the OIOS audit, the Committee's review of Saybolt inspection reports does not suggest that Saybolt systematically failed to meet its contractual obligations; however, this review is of limited value without interviews of the inspectors who prepared the reports. The Committee is not aware of major complaints by OIP or United Nations member states about Saybolt's performance. Nevertheless, although the available evidence does not suggest pervasive corruption or mismanagement by Saybolt, two highly significant instances have emerged of improper conduct by Saybolt officials. These are discussed below.

A. BRIBERY OF ARMANDO CARLOS COSTA OLIVEIRA

In May and August 2001, Trafigura Beheer N.V. and Ibex Energy France engaged in a scheme with the Iraqi Ministry of Oil to "top off" an oil tanker, the *T/T Essex*, at the Mina al-Bakr terminal. The "top off" was possible because of a bribe paid by the Ministry of Oil to Saybolt's supervising inspector—Armando Carlos Costa Oliveira—to permit loading of oil in excess of what the United Nations contract allowed. This conduct is fully described in Chapter 2 of this Report, and Saybolt does not dispute the Committee's conclusion that Mr. Oliveira accepted a bribe. The Committee does not have evidence that Mr. Oliveira's corrupt conduct involved other employees or management of Saybolt.⁷⁸⁸

B. REQUEST FOR OIL ALLOCATION BY PETER BOKS

According to oil allocation tables disclosed by SOMO to the Committee, SOMO allocated oil to a Dutch company, Petroplus International Ltd. ("Petroplus"), upon nomination of Petroplus by Peter Boks, a senior Saybolt executive. As set forth below, although Mr. Boks initially denied having recommended Petroplus for an allocation, he later admitted making this request.

Mr. Boks worked as a consultant for Petroplus in 1995, before taking a position with Saybolt in April 1996 as a business development manager. Soon after he joined Saybolt, he prepared Saybolt's successful bid to win the oil inspection contract. In 1999, Mr. Boks became a managing director of Saybolt and then chief executive officer in 2000. Petroplus was a private client of Saybolt. Apart from Saybolt's work for the United Nations under the Programme, it also

⁷⁸⁷ Ibid.

⁷⁸⁸ Saybolt letter to the Committee (Oct. 20, 2005).

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furnished private commercial inspection services for Petroplus relating to non-Programme transactions.⁷⁸⁹

Petroplus first sought to purchase oil from Iraq under the Programme in 1998 when a Petroplus executive, Aernout Boot, contacted SOMO but did not obtain a response. In December 1999, SOMO invited Petroplus to visit Baghdad for a meeting. When interviewed, Mr. Boot stated that he attended a meeting with another Petroplus executive, Nicholas Moriarty. They learned that Petroplus had been allocated 1.5 million barrels of crude oil for Phase VII. Petroplus executed a contract, and the oil was lifted. For the next Programme phase, Petroplus once again received and lifted an allocation of 1.5 million barrels of crude oil. Petroplus received two more allocations in Programme Phases X and XI but, according to Mr. Boot, did not purchase the oil because of the advent of SOMO's oil surcharge requirement.⁷⁹⁰

SOMO records reflect that Mr. Boks and Saybolt were associated with the award of allocations to Petroplus. SOMO allocation records identify the Petroplus allocations as a "special request," and, for each of the allocations, there is a notation in either the draft and/or final version of the allocation table linking the allocation to Saybolt or Peter Boks or both.⁷⁹¹

For Petroplus's first allocation, SOMO's draft allocation list identifies Petroplus as a "Special Request" and notes: "New request (6) million nominated by Mr. Peter Boks-Saybolt Co."⁷⁹²

| | | |
|---|------------------|--|
| طلب جديد (٦) مليون مرشحة من قبل السيد بيتر بوكس - شركة سايبلوت | ٥٠% ٥٠% ١٥ | ٥٠% - هولندا أ - الطلبات الاعتيادية ب - الطلبات الخاصة - بتروبلاس |
|---|------------------|--|

⁷⁸⁹ Peter Boks interviews (Nov. 2, 2004 and Aug. 11, 2005); Aernout Boot interview (June 1, 2005). Mr. Boot was hired by Petroplus in 1998 and was responsible principally for business development in the Middle East. Ibid.

⁷⁹⁰ Ibid.; Peter Boks interview (Nov. 2, 2004); Nicholas Moriarty interview (May 24, 2005); SOMO sales contracts, nos. M/07/56 (Dec. 21, 1999), M/08/78 (June 28, 2000). Mr. Moriarty was hired by Petroplus in the mid-1990s and was its most knowledgeable employee concerning crude oil. Nicholas Moriarty interview (June 2, 2005).

⁷⁹¹ Iraq official interview; SOMO oil allocation tables for Phase VII (Dec. 13 and 17, 1999), Phase VIII (May 26 and June 1 and 14, 2000) Phase X (Aug. 4, 2001), Phase XI (Dec. 1, 2001) (each translated from Arabic).

⁷⁹² SOMO oil allocation tables for Phase VII (Dec. 13, 1999) (translated from Arabic).

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| | | |
|--------------------------------|-------------------|--|
| 50- The Netherlands | 1.5 - 0.5% | New request (6) million nominated by Mr. Peter Boks- Saybolt Co. |
| A- Regular requests | | |
| B- Special Request – Petroplus | 1.5 - 0.5% | |

Figure: SOMO oil allocation tables for Phase VII (Dec. 13, 1999) (translated from Arabic) (excerpt).

A later and final version of the allocation table no longer referenced Mr. Boks by name, but stated: “Mr. Petroplus,” under which there was a handwritten notation: “Saybolt.”⁷⁹³

| | | | |
|-----|----|--|-------------------------|
| ٥٠٪ | ١٥ | | |
| - | | | |
| ٢٠٪ | | | |
| | ١٥ | | |
| | | | ٣٤ - هولندا |
| | | | ا - الالبيات الاعتيادية |
| | | | ب - الالبيات الخاصة |
| | | | پتروپلاس / سایبولت |

33- The Netherlands

| | |
|-----------------------|------------|
| A- Regular requests | 1.5 - 0.5% |
| B- Special Request – | |
| Mr. Petroplus | 1.5 - 0.5% |
| [handwritten Saybolt] | |

Figure: SOMO oil allocation tables for Phase VII (Dec. 17, 1999) (translated from Arabic) (excerpt).

Similarly, in each of the listings for the next three allocations to Petroplus, a reference appeared to Saybolt. The recipient of the allocation given to Petroplus was listed as “*Petroplus/Saybolt,” and the final listings for the last two allocations referred to “Saybolt,” without any mention of

⁷⁹³ SOMO allocation tables for Phase VII (Dec. 17, 1999) (translated from Arabic).

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Petroplus. As one Iraqi official advised the Committee, Ministry of Oil officials considered Saybolt to be the recipient of the allocations and Petroplus to be lifting the oil for Saybolt.⁷⁹⁴

When interviewed, Petroplus executives denied that Saybolt or Mr. Boks assisted Petroplus in obtaining its oil allocations. Mr. Boot and Marcel van Poecke, Petroplus's Managing Director who served as its Chief Executive Officer during the relevant time period, suggested that Iraq made the award to curry favor with the Netherlands in recognition of its political ascendancy within the European Union and its seat on the Security Council. Mr. van Poecke also credited the "hard work" of Mr. Boot and Mr. Moriarty. Mr. van Poecke stressed that Petroplus would not have needed the assistance of an inspection company to obtain oil allocations from Iraq.⁷⁹⁵

According to Mr. Boot, although he had told Mr. Boks about Petroplus's interest in purchasing oil from Iraq, he did not request or receive active assistance from Mr. Boks or anyone else at Saybolt in establishing contact with SOMO. When asked to explain why Saybolt's name appeared on SOMO's oil allocation list with Petroplus's allocations, he claimed that it was because Saybolt permitted Petroplus to use Saybolt's facilities to relay their communications to SOMO. Specifically, Petroplus faxed its communications to Saybolt's facilities in Baghdad, and a Saybolt staff member passed the documents to the appropriate person within SOMO. Mr. Boot stated that this arrangement was instituted through his request to Mr. Boks.⁷⁹⁶

To the same effect, when initially interviewed about the appearance of his name on SOMO's allocation table, Mr. Boks suggested that it was because Petroplus forwarded its correspondence to SOMO through Saybolt's office in Baghdad. In a later interview, Mr. Boks stated that he had no knowledge about oil allocations in connection with Saybolt.⁷⁹⁷

When the Committee re-interviewed Mr. Boks on this issue for a third time, however, he stated that he met with a SOMO official in December 1999 who asked him if he knew a Dutch company that was interested in purchasing oil. Mr. Boks named Petroplus. At the same time, he twice denied discussing Petroplus with Iraqi Oil Minister Amer Rashid, with whom he had met in Baghdad at that time to discuss the "oil spare parts" program. At that point in the interview, Mr. Boks was presented for the first time with a version of the SOMO oil allocation list identifying his name and stating: "New request (6) million nominated by Mr. Peter Boks – Saybolt Co." Mr. Boks then admitted that he discussed Petroplus with the Oil Minister after he had first met with a SOMO official. According to Mr. Boks, the issue of oil allocations was "briefly discussed" when Mr. Rashid asked Mr. Boks if he knew of "a Dutch company that was interested in oil allocations"; Mr. Boks then informed him of Petroplus's interest. Mr. Boks stated that the Oil

⁷⁹⁴ SOMO oil allocation tables for Phase VIII (May 26 and June 1 and 14, 2000) Phase X (Aug. 4, 2001), Phase XI (Dec. 1, 2001) (each translated from Arabic); Iraq official interview.

⁷⁹⁵ Aernout Boot interview (June 1, 2005); Marcel van Poecke interview (June 28, 2005).

⁷⁹⁶ Aernout Boot interview (June 1, 2005).

⁷⁹⁷ Peter Boks interviews (Nov. 2, 2004 and Mar. 14, 2005).

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Minister instructed him to tell Petroplus to write a “letter of introduction” to SOMO to enable Petroplus to become an “off-taker.”⁷⁹⁸

According to Mr. Boks, when he returned to the Netherlands, he spoke with Mr. van Poecke to advise him that he recommended Petroplus to the Oil Minister for an oil allocation. He suggested that Mr. van Poecke write a letter to SOMO according to the Oil Minister’s instructions. Mr. van Poecke said that “it fits Petroplus well to hear that,” and “we are going to pursue this.” Mr. Boks stated that he later learned from Petroplus that it had signed a contract to buy Iraqi oil; however, Mr. Boks could not recall whether anyone at Petroplus ever thanked him for his help. He further stated that Petroplus never sought his assistance for securing its subsequent oil allocations or obtaining larger oil allocations. Mr. Boks apologized for failing to advise the Committee earlier of his intercession on Petroplus’ behalf and stated that he was embarrassed that Saybolt’s name had appeared on the allocation list.⁷⁹⁹

According to Mr. Boks, he did not derive any financial benefit from his recommendation of Petroplus. The Committee does not have evidence that he received a financial benefit. Nor does the Committee have evidence that Mr. Boks compromised the performance of his or Saybolt’s duties as a result of the allocation that he recommended to the Oil Minister.⁸⁰⁰

Nevertheless, Mr. Boks’s assistance to Petroplus posed a serious conflict of interest with respect to his obligations to the United Nations. He was in a position to exercise significant influence over Iraq’s oil exports and production in his capacity as a senior executive of the sole company charged with monitoring exports of oil and imports of equipment for Iraq’s oil infrastructure. Saybolt’s contract with the United Nations required that its employees perform their obligations “in accordance with the highest professional standards” and “conform to the highest standards of moral and ethical conduct.”⁸⁰¹ By seeking from the Government of Iraq a financial benefit for a

⁷⁹⁸ Peter Boks interview (Aug. 11, 2005). An Iraqi official with knowledge of the oil allocation process has separately advised the Committee that the allocation for Petroplus came about after a meeting between Oil Minister Rashid and Mr. Boks. Iraq official interview. By contrast, former Oil Minister Rashid has acknowledged meeting with Mr. Boks but could not confirm that Mr. Boks asked him for an oil allocation; and he had no knowledge of “a connection” between Saybolt and Petroplus. Amer Rashid interview (Oct. 29, 2004).

⁷⁹⁹ Peter Boks interview (Aug. 11, 2005).

⁸⁰⁰ Ibid. The Committee has reviewed financial records produced by Petroplus and found no evidence to suggest that Mr. Boks received payment from Petroplus for his recommendation. Committee note-to-file (Oct. 12, 2005). In August 2005, the Committee made a request to legal counsel for Mr. Boks that Mr. Boks produce his personal bank records. There was no definitive response to this request until October 14, 2005, when Mr. Boks’s legal counsel offered for the first time to produce these records. Because of the delay in this response, the Committee declined this offer because it would not be possible to review the records and conduct any follow-up investigation necessitated by that review in time for presentation in this Report. Committee note-to-file (Oct. 17, 2005).

⁸⁰¹ UN Contract, PTD/127/0065-96, paras. 4.4, 5.3 (Aug. 18, 1996); UN Contract, PD/CO114/00, paras. 3.6, 4.3 (June 6, 2000).

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Saybolt client, Mr. Boks effectively indebted himself to the Government of Iraq, thereby compromising his and Saybolt's position of independence and integrity in carrying out its oil inspection functions on behalf of the United Nations.

In addition, Mr. Boks was not forthright when interviewed by Committee investigators. Nor was Mr. van Poecke forthright when he denied intercession by Saybolt or Mr. Boks in his company's favor. Mr. van Poecke's version of events is inconsistent with Mr. Boks's admission that he spoke directly to Mr. van Poecke about his conversation with the Oil Minister. Although Mr. Boot also denied intercession by Saybolt in Petroplus's favor, there is no evidence that he spoke to Mr. Boks about this matter.

After being apprised of the Committee's anticipated findings, Saybolt submitted a letter (attached as an Annex to this Chapter of the Report) that sets forth Saybolt's reasons for declining to allow the interview of its inspectors. These reasons are unconvincing, especially in light of the fact that Saybolt does not contest that one of its inspectors corruptly took part in an illegal "top off" scheme. Nor has Saybolt demonstrated that it was not a conflict of interest and abuse of Mr. Boks's position as a Saybolt executive for him to assist Petroplus in obtaining oil from the Government of Iraq. Moreover, the Committee's investigative records do not support Saybolt's claim that Mr. Boks was at all times accurate and truthful to the Committee with respect to his intercession on Petroplus's behalf.⁸⁰²

After being apprised of the Committee's anticipated findings, Mr. van Poecke and Mr. Boot, through counsel, appeared before the Committee and argued that they had no recollection of conversations with Mr. Boks on the issue of his recommendation of Petroplus to the Ministry of Oil. They conceded, however, that they received their oil allocations only after Mr. Boks suggested to them that they should seek to purchase oil from SOMO because the political climate had changed to favor a Dutch company. However, as described above, Mr. Boks told Committee investigators that he had informed Mr. van Poecke of his meeting with Oil Minister Rashid, and it is most plausible to believe that he would have taken the opportunity to advise a Saybolt client of the potential benefit that he secured.⁸⁰³

⁸⁰² Saybolt letter to the Committee (Oct. 20, 2005).

⁸⁰³ Committee meeting with Marcel Van Poecke and Aernout Boot (Oct. 24, 2005).

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III. LLOYD'S

On August 30, 1996, Lloyd's signed its initial contract under the Programme. That contract was extended several times through January 1999. By the terms of the contract and its extensions, Lloyd's was required to provide personnel who would confirm the importation of humanitarian goods into Iraq. Specifically, Lloyd's agents were to compare the appropriate documentation, including bills of lading, other shipping documents, or cargo manifests, and the documents issued by the 661 Committee, against the goods actually arriving in Iraq. In doing this comparison, Lloyd's was to conduct both a quantity and quality inspection, which would include not only a visual inspection, but also sampling and laboratory testing, when necessary. If the inspected shipment was in order, Lloyd's agents would indicate their confirmation of the goods' arrival on a copy of the 661 Committee's letter, as well as on a copy of the invoice, and would notify the Secretary-General of the confirmation. Based upon this confirmation, the United Nations would pay the supplier. The contract did not obligate Lloyd's to examine or report with reference to smuggled goods (i.e., those imported outside of the Programme).⁸⁰⁴

The Committee has conducted a limited review of the performance of Lloyd's. This has included the review of United Nations and Lloyd's documentation relating to the inspections, interviews of former inspectors, and the review of an OIOS audit of OIP's management of the contract with Lloyd's. Preliminarily, the Committee notes that during the course of the Programme, there were no major complaints by the United Nations or its member states about the performance of Lloyd's or requests that its services be terminated for deficient performance. Many of the former inspectors who were interviewed expressed frustration regarding some impediments encountered in performing their duties. These included understaffing, lack of necessary technical expertise, lack of necessary equipment, and lack of independence from OIP. Moreover, several inspectors noted that smuggling was widespread and that they were not mandated to take any action with regard to it.⁸⁰⁵

The OIOS audit of OIP's handling of the Lloyd's contract, as did its audit relating to the Saybolt contract, mainly focused on administrative issues such as staffing irregularities, deficiencies in the renegotiation of contract renewals, and OIP's failure to ensure that Lloyd's invoices were based on sufficient documentation which possibly resulted in instances of overcharging. The audit did note several instances of what it described as "deficiencies in the contractor's

⁸⁰⁴ "First Interim Report," p. 16; "Programme Management Report," vol. III, pp. 27-28; UN Contract, PTD/127/0085-96 (Aug. 30, 1996).

⁸⁰⁵ Zeljko Kalincevic interviews (May 4 and June 13, 2005); Milan Radenovic interview (May 12, 2005); Carlo de Hennin interviews (May 10 and Oct. 6, 2005); Goran Ceric interview (May 3, 2005); Jean Azouri interview (Oct. 3, 2005); Howard Earnshaw interview (Oct. 14, 2004); Russ Kemp interview (Oct. 13, 2004); Warwick Preston interview (June 13, 2005). Several of the interviewed inspectors worked for both Lloyd's and Cotecna and, in general, they did not distinguish between the two companies when relating their observations concerning these impediments. Zeljko Kalincevic interviews (May 4 and June 13, 2005); Milan Radenovic interview (May 12, 2005); Carlo de Hennin interviews (May 10 and Oct. 6, 2005); Goran Ceric interview (May 3, 2005); Jean Azouri interview (Oct. 3, 2005).

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performance,” which included lack of independent verification of bulk cargo, lack of independent testing of medicines and vaccines, and inordinate delays in obtaining the results of samples that were taken. The audit did not describe these problems as pervasive, nor did it make any findings of fraud or corruption relating to Lloyd’s and its execution of the inspection contract.⁸⁰⁶

In short, the Committee’s limited review has not determined that Lloyd’s systematically failed to comply with its contract with the United Nations. Nor has this review disclosed corruption or fraud committed by Lloyd’s or its employees.

⁸⁰⁶ OIOS, “Report on a Contract for the Supply of Inspection Agents in Iraq under the Oil for Food Programme,” AP1998/17 (July 21, 1999).

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IV. COTECNA

Cotecna's responsibilities under its contract with the United Nations corresponded with those contained in the Lloyd's contract. Like Lloyd's, Cotecna was to provide a commercial inspection designed merely to confirm the receipt of items.⁸⁰⁷ Section A discusses the Committee's review of Cotecna's contract performance. Section B reviews two additional matters concerning Cotecna, for which the Committee recommends further inquiry by OIOS.

A. CONTRACT PERFORMANCE

The Committee has conducted a limited review of Cotecna's performance pursuant to its contract with the United Nations. In this regard, Committee investigators have reviewed Cotecna and United Nations documents relating to the inspection of humanitarian goods, including forty-eight volumes of "chron" files maintained at Cotecna's headquarters as well as seventy-one boxes of documents that Cotecna made available for review. In addition, Committee investigators have interviewed nine persons who worked as Cotecna inspectors during the Programme and reviewed an OIOS audit report regarding OIP's management of the Cotecna contract. As was the case with Saybolt and Lloyd's, during the course of the Programme, there were no major complaints by the United Nations or its member states about Cotecna's performance or requests that its services be terminated for deficient performance.⁸⁰⁸

The interviewed inspectors, some of whom had worked also for Lloyd's, complained of various impediments to the performance of their duties, such as faulty equipment, insufficient staffing, and lack of independence from OIP. In addition, some inspectors also reported their frustration that they were not mandated to address what they stated were very obvious instances of smuggling.⁸⁰⁹

⁸⁰⁷ UN Contract, PD/CON/324/98 (Dec. 31, 1998).

⁸⁰⁸ Zeljko Kalincevic interview (May 4, 2005); Hamid Araie interview (May 10, 2005); Milan Radenovic (May 12, 2005); Emil Valasuteanu interview (May 6, 2005); Gordon Schoeman interview (May 1, 2005); Carlo de Hennin interviews (May 10 and Oct. 6, 2005); Goran Ceric interview (May 3, 2005); Jean Azouri interview (Oct. 3, 2005), Arthur Ventham interview (Sept. 22, 2005); OIOS, "Management of the Contract for the Provision for Independent Inspection Agents in Iraq," AF2002/23/1 (Apr. 8, 2003).

⁸⁰⁹ Zeljko Kalincevic interview (May 4, 2005); Hamid Araie interview (May 10, 2005); Milan Radenovic (May 12, 2005); Emil Valasuteanu interview (May 6, 2005); Gordon Schoeman interview (May 1, 2005); Carlo de Hennin interviews (May 10 and Oct. 6, 2005); Goran Ceric interview (May 3, 2005); Jean Azouri interview (Oct. 3, 2005); Arthur Ventham interview (Sept. 22, 2005). When interviewed, Jean Azouri, who worked as an inspector for both Lloyd's and Cotecna, stated that OIP made the ultimate decisions concerning the authentication of humanitarian goods under the Programme. Jean Azouri interview (Oct. 3, 2005).

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One former Cotecna inspector, Arthur Ventham, testified before the United States Senate Permanent Subcommittee on Investigations. In his testimony, Mr. Ventham opined that Cotecna was not performing adequately its function under the contract and did not conform to the best practices in the industry. He testified that Cotecna was badly managed; did not provide adequate training to inspectors; and did not have a performance management or appraisal system. He also complained that Cotecna management was unwilling to listen to others—even if more knowledgeable and experienced—and that some of the team leaders were not performing their duties. He stated that it was common knowledge that smuggling was occurring, but that the United Nations did nothing to counteract it. When interviewed, Mr. Ventham reiterated similar complaints—though he noted that he was unaware of any instance in which a Cotecna inspector received or was offered a bribe.⁸¹⁰

The OIOS audit focused mainly on administrative issues, such as staffing being below what was required by the contract, the amending of the contract to include additional costs prior to the start of services, the increasing of costs during the contract, OIP’s failure to assess the economic benefits of different methods of determining contract costs, and OIP’s failure adequately to verify Cotecna’s attendance records. The audit did not report any deficiencies in Cotecna’s inspections, and it did not report on instances of fraud or corruption.⁸¹¹

In short, the Committee’s limited review has not determined that Cotecna systematically failed to comply with its contract with the United Nations. Nor has the review disclosed pervasive corruption or fraud committed by Cotecna or its employees with respect to Cotecna’s provision of inspection services under the contract.

B. REVIEW OF ADDITIONAL ALLEGATIONS

The Committee has also conducted a review but without reaching a conclusion concerning two additional circumstances involving activities of Cotecna. The Committee recommends that these matters be the subject of further review by OIOS.

1. Tugboat Authentication

During its review of Cotecna’s performance, the Committee initiated a review of the circumstances surrounding Cotecna’s decision to authenticate the arrival of two tug boats, worth in excess of seven million dollars, that were claimed to have been delivered several days before the invasion of Iraq in March 2003. Due to time and resource limitations, that review has not been completed. Based on the information received and Cotecna’s response to this information, the Committee does not reach a conclusion concerning the adequacy of authentication.

⁸¹⁰ Arthur Ventham statement to the United States Senate, Permanent Subcommittee on Investigations (Feb. 17, 2005); Arthur Ventham interview (Sept. 22, 2005).

⁸¹¹ OIOS, “Management of the Contract for the Provision for Independent Inspection Agents in Iraq,” AF2002/23/1 (Apr. 8, 2003).

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Therefore, the Committee will forward the information it has collected concerning this matter to OIOS for further consideration.

Cotecna has submitted a letter (attached as an Appendix to this Chapter of the Report) defending its decision to authenticate the tug boats. The Committee is aware of additional information not discussed in Cotecna's letter and will forward this letter and the additional information to OIOS. Cotecna's letter also sets forth its position that the payments to two bank accounts, as discussed below, were not related to Cotecna's selection by the United Nations as an inspection contractor for the Programme.⁸¹²

2. Concurrent Payments to Michael Wilson and WIPO Official

During its investigation into Cotecna's selection as the inspection contractor for the Programme, the Committee identified two identical transfers of \$135,000 which Cotecna, through a related business entity, Cotecna International Ltd., made on March 3, 1999 to two accounts held at the Mees Pierson Bank in Geneva, Switzerland. As described below, one of the accounts was controlled by a senior official of a United Nations specialized agency; the other was controlled by Michael Wilson, a Cotecna executive with close ties to Kojo Annan. A portion of these funds was disbursed two years later from Mr. Wilson's account to another account for the apparent benefit of Kojo Annan.⁸¹³

The first account was held in the name of Prazino Technologies Inc. ("the Prazino account") and listed Khamis Suedi, who at the time was the Director, Office of Strategic Planning & Policy Development in the World Intellectual Property Organization ("WIPO"), a United Nations specialized agency, as its sole owner and signatory.⁸¹⁴ The second account was held in the name of Kynaston Worldwide Ltd. ("the Kynaston account") and listed Michael Wilson as its sole

⁸¹² Cotecna letter to the Committee (Oct. 18, 2005).

⁸¹³ Mees Pierson Bank record, Kynaston Worldwide Ltd. corporate account, account opening contract and credit and debit advices (1998-2001); Mees Pierson Bank record, Prazino Technologies Inc. corporate account, account opening contract and credit advices (1998-2001); WIPO Human Resources e-mail to the Committee (Oct. 20, 2005). There was a \$25 bank fee associated with each of the \$135,000 transfers. As a result, each account was credited only \$134,975 for the transaction. Mees Pierson Bank record, Kynaston Worldwide Ltd. corporate account, credit advice (Mar. 3, 1999); Mees Pierson Bank record, Prazino Technologies Inc. corporate account, credit advice (Mar. 3, 1999).

⁸¹⁴ Mees Pierson Bank record, Prazino Technologies Inc. corporate account, account opening contract; WIPO record, Khamis J. Suedi curriculum vitae (included as an attachment to "WIPO Coordination Meeting, Fiftieth (17th Extraordinary) Session, Geneva, September 2 and 3, 2003"); WIPO organizational chart (July 2004); WIPO, Press Release PR/2003/352, "Member States Approve Appointment of Top Management Team" (Sept. 3, 2003), <http://www.wipo.int/wilma/pressinfo-en/200309/msg00000.html>.

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owner and signatory. The Prazino and Kynaston accounts were both opened on December 9, 1998, and an initial deposit of \$5,000 was made into each account on January 29, 1999.⁸¹⁵

A review of the Prazino and Kynaston accounts reflects that, from 1999 through 2001, there were substantial deposits to both accounts from various corporate entities, including some that provided services to WIPO in connection with a renovation of its headquarters in Geneva. During this same time period, there was a substantial flow of funds from the Kynaston account to the Prazino account. Also, on May 23, 2001—more than two years after Cotecna's initial payment of \$135,000—CHF20,000 were wired from the Kynaston account to another account in the name of Vevey Sport, with a description: "Vevey Sport, Attn R. Frey, for the benefit of Mr. Annan." Vevey Sport is an entity in which Kojo Annan had invested funds.⁸¹⁶

Cotecna has informed the Committee that its two payments of \$135,000 had no relationship to the Programme or its bids for the Programme inspection contract. Rather, according to Cotecna, the payments constituted a "success fee" paid to Abdallah Suedi, whom Cotecna identified as a consultant and "former ambassador of Tanzania," for assisting Cotecna in obtaining an inspection contract with the Government of Tanzania. Cotecna stated that it was introduced to Abdallah Suedi and Khamis Suedi by Mr. Wilson who had told Cotecna that it would need their assistance to win the contract with the Government of Tanzania. It is unclear what relationship there is between Abdallah Suedi and Khamis Suedi. Cotecna signed a contract with the Government of Tanzania on January 15, 1999 to provide pre-shipment inspection services. Cotecna provided Committee investigators with certain information in support of this explanation and the circumstances under which the deposits were made, but said that there was no written agreement concerning the payment of the success fees. According to Cotecna, Mr. Wilson stated that Abdallah Suedi should receive the entire "success fee" because he had done all the work to obtain the contract and that Abdallah Suedi wanted the payment to be made into the two Mees Pierson accounts.⁸¹⁷

⁸¹⁵ Mees Pierson Bank record, Kynaston Worldwide Ltd. corporate account, account opening contract and credit advices (Jan. 1999); Mees Pierson Bank record, Prazino Technologies Inc. corporate account, account opening contract and credit advices (Jan. 1999); WIPO Human Resources e-mail to the Committee (Oct. 20, 2005). Mr. Wilson's status as a Cotecna executive and his role in obtaining the humanitarian goods inspection contract was the subject of previous Committee reports. "Second Interim Report," pp. 3-80; "Programme Management Report," vol. III, pp. 195-277.

⁸¹⁶ Mees Pierson Bank record, Kynaston Worldwide Ltd. corporate account, credit and debit advices (1999-2001); Mees Pierson Bank record, Prazino Technologies Inc. corporate account, credit advices (1999-2001); Ralph Isenneger interview (Mar. 4, 2005); see "Second Interim Report," p. 68. Mr. Isenegger is an attorney who has represented Kojo Annan with regard to several matters since meeting him in 1999. Both Mr. Isenneger and Kojo Annan invested money in Vevey Sport, a junior football team. Ralph Isenneger interview (March 4, 2005).

⁸¹⁷ Cotecna letter to the Committee (Oct. 6, 2005); Cotecna press release (Jan. 18, 1999) (announcing the signing of the contract); Committee meeting with Cotecna (Oct. 18, 2005).

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Mr. Wilson was asked about the Cotecna payment to the Kynaston account. He confirmed his receipt of these funds and said that the funds could have involved other Cotecna contracts. Mr. Wilson added that he could not remember more about the transaction. When asked about the Prazino account, he stated that he had “done business with that company.” Mr. Wilson said that he could not answer questions about the \$135,000 deposit into the Prazino account and suggested that the Committee speak to Cotecna or Prazino, also noting that these questions were “outside the scope of the [Committee].”⁸¹⁸

The Committee has been unable to locate Khamis or Abdallah Suedi. According to a lawyer for WIPO, however, Khamis Suedi informed WIPO officials that he had received CHF325,000 from Michael Wilson. Khamis Suedi claimed that the receipt of these funds was not improper because it involved a private business venture regarding some hotels in Tanzania for which he had received verbal permission from the WIPO Director-General (who is now deceased). Although WIPO conducted an internal evaluation of the procurement process for its headquarters renovation, it did not make a finding concerning the activities of Khamis Suedi.⁸¹⁹

Based on the available evidence, the Committee cannot conclude that the payments by Cotecna to the Kynaston and Prazino accounts related to Cotecna’s inspection contract under the Programme, and it can draw no conclusions about the other transactions noted herein. Accordingly, the Committee will refer the information it has collected to the appropriate investigative authorities and recommends that WIPO obtain the investigative assistance of OIOS concerning this matter.

⁸¹⁸ Michael Wilson interview (Sept. 5, 2005).

⁸¹⁹ Edward Kwakwa interviews (Oct. 11 and 13-14, 2005); WIPO, “Approve Appointment of Top Management Team” (Sept. 3, 2003), <http://www.wipo.int/wilma/pressinfo-en/200309/msg00000.html>; see also WIPO record, Khamis J. Suedi curriculum vitae (included as an attachment to “WIPO Coordination Meeting, Fiftieth (17th Extraordinary) Session, Geneva, September 2 and 3, 2003”). Mr. Kwakwa is WIPO’s legal counsel. Edward Kwakwa interviews (Oct. 11 and 13-14, 2005).

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V. RESPONSES OF INSPECTION COMPANIES

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A. RESPONSE OF COTECNA SA



WILLIAMS MULLEN

Direct Dial: 202.293.8116
esuarez@williamsmullen.com

October 18, 2005

VIA EXPRESS MAIL AND FAX

Mr. Reid Morden
Executive Director
Independent Inquiry Committee
Into The United Nations Oil-For-Food Program
825 Third Avenue
Fifteenth Floor
New York, New York 10022

Re: IIC Notice Letter dated October 15, 2005

Attn: Susan Ringler

Dear Mr. Morden:

On behalf of Cotecna Inspection, SA (“Cotecna”), this is in response to your October 15, 2005 “Notice Letter” to Elie Massey, in which the Independent Inquiry Committee (“IIC”) into the United Nations Oil-For-Food Programme (“OFFP”) advised Cotecna that “the Committee intends to include in its next report a narrative concerning Cotecna’s conduct during the Programme.” The Notice Letter covers two matters: (1) one involving contract performance and related to an alleged improper authentication by Cotecna of a delivery of two tug boats and spare parts; and (2) the other involving two 1999 financial transactions.

The Notice Letter does not state whether the narrative constitutes a set of “findings.” The Notice Letter nevertheless requests from Cotecna “additional relevant information” by October 20, 2005, so that the Committee might consider such information before releasing “its *findings* in an upcoming report” (emphasis added). While we are uncertain about the difference between a Notice Letter and a Proposed Adverse Finding, we provide the following in response to your letter.

I. Contract Performance

The Notice Letter’s narrative, under the caption “Contract Performance,” states that in October 2003 “Cotecna improperly authenticated the delivery of two tugboats and spare parts

A Professional Corporation

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October 18, 2005

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made by a Malaysian company” and summarizes possible grounds that the authentication was improper. The narrative states that those possible grounds include, among “other facts,” the shipment’s having not been “physically inspected by Cotecna employees,” the supplier’s having presented “documents containing a forged Cotecna stamp” and “an allegation by a Cotecna employee that he had been offered a bribe” by a representative of the supplier on October 28, 2003. Cotecna believes that the authentication at issue was proper.

In response to a specific request from the Office of the Iraq Programme (“OIP”) dated October 24, 2003, Hamid Araie, Cotecna’s team leader in Dubai, sent an e-mail dated October 26, 2003 to Farid Zarif, OIP, providing Cotecna’s opinion relating to the tug boats after a thorough and proper investigation. *See Attachment 1* (previously produced to the IIC in July 2004). This professional judgment was based upon the OIP-established standard of a *prima facie* case of arrival for “stranded goods.” This judgment also followed a thorough review of relevant documents, interviews of Iraqi receivers and an audit of the supplier’s prior shipments by Mr. Araie and the Company’s Senior Liaison Officer in Baghdad. In an October 27, 2003 e-mail from Farid Zarif to Hamid Araie, OIP authorized Cotecna to proceed with the authentication of the tug boats. *See Attachment 1*. The propriety of the Company’s judgment is further evidenced by additional documents also previously provided to the IIC.

The two tugboats and spare parts to which you refer came from a specific March 17-19, 2003 period, when the war caused Cotecna employees, per instructions from the United Nations, to withdraw from Iraq. An April 5, 2003 letter to the 661 Committee from the Executive Director of the OIP made the results of a post-entry investigation—and not a physical inspection as was previously the case—the proper basis for the authentication of the goods in transit when war broke out in March 2003. *See Attachment 2* (previously produced to the IIC in July 2004). This official standard applied for only 27 shipments, which included the tug boats and spare parts.

Cotecna did not base its professional judgment about the tug boats and spare parts on a forged Cotecna stamp. Rather, Cotecna based its opinion on substantial other reliable evidence that the goods had actually arrived in Iraq. The authentication was, therefore, proper even if a forgery also occurred in the documentation. It should be noted that Cotecna advised OIP regarding the possible forgery. Thus, OIP approved authentication after being informed.

We are unaware of any offers of bribes. To the extent that IIC has information relating to this, we request that the IIC provide Cotecna with the details, including the identity of the employee who has made “an allegation” that a representative of the supplier “offered” him a bribe on October 28, 2003. The allegation appears to concern not a bribe but an “offer” of a bribe, which we infer was not accepted. A bribe-offer allegation, concerning an offer that has

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not been accepted, does not invalidate a proper authentication based upon reliable information and formal OIP authorization. We fail to see the significance of this allegation without receiving more details. OIP itself requested and approved on a case-by-case basis all retroactive authentications on "stranded goods" and was free to reject Cotecna's professional judgment if the company's inspection agents did not support that opinion with proper evidence. Documentary evidence already produced by Cotecna substantiates that Hamid Araie did so support the professional judgment. Cotecna presented its opinion to the OIP on October 26, and the OIP requested and approved retroactive authentication on this "stranded goods" on October 27, one day before the bribe-offer is alleged to have occurred on October 28. *See Attachment 1.* The allegation (if any) therefore does not appear to support a conclusion that Cotecna improperly authenticated anything, but we cannot say until we know more about the allegation.

II. 1999 Financial Transactions

The "1999 Financial Transactions" narrative describes two March 3, 1999 payments by Cotecna relating to a success fee for an inspection with the Government of Tanzania. You state that "Cotecna has not produced any documents to support [Cotecna's] representation" concerning its payments and that "Cotecna has provided no explanation" for one of the two deposits. The IIC's letter surprises us, because two representatives of the IIC (Mr. Wolf-Dieter Schlechthaupt and Mr. Chris Eaton, Senior Investigator of IIC) have arranged to meet with Cotecna's Swiss counsel and view Cotecna's relevant documents in Basel, Switzerland today, Tuesday, October 18. This meeting should address any questions relating to the two transactions.

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We look forward to receiving some of the details omitted from the Notice Letter. Should you have any questions, please do not hesitate to contact the undersigned.

Sincerely,

| | |
|--|---|
| Evelyn M. Suarez Williams Mullen A Professional Corporation 1666 K Street, N.W., Suite 1200 Washington, DC 20006 esuarez@williamsmullen.com Tel: 202.293-8116 Fax: 202.293-5939 | Dr. Roland C. Rasi Mathys Schmid Partner Dufourstr. 5 CH-4052 Basel roland.rasi@msp-law.ch Tel.: +41(0)61 270 99 00 Fax: +41 (0)61 270 9905 |
|--|---|

Enclosures

Cc: Mr. Raymond V. Shepherd, III, Esq., Senate Permanent Subcommittee on Investigations
Ms. Elise Bean, Senate Permanent Subcommittee on Investigations
Mr. Lawrence J. Halloran, House Subcommittee on National Security, Emerging Threats
and International Relations
Mr. Jonathan R. Scharfen, House Committee on International Relations
Mr. Andrew Snowdon, House Committee on Energy and Commerce

By Hand

Dr. Roland Vock, SECO
Dr. Othmar Wyss, SECO
Mr. Robert Massey, Cotecna

By Express Mail

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WILLIAMS MULLEN

ATTACHMENT 1
(October 26-27, 2003 exchange of e-mails between
Hamid Araie, Cotecna's team leader in Dubai, and
Farid Zarif, Office of the Iraq Programme)

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----- Original Message -----

From: "Farid Zarif" <zarif@un.org>
To: "U Coins" <coinsu@un.org>
Cc: "Pruniaux André" <andre.pruniaux@cotecna.ch>; <cotecna@go.com.jo>;
"Darko Mocibob" <mocibob@un.org>; <haugk@un.org>; "Jason Abrams"
<abrams@un.org>; "Saliba Joe" <joe.saliba@cotecna.ch>; <johnston@un.org>
Sent: Monday, October 27, 2003 7:05 PM
Subject: Re: OC 702091- Tug Boats

Dear Hamid,

I take note of the extensive investigations carried out and the set of evidence and documents gathered, including the email dated 24 October 2003 from the supplier conveying electronic version of an Arabic letter and its translation from two senior officials of the Iraqi Ports Authority confirming that the tugboats and spare parts were received.

I also note your judgement that, based on the above investigation and information, there exists a "prima facie" case for authenticating the arrival of the tug boats that were delivered to Iraq after the withdrawal of Cotecna from Iraq due to security reasons.

In view of the above independent conclusion, Cotecna may wish to proceed with authentication of the said cargo.

Many thanks for all the efforts you and your team have invested in clarifying this very naughty issue.

Kind regards,

Farid

U Coins@OIP
To: Farid
Zarif/OIP@OIP@UN-MAILHUB 26/10/2003 08:08 cc:
johnston@un.org@un-mailhub, cotecna@go.com.jo,
AM Pruniaux André
<andre.pruniaux@cotecna.ch> @ UN-MAILHUB,

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Saliba Joe
<joe.saliba@cotecna.ch> @ UN-MAILHUB, Darko
Mocibob/OIP@OIP,
haugk@un.org@un-mailhub, Jason
Abrams/NY/UNO@UNHQ@un-mailhub
Subject: OC 702091- Tug
Boats(Document link: Farid Zarif)

Dear Mr Zarif,

Your request for professional judgement, on the email dated 24/10/2003 refers.

This has been a very problematic and troublesome shipment, as we are all aware.

I base my comments without prejudice, and the information is what I have been able to obtain, together with information that has been supplied to us.

I view this shipment as a "prima facie" case based on stranded cargo rules. Mr Benon V. Sevan's correspondence to 661 Committee, dated 5 April 2003 refers.

We have been doing tracking where possible, on stranded cargoes, and have solved up to 35 OC's, with 917 manifested containers, 816 not inspected. Value approx \$23 751 989.00. These stranded shipments were authenticated on the basis of mathematical calculations and documentary evidence supplied by the Shippers only. We could not obtain any information from the Receivers, nor did we physically see the cargo, as they were discharged at Umm Qasr, without our inspection.

In this particular case, the same principles need to be applied. The shipment was not seen, however, we have the documentary evidence of confirmation of delivery from the Iraqi Ports.

Several telephone communications have been done, together with meetings with officials in Baghdad.

The correspondence files on this shipment, is huge.

We have also done an audit on this companies previous shipments, to see perhaps a track record of their previous shipments as well. Todate, we have authenticated \$2,288 500 against previous shipments, with another one currently under

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a second inspection on OC 702090, Mooring Boats.

I would to start with the correspondence forwarded to us, from the OIP, Mr M. Ahlin who on 16 May 2003, who stated:
"This case is pretty strong with the confirmation from the receiver as documentary evidence".
"I need your input on this if we are going to accept this as enough evidence for authentication".

The Supplier forwarded an "Information Sheet on the status of goods (Type 2)". This was received by OIP on 07/04/2003, wherein the Supplying Company stated that the said goods arrived at Umm Qasr. There is a OIP official, I assume, who hand wrote on the document, "approved, stranded", initialed by "DM".

I was originally very skeptical about this shipment, and stated this in various earlier emails.
However, after been requested to track and trace as much as possible, which I did, and after having received the confirmation documents from the Receivers confirming receipt of the shipment, a different scene started to appear, once telephonic conservations we held with the current Iraqi Port Officials.
I refer to various telephone calls, on 10 October 2003, with Mr Aziz Rustom, Deputy General Manager, Iraqi Ports, and Capt Ali who is Port Operation Manager, who stated verbally, as well in a statement that he had received the said tugboats.
A separate email was sent to OIP on this, dated 10/10/2003.

This person was employed by Iraqi Ports before the war, and is still there now. Hence his information is important, as we evacuated on 17 March 2003, and were not in Iraq.

Various correspondences from the Receivers, ie Ministry of Transport and Communication, General Company for Ports of Iraq, are received, and OIP has this information as well.

They include:

1. Muaid Abdul Ghafoor Al_Alosy, Director General, General Company for Ports of Iraq, dd 20/03/2003
2. Aziz Rostum Mohammad, Deputy Director, General Company for Port of Iraq, dd 20/03/2003
3. Capt Ali Adul Hussain Faleh, Umm Qasr Port Operation Manager, dd 28/7/2003.
4. Capt Ali Abdul Hussain Faleh, Umm Qasr Port Operation Manager, dd 30/7/2003.

All the above documents, duly stamped and signed, confirm the delivery of

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the tugboats, with no remarks to the contrary.

I, further, refer to an email, dated 02/10/2003, in which our then Liason Officer based in Baghdad, stated that he had received a signed document by Mr Aziz Roustomon behalf of the General Manager for Iraqi Ports. Another official by the name of Mr Ali Mohamed Ali Nassif MOU Manager at the Ministry of Communication in Baghdad, was also present at this meeting, and that both the officials are legible for issuing statements.

Under the stranded cargo rules, these documents, together with receivers confirmations, independent verbal confirmations, which are on record, there is a "prima facie" case for authentication, that the goods were delivered to Iraq. We are not required to have a confirmation of arrival from CPA for stranded goods.

One of the main issues we tried to, isto locate the said boats, or obtain information on there whereabouts. This was not successful, and the response from the Iraq officials, was that, it was perhaps used the war, and/or taken by Iraqi Navy, and/or sunk. These are their speculations, now ours.

I note further that on an email dated 24/10/2003, a letter was submitted by the Supplier in Arabic, to which a translation was done, stating that the said tugboats and spares were received.

The letter had two officials named as:
1. Engineer Abdul Razak Ali Kateh.
2. Aziz Roustom Mohamad
Both of Iraqi Ports.

Therefore, with all the above information, there is a "prima facie" case that the said cargo was delivered to Iraq, under the rules of "stranded goods".

Based on all the information, written and verbal, and the issuance of documents from the Receivers that the said shipment was received by them, my judgement, based that the cargo was delivered to Iraq, under - "stranded goods", a "prima facie" case exists for authentication.

That is all I have on this, most difficult and problematic case.

Kind Regards

Hamid Araie

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WILLIAMS MULLEN

ATTACHMENT 2
(April 5, 2003 letter from
Benon V. Sevan, Executive Director of the OIP,
to Gunter Pleuger, Chair of the 661 Committee)

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UNITED NATIONS



NATIONS UNIES

POSTAL ADDRESS—ADRESSE POSTALE: UNITED NATIONS, N.Y. 10017
CABLE ADDRESS—ADRESSE TELEGRAPHIQUE: UNATIONS NEW YORK

OFFICE OF THE IRAQ PROGRAMME – BUREAU CHARGE DU PROGRAMME IRAQ

THE EXECUTIVE DIRECTOR
LE DIRECTEUR EXÉCUTIF

REF: ED/2003/661/

5 April 2003

Dear Mr. Chairman,

Pursuant to paragraph 8 (a) (iii) of Security Council resolution 986 (1995), paragraph 25 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), and paragraph 36 of the procedures of the Security Council Committee established by resolution 661 (1990), the arrival of humanitarian supplies in Iraq must be confirmed by the independent inspection agents appointed by the Secretary General as a condition of payment under letters of credit issued for purchases of humanitarian goods under resolution 986 (1995).

On 17 March 2003, the United Nations independent inspection agents (Cotecna Inspection, S.A.) were withdrawn from the Port of Umm Qasr, and on 18 March 2003, from the remaining four authorized entry points in Iraq. At the time of their withdrawal, consignments shipped under 56 contract applications, worth a total of \$56,912,865.16, were either under active discharge/delivery or reported to have been discharged/delivered soon thereafter, but neither of which have been authenticated so far by Cotecna. As detailed in the attached table, of the total of 56 cases filed, 34 relate to goods consigned to the Port of Umm Qasr, 20 to Trebil and 2 to Al-Walid.

Cotecna inspectors had registered the arrival of 23 consignments and were well into reviewing documents related to 6 other consignments, but were unable to complete the inspection process due to their abrupt withdrawal. Based upon direct observations by Cotecna and/or documentary evidence provided by the suppliers concerned, the Office of the Iraq Programme is satisfied that the consignments under 29 contract applications, with a total value of \$19,846,457.56, have been delivered in Iraq. Therefore, the Office if Iraq Programme supports the recommendation by Cotecna to carry out a retroactive authentication of these 29 cases.

His Excellency
Mr. Gunter Pleuger
Chairman of the Security Council Committee
established by resolution 661 (1990)
New York

With regard to the remaining 27 cases worth a total of \$37,066,407.60, the Office of the Iraq Programme has requested further information and documentations. Should a *prima facie* case is established on the basis of customs declarations, bills of lading, receivers reports,

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consignment movement reports and/or other pertinent documentation which would satisfy Cotecna to validate the claim by suppliers that their goods were delivered to Iraq, the Office of the Iraq Programme should like to proceed in support of Cotecna's recommendation to effect retroactive authentication of such deliveries, on an exceptional basis. Consignment of supplies reported to have been delivered to Iraq after 20 March 2003 will not be considered in this category.

I should be grateful if you would circulate this letter to the members of the Committee for their consideration of the approach described above, under a no-objection deadline of 7 April 2003.

Please accept, Excellency, the assurances of my highest consideration.

Benon V. Sevan
Under-Secretary-General

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B. RESPONSE OF SAYBOLT INTERNATIONAL B.V.



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October 20, 2005

VIA FEDERAL EXPRESS

Susan M. Ringler, Esq.
Counsel to Committee
The United Nations Oil-For-Food Programme
Independent Inquiry Committee
825 Third Avenue, 15th Floor
New York, NY 10022

Re: Saybolt International B.V.

Dear Ms. Ringler:

We write on behalf of our clients Saybolt International B.V. ("Saybolt") and its Managing Director Peter Boks in response to the Committee's letters of October 14 and 15, 2005, containing summaries of findings the Committee proposes to include in its final report. We take issue with the Committee's proposed findings. For the reasons stated below, we believe that certain of the characterizations in the summaries are inaccurate and that the language is misleadingly incomplete. We explain our objections below and suggest how the proposed language might be modified to more accurately capture the facts.

Saybolt's Cooperation with the Committee

Saybolt's voluntary cooperation has been extensive and long-standing, not only with the Committee's investigation, but also with at least six other separate investigations into the Oil-for-Food Programme ("OFFP" or "Programme").¹ With respect to the Committee, the company

¹ In addition to the Committee, the entities that are conducting or have conducted inquiries into the Oil-For-Food-Programme include the U.S. Securities & Exchange Commission, the U.S. Attorney's Office for the Southern District of New York, the Manhattan District Attorney's Office, the U.S. Senate Permanent Subcommittee on Investigations, the Subcommittee on Oversight and Investigations of the House Committee on International Relations, and the Subcommittee on National Security, Emerging Threats, and International Relations of the House Committee on Government Reform. Saybolt has cooperated completely with each of these inquiries. With respect to the Congressional committees, the (footnote continued on next page)

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has produced hundreds of thousands of documents, arranged multiple interviews in the U.S. and abroad of numerous current and former Saybolt employees, met in New York with Committee staff on several occasions, and responded to many informal requests for information and additional documents throughout the course of its investigation. Because of the extraordinary costs to Saybolt of cooperating with the various investigations, in January 2005 the company sought partial compensation under the terms of its contract with the United Nations. As of this writing, Saybolt has not received a response of any kind to its request.

Against this background, in March 2005 the Committee staff requested additional interviews with up to ten current and former Saybolt employees variously located in The Netherlands, Sweden, Jordan, Saudi Arabia, Portugal, Russia (Vladivostok and Moscow), and Australia. The additional costs of these interviews to Saybolt in terms of legal fees, lost man-hours, and direct expenses would have been substantial. Because of this additional cost, and because of the U.N.'s failure to respond to or even acknowledge receipt of Saybolt's request for reimbursement, Saybolt respectfully declined the Committee's request that the company extend its voluntary cooperation to encompass yet another round of interviews. (*See* Saybolt's May 10, 2005, letter to the Committee attached hereto.) Since then, Saybolt has continued its cooperation with the Committee by, among other things, responding to several requests for additional documents and, as recently as August 11, 2005, making two of its employees (one from Rotterdam, one from London) available in Washington, D.C. for additional interviews by the Committee staff.

As noted in earlier correspondence, Saybolt is proud of its work on the Oil-for-Food Programme and has bent over backwards to cooperate with all of the investigations, including that of this Committee. We believe the Committee should acknowledge the massive amount of support and cooperation the company has voluntarily provided to its investigation, dating back to the very beginning of the Committee's work. The current passing reference to Saybolt's having "generally cooperated" with the Committee's investigation of the procurement process neither fairly nor accurately reflects the level of the company's efforts.

The Conduct of Peter Boks

The conclusions the Committee proposes to publish are, in our view, inappropriately harsh and legally incorrect with respect to Mr. Boks's conversations with representatives of Petroplus and SOMO and his role in facilitating communications between the two. Likewise, the proposed conclusion that Mr. Boks was not forthcoming about this issue in interviews is not supported by the facts.

(footnote continued from previous page)
company has provided extensive written and oral testimony at three separate hearings and, in the process, been publicly complimented by the committee members and staff for the extent of its cooperation.

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There is no basis for the Committee to conclude it was improper for Mr. Boks to speak to Petroplus about the Oil-For-Food-Programme or for him, in response to an inquiry from a SOMO official, to identify Petroplus as a reputable Dutch company with whom SOMO might do business under the Programme. Mr. Boks sought no benefit from these conversations and received none. There is no allegation of which we are aware that Petroplus's dealings with SOMO involved anything unusual or improper, such as the payment of surcharges. Facilitating communications between two entities mutually interested in conducting lawful business with one another is hardly an "abuse of trust" or a "serious conflict of interest." In fact, the U.N. had requested that Saybolt and Mr. Boks do what they could to cooperate with requests for information from the Government of Iraq. When viewed in that light, Mr. Boks had no reason to think there was anything inappropriate about responding to SOMO's request.²

The gravamen of the Committee's grievance with Mr. Boks appears to be that he did not volunteer this information to its investigators sooner. In fact, Mr. Boks participated in four interviews with the Committee staff and answered their questions accurately and truthfully. In the first, the investigators never mentioned Petroplus. The second and third were lengthy interviews that focused respectively on procurement and spare parts, not on oil transactions. In these interviews, the investigators asked several questions related to Petroplus and Mr. Boks answered them truthfully. It was only during the fourth interview that discussion focused specifically on Mr. Boks' conversations with Petroplus and Iraqi oil officials and his role in assisting communications between the two. As in the previous interviews, Mr. Boks answered the questions truthfully.

It may be that it would have been preferable if both Mr. Boks and Committee investigators had focused earlier on Mr. Boks's conversations regarding Petroplus. However, any failure by Mr. Boks to volunteer this information sooner should not cause the Committee to overstate or mischaracterize his conversations as constituting an "abuse of trust" or "serious conflict of interest." They were neither.

² Saybolt personnel routinely received requests for information or assistance from the Iraqis. For example, SOMO occasionally sought Saybolt's help in identifying companies capable of supplying particular types of spare parts badly needed to maintain Iraq's oil producing capacity. Mr. Boks and others typically responded to such requests. Indeed, given Saybolt's knowledge of the oil industry and its interest in advancing the objectives of the Programme, it would have been strange *not* to respond to such requests. The U.N. also encouraged Saybolt to make its communications facilities available to the Iraqis. In fact, doing so became a contractual requirement. The U.N.'s 2000 Request for Proposal ("RFP") soliciting bids for the oil inspection contract included the following: "In order to provide certain services indicated in the RFP, the oil inspection agents and group of experts may on occasion find it necessary to provide assistance to officials of the Government of Iraq with satellite communications systems."

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Independent Inquiry Committee
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The Conduct of Armando Oliviera

Aramando Oliviera, a Portuguese national, was a Saybolt inspector assigned to the Mina Al-Bakr offshore oil loading terminal in southern Iraq. The Committee proposes to find that in 2001 Mr. Oliviera was involved in two instances of “topping off” the vessel *Essex* (*i.e.*, loading more oil than the amount authorized under the Programme) and was paid by the Iraqis for his role in those events. Saybolt’s own investigations of these instances are not inconsistent with these conclusions. However, Saybolt asks the Committee to supplement its proposed findings by recognizing Saybolt’s central role in investigating these “topping off” incidents, bringing them to the attention of the United Nations, and taking appropriate action with respect to Mr. Oliviera. Without such a clarification, the report will be misleading.

When the “*Essex* incidents” first came to light in October 2001, Saybolt immediately investigated the incidents, conducted extensive interviews with everyone involved, including Mr. Oliviera, and reviewed all available relevant documentation relating to the loadings of the vessel. In October 2001, Saybolt presented its report and the findings of its investigation to the U.N.’s 661 Committee. Its investigation found no evidence that any Saybolt employees were aware that the *Essex* had been topped off or that there had been other incidents of topping off. Even though Saybolt’s mandate did not include the prevention of such incidents, the company put in additional procedures to ensure they did not occur in the future.

In late 2004, when press reports appeared that documents existed indicating Mr. Oliviera had received payments from the Iraqis in connection with the *Essex* incidents, Saybolt conducted a second extensive investigation. The company made several requests to the Committee and other investigative agencies to provide it with documents that would aid in this investigation. Those requests were denied. Saybolt saw these documents for the first time when the Senate Subcommittee on Investigations made them public in February 2005. Saybolt immediately suspended Mr. Oliviera, who then abruptly resigned from the company before Saybolt could terminate him under applicable Portuguese law.

To present a complete picture with respect to Mr. Oliviera, the Committee’s report should include these pertinent, undisputed facts regarding Saybolt’s investigations into these allegations as well as Saybolt’s prompt action once it obtained evidence of his wrongdoing.

Conclusion

For the foregoing reasons, we respectfully request that the Committee modify its proposed findings. Specifically, we request the Committee to expressly acknowledge the long and costly history of Saybolt’s cooperation with the Committee, as well as with other investigations; to characterize accurately Mr. Boks’s conduct and his cooperation with the Committee; and to recognize Saybolt’s primary role in bringing to light the topping off incidents in which Mr. Oliviera was involved and taking appropriate action when evidence of his role in those incidents became available.

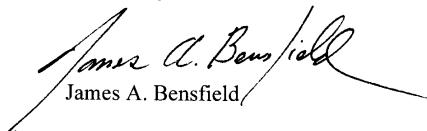
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Susan M. Ringler
Independent Inquiry Committee
October 13, 2005
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In the event the Committee does not adopt these suggested changes, we request that it make this letter a part of its report. Please do not hesitate to contact us if you have any questions about or wish to discuss any issue raised herein.

Thank you very much for your consideration.

Yours truly,



James A. Bensfield

cc: Michael T. Cornacchia
Chief Investigative Counsel

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ATTACHMENT

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May 10, 2005

VIA FEDERAL EXPRESS

Michael T. Cornacchia
Chief Investigative Counsel
Independent Inquiry Committee
United Nations Oil-For-Food Programme
825 Third Avenue, 15th Floor
New York, New York 10022

Re: IIC Interview Requests

Dear Mr. Cornacchia:

We write to confirm the position of our client Saybolt International, B.V. ("Saybolt") in response to the IIC's recent request for interviews of current Saybolt employees.

By way of background, it bears noting that Saybolt has fully cooperated with the Committee's investigation since the IIC was formed over a year ago. The company has produced hundreds of thousands of documents, made many of its current and former employees available for interviews on multiple occasions (in Rotterdam and in the U.S.), met on several occasions with IIC staff in New York, and promptly responded to all of the Committee's periodic requests for information. During the same period, Saybolt has also responded in similar fashion to other investigative bodies looking into the Oil for Food Program ("OFFP"), including the U.S. Attorney's Office (SDNY) and several congressional committees – three of which have requested that Saybolt representatives testify at hearings.

Responding to these requests has taken an extraordinary toll on the company's resources in terms of legal fees and expenses, not to mention time lost by numerous Saybolt employees of whom several are in key managerial positions. For this reason, on January 25, 2005, the company submitted a letter to the United Nations Procurement Division seeking compensation for costs incurred in responding to the OFFP investigations (*see Attachment*). As Saybolt stated in the letter, it believes such compensation is required by the terms of its contract with the United Nations, as well as by considerations of fundamental fairness. As of this writing, despite several follow-up inquiries, Saybolt has yet to receive a response from the U.N.

In light of this background, Saybolt is not in a position to accommodate the IIC's pending request for interviews with up to ten current company employees. As we have

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Michael T. Cornacchia

May 10, 2005

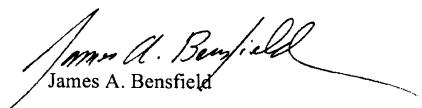
Page 2

discussed, those employees are assigned to locations literally around the globe. In addition to The Netherlands, they are stationed in Sweden, Jordan, Saudi Arabia, Portugal, Russia (Moscow and Vladivostok), and Australia. To fly them all to Rotterdam for interviews as you initially requested would be extremely expensive. Although you have suggested that IIC investigators might travel to these far-flung locations to conduct the interviews (or, alternatively, might pay the air fare for the employees' flights to Rotterdam), Saybolt would still incur substantial legal fees and expenses in connection with each interview and, again, would lose the time spent by the employees in preparing for and participating in the interviews. This it is simply not in a position to do.

Saybolt is proud of its work in the Oil for Food Program and has voluntarily cooperated with each of the many on-going investigations. In the case of the IIC, however, it has regrettably reached the financial limits of that cooperation – particularly in light of the U.N.'s failure to even *respond* to the company's letter of over four months ago seeking compensation for costs to which it believes it is entitled.

Please do not hesitate to contact us if wish to discuss the issues raised herein.

Yours truly,



James A. Bensfield

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HOMER E. MOYER, JR.
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January 25, 2005

VIA FEDERAL EXPRESS

Procurement Division
UNITED NATIONS
Attn: Mr. Andrew Toh, Chief
Procurement Division/OCSS
#304 East 45th Street, Room FF-202
New York, NY 10117

Re: Payment to Saybolt for Responding to Investigations of United Nations' Oil-for-Food Programme

Dear Mr. Toh:

Saybolt Eastern Hemisphere, B.V. ("Saybolt") hereby requests that the United Nations ("U.N.") provide payment to reimburse Saybolt for the efforts it has undertaken in responding to investigations into the Oil-for-Food Programme ("OFFP"), including the U.N.'s own investigation being conducted by the Independent Inquiry Committee ("IIC"). Saybolt has incurred substantial costs in responding to these investigations, by providing relevant information and U.N. documents, consistent with U.N. directives and guidance. As discussed below, the terms of the Contract between Saybolt and the U.N. provide that where Saybolt is asked to perform work beyond the scope of the Contract, Saybolt is entitled to compensation. Moreover, considerations of fairness dictate that the U.N. should compensate Saybolt to offset these unanticipated costs.

Background

Beginning in 1996, Saybolt entered into a series of contracts with the U.N. to provide independent oil trade inspection services in connection with the U.N.'s Oil-for-Food Programme. In performing its responsibilities, Saybolt monitored the quantity and quality of oil exported from Iraq at three designated oil loading or transfer sites. During the years that Saybolt was under contract with the U.N., it monitored more than 2600 loadings totaling approximately 3.4 billion barrels of oil. Following the downfall of the Saddam Hussein regime, and in recognition of the newly established Iraqi interim administration, in May 2003 the U.N. Security Council lifted civilian sanctions against Iraq and terminated the OFFP.

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During the life of the OFFP, the U.N. also contracted with Saybolt to perform other services, including monitoring the storage, delivery, and utilization of spare parts imported to maintain and develop the Iraqi oil industry. In addition, Saybolt was retained to coordinate three reports by groups of experts that addressed Iraqi oil production and transportation capacity, plans to import spare parts and equipment for the oil industry, and further evaluations of proposed expenditures on equipment and spare parts.

Saybolt satisfactorily performed its responsibilities under each of these contracts, despite a variety of hardships, including isolation, harsh living conditions, the absence of functioning measuring equipment, political tensions, and military conflict. In performing its contractual obligations, Saybolt generated more than 250,000 documents. These documents have remained in Saybolt's custody, and have become the target of various investigations described below.

Investigations into the U.N. Oil-for-Food Programme

Within one year of the conclusion of Saybolt's contract with the U.N., the OFFP became the subject of multiple investigations. In April 2004, the U.N. itself initiated an investigation by appointing the IIC to conduct a full investigation into the operation of the OFFP. Soon thereafter, in a Secretariat Bulletin dated June 1, 2004, U.N. Secretary-General Kofi Annan instructed all U.N. staff members "to give the [IIC] unrestricted access, without prior approval, to all documents and information...related to the oil-for-food programme that are in their possession or under their control." The IIC began to obtain contractor records and conduct interviews of contractor personnel.

In a letter dated June 10, 2004, the IIC advised Saybolt of its investigation and requested that Saybolt provide copies of all documents in its possession relevant to the OFFP. Specifically, Stephen S. Zimmerman, Acting Chief of Staff of the IIC, requested "[o]n behalf of the Independent Inquiry Committee ('IIC') appointed by the United Nations Secretary-General to conduct an investigation into the operation and circumstances of the Oil-for-Food Programme ('OFFP') in Iraq" . . . "[a]ll documents related to the OFFP, . . . [a]ll computer or electronic files" related to administering the OFFP, and "[a]ll documents or materials provided in response to any subpoena or other request for information related to OFFP." The IIC also requested notice of any documents provided by Saybolt in response to "any subpoenas or other requests" received after the date of that letter.

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Saybolt has also received requests for documents and other information from the U.S. Senate Permanent Subcommittee on Investigations; the National Security Subcommittee of the House Committee on Government Reform; the Oversight and Investigations Subcommittee of the House Energy and Commerce Committee; the Senate Foreign Relations Committee; a United States Grand Jury convened in the Southern District of New York; and the United States Securities and Exchange Commission.

Initially, the IIC took the position that Saybolt, as a U.N. contractor, should not provide documents in response to requests from investigations other than the IIC investigation. This position became a public issue for the U.N. and was raised in U.N. press briefings. In a U.N. press briefing held on May 19, 2004, for example, in response to a question about a letter from the U.N. to Saybolt instructing Saybolt not to release certain documents, the U.N. spokesman noted that the U.N.'s contracts with contractors "provided for the confidentiality of documentation" and that the letters "that went out to...the oil inspectors" were to remind them of their obligation to maintain the confidentiality of the U.N. documents in their custody.

In its communications with Saybolt and with Congressional Committees, the U.N. made clear that, in accordance with paragraph 13.1 of Annex I to the Contract, the documents generated by U.N. contractors during the course of performance of their contracts were the property of the U.N.¹ The U.N. cautioned Saybolt not to produce documents without its prior consent.

Ultimately, however, the IIC authorized Saybolt to produce documents, but only in response to requests from authorities that had subpoena power. Consistent with this instruction, Saybolt has repeatedly produced the more than 250,000 OFFP documents in its possession and agreed to cooperate with the IIC investigation, the Southern District of New York grand jury subpoena, and the numerous requests of Congressional committee investigations. In doing so, Saybolt undertook the necessary process of locating, gathering, reviewing, indexing, copying, and ultimately producing the U.N. documents that were the subject of the various investigative requests.

¹ Annex I, paragraph 13.1 provides: "All . . . 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."

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In responding to the requests of the IIC and the various other investigative bodies, Saybolt has been obliged to shoulder a mammoth administrative burden in providing the requested U.N. documents and in providing investigators with information about the OFFP. In doing so, it has necessarily incurred substantial expenses above and beyond its obligations in its underlying contract with the United Nations.

Saybolt Is Entitled To Payment Under Paragraph 3.8 of the Contract

The Contract's Scope of Work (paragraph 3.1) provides that the "Contractor undertakes to provide independent inspection agents . . . as required to achieve the objective of this Contract." Article 3 of the Contract, entitled "Objective of Contract," provides:

Under this contract, the Contractor will provide all services, equipment and materials in the (i) monitoring of the export of petroleum and petroleum products and (ii) monitoring inside Iraq of oil spare parts and equipment. The activities referred to in clauses (i) and (ii) above are hereinafter referred to as the "Services."

Saybolt satisfactorily performed the Services specified in the Contract, and was paid for the Services in accordance with the terms of the Contract.

Nothing in the Services described in the Scope of Work contemplated that after termination of the Contract Saybolt would be required to produce multiple sets of documents and other information concerning the OFFP to the U.N. and to multiple other agencies. However, the Contract contains a provision that expressly gave the U.N. the right to direct Saybolt to perform such services. Specifically, paragraph 3.8 of the Contract provides:

The UN may *at any time* expand or reduce the Services to be performed by the Contractor under this Contract . . . 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.

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It was pursuant to this provision in the Contract that the U.N., through its own statements and directives as well as through the statements and directives of the IIC, directed Saybolt to respond to requests for documents and information from the IIC and from other agencies. These statements and directives unequivocally constitute an "expansion" of the Services to be performed by Saybolt under the Contract, in accordance with paragraph 3.8.

Saybolt has performed in accordance with the U.N.'s statements and directives by responding fully to each request for Saybolt's OFFP documentation and information, from the IIC and other investigators. Responding to these requests has entailed months of work to collect, scan, copy, index, organize, review, data base, digitize, and produce hundreds of thousands of U.N. documents. Saybolt also needed to interview dozens of individuals who served as inspectors and monitors under the OFFP, some of whom are Saybolt employees and some of whom are not. Saybolt has similarly been obliged to respond to numerous inquiries, many parallel or duplicative, from various investigators who have requested briefings or information ranging from the mechanics and technology of oil inspection monitoring to queries about details in documents that none of the inspection teams has been willing or able to share with Saybolt.

Paragraph 3.8 recognizes that where, as here, a "modification in the Contractor's responsibilities shall reasonably cause the Contractor's expenses . . . to increase . . . , the Parties shall mutually agree on a corresponding change to the contract price." Saybolt's additional responsibilities clearly have caused its expenses to increase substantially. Accordingly, pursuant to Article 3.8, Saybolt is entitled to an increase in the contract price corresponding to the additional expenses incurred by Saybolt as a result of its U.N.-authorized compliance with requests for information.

Saybolt is continuing to incur expenses in responding to requests for information and documents. Although the company therefore cannot yet identify all expenses for which it is entitled to compensation, it can provide an accounting of costs incurred to date and update them, as appropriate, in the future.

Additional Considerations

Considerations of equity and fairness reinforce the appropriateness of a price adjustment in Saybolt's contract with the United Nations. By acting promptly and responsibly in response to the U.N.'s and the IIC's statements and directives, Saybolt has effectively acted on behalf of, and as an agent of, the United Nations and has relieved the U.N. of cost burdens that it would otherwise have borne. The target of the multiple ongoing investigations is principally the U.N.'s Oil-for-Food programme, not Saybolt. Nonetheless, a substantial burden of responding

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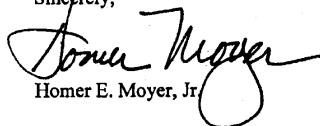
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to these investigations has fallen on Saybolt because, as a principal U.N. contractor, Saybolt is a source of information and documentation about the OFFP and its operation. Had Saybolt not responded to the continuous demands and inquiries of investigators, that burden would have fallen directly on the U.N., which would have been unable to respond as promptly or cost-efficiently as Saybolt has.²

Moreover, unlike some of the other companies involved in the OFFP, Saybolt is a relatively small company for whom the cost burdens of responding to multiple investigations are potentially crippling. Further, Saybolt is not seeking any compensation for the very substantial costs it has incurred in the form of the time burdens placed on the company's small senior management team. Its specific request for a price increase is based upon the out-of-pocket costs it has incurred in responding to the IIC's and other agencies' investigations. It is therefore appropriate and fair that Saybolt be compensated for its costs of responding to the OFFP investigations.

We are prepared to meet with you at your convenience to discuss with you how best to proceed. We very much appreciate your prompt attention to this matter.

Sincerely,



Homer E. Moyer, Jr.

² Thus far, this documentary record, supplemented by the personal records and testimony of Saybolt employees and inspectors, has been a principal focus of the investigations to date. As the IIC investigation proceeds beyond its current examination of the procurement process to the execution phase of the contracts, the documentary record that Saybolt has organized and produced will become even more the focus of attention of investigators examining the oil export side of the OFFP.

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I. INTRODUCTION AND SUMMARY

As part of its investigation, the Committee has reviewed the performance and activities of officials appointed to serve as Humanitarian Coordinator in Iraq during the Programme. The Humanitarian Coordinator was principally responsible for managing the Programme’s implementation in Iraq, including supervising and coordinating the Programme’s distribution activities and implementing the United Nations’ observation mechanism to monitor the distribution and use of Programme goods in Iraq. The Humanitarian Coordinator reported directly to the Executive Director of OIP and headed the Office of the Humanitarian Coordinator in Iraq (“UNOHCI”).⁸²⁰

In the course of the Committee’s investigation, it has received allegations concerning the conduct of two former Humanitarian Coordinators—Hans von Sponeck and Tun Myat—with respect to their dealings with certain contractors under the Programme. As discussed below, the Committee does *not* find that the interactions of Mr. von Sponeck and Mr. Myat with Programme contractors violated existing United Nations Staff Regulations or Staff Rules. However, their activities illustrate two distinct ethical dilemmas confronted by United Nations staff members—one involving post-employment business activities (Mr. von Sponeck) and another involving responses to requests for official assistance from persons of their home countries (Mr. Myat).

In the case of Mr. von Sponeck, who had extensive dealings with Programme contractors very soon after he left employment with the United Nations, his circumstances highlight the need for the United Nations to strengthen its post-employment conflict-of-interest safeguards. Specifically, the United Nations should preclude staff members from engaging in business activities involving their former programs for a reasonable period of time after separating from the United Nations.

In the case of Mr. Myat, who responded to requests for assistance with Programme transactions from a contractor in his home country of Myanmar, his circumstances illustrate the need for the United Nations to clarify its rules governing the manner in which United Nations staff members respond to requests for official assistance from private parties based in their home countries. This clarification is needed in order to prevent the possibility or appearance of preferential treatment on the basis of national affiliation. In addition, Mr. Myat failed to file required financial disclosure forms over the course of several years, and the United Nations did little to prevail on Mr. Myat to comply with this obligation. It is clear that the United Nations must put into place more stringent safeguards to monitor compliance with and enforce existing ethical requirements, such as the filing of financial disclosure statements by senior United Nations officials.

⁸²⁰ “Programme Management Report,” vol. III, pp. 17-18 (describing the functions of the Humanitarian Coordinator and UNOHCI).

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II. HANS VON SPONECK

Mr. von Sponeck served as Assistant Secretary-General and Humanitarian Coordinator in Iraq from October 1998 through the end of March 2000. Throughout his tenure as Humanitarian Coordinator, Mr. von Sponeck outspokenly opposed the United Nations sanctions in Iraq, and he ultimately resigned his position in protest of the sanctions. After leaving his employment and while continuing his public efforts to persuade the United Nations to discontinue sanctions, Mr. von Sponeck participated in United Nations staff development events concerning Iraq, including speaking engagements and presentations discussing his written works about sanctions in Iraq.⁸²¹

Mr. von Sponeck's well-known opposition to the sanctions and his experience as Humanitarian Coordinator made him attractive both to Government of Iraq officials trying to lift sanctions and to individuals and businesses seeking the assistance of an intermediary to obtain contracts from the Government of Iraq under the Programme.⁸²²

Mr. von Sponeck solicited financial contributions for his sanctions-related work from corporations seeking to do business with Iraq under the Programme, including funds for the placement of an advertisement against the sanctions in the *International Herald Tribune*. In September 2000, approximately six months after resigning from the United Nations, Mr. von Sponeck entered into a business arrangement to assist Josef Bauer, Chief Executive Officer of Bauer AG (a German company), by introducing company representatives to senior Iraqi officials who were influential in awarding Programme contracts. This company compensated Mr. von Sponeck for his efforts and assumed full financial responsibility for Mr. von Sponeck's expenses associated with any trips to Iraq on its behalf. Mr. von Sponeck also used such trips to further his anti-sanctions work.⁸²³

⁸²¹ Hans von Sponeck interviews (May 16-18, 2005); Hans von Sponeck personnel file, United Nations Office of Human Resources Management, extension of secondment (Nov. 15, 1999); Hans von Sponeck letter to Kofi Annan (Feb. 10, 2000) (resigning as Humanitarian Coordinator); Hans von Sponeck e-mail to the Committee (Oct. 7, 2005) (appending a travel itinerary of his Iraqi engagements from March 30, 2000 to November 23, 2004).

⁸²² Adnan Jarrar interview (Apr. 24, 2005); Josef Bauer interview (June 29, 2005); Murtaza Lakhani interview (Aug. 7, 2005). When interviewed, a senior Iraqi official stated that he was instructed by a higher-level official to offer Mr. von Sponeck an allocation of oil under the Programme as a parting gift upon Mr. von Sponeck's departure from his United Nations position; this official recalled that Mr. von Sponeck angrily rejected the offer. Iraq official interview. Mr. von Sponeck denied that an allocation of oil ever was offered to him. Hans von Sponeck interviews (May 16-18 and Oct. 7, 2005). Mr. Jarrar served as Information Officer for UNOHC during part of Mr. von Sponeck's tenure in Iraq and was present for public meetings that Mr. von Sponeck had with members of the media. Adnan Jarrar interview (Apr. 24, 2005). Mr. Lakhani is a businessman who transacted in oil under the Programme. Murtaza Lakhani interview (Aug. 7, 2005). The Committee does not suggest that it was illegal for a private company to seek Mr. von Sponeck's assistance to obtain business from Iraq under the Programme.

⁸²³ Hans von Sponeck e-mail to the Committee (Oct. 7, 2005); Cambridge Solidarity with Iraq ("CASI"), "Not in our names!," <http://www.casi.org.uk/oldsites/iht/statement.html> (reproducing a statement in

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At the conclusion of that relationship, in the latter part of 2001, Mr. von Sponeck entered into a business arrangement with Murtaza Lakhani, owner of Continental Oil, Ltd. This business arrangement was less defined and lasted longer than his relationship with Mr. Bauer, terminating shortly after the fall of the former Iraqi regime in the spring of 2003. Mr. Lakhani facilitated financial opportunities for Mr. von Sponeck and assumed financial responsibility for certain expenses associated with Mr. von Sponeck's peace and anti-sanctions efforts in Iraq. In exchange, Mr. Lakhani sought to advance his business interests by requesting Mr. von Sponeck to influence prominent Iraqi officials. Mr. Lakhani stated that he did not know if Mr. von Sponeck spoke on his behalf with Iraqi officials, but he recalled that—after he enlisted Mr. von Sponeck's assistance—Iraq granted his request for additional oil under the Programme. Although Mr. von Sponeck has acknowledged that Mr. Lakhani sought his intercession with Iraqi officials, he stated that he was "non-committal" with Mr. Lakhani about what efforts he would make, and he denied speaking with Iraqi officials on Mr. Lakhani's behalf.⁸²⁴

Mr. von Sponeck's activities relating to the Programme in Iraq should have been subject to post-employment restrictions in order to safeguard against the possibility of an actual or apparent conflict of interest. Consistent with its earlier recommendations for a more robust conflict-of-interest framework, the Committee recommends that the United Nations consider—on the basis of other organizational models—the implementation of post-employment guidelines. These guidelines should restrict, for a reasonable period of time, a former employee's involvement in business activities concerning the former employee's United Nations program functions.⁸²⁵

support of lifting the sanctions imposed against Iraq, which was printed in the *International Herald Tribune* on March 20, 2002, along with approximately 250 signatories); CASI, "Signatories," <http://www.casi.org.uk/oldsites/iht/signatories.html> (noting the signatories to this statement, which included Mr. von Sponeck); Josef Bauer interview (June 29, 2005); Murtaza Lakhani interview (Aug. 7, 2005); Hans von Sponeck interviews (May 16-18 and Oct. 7, 2005).

⁸²⁴ Murtaza Lakhani interview (Aug. 7, 2005); Hans von Sponeck interview (Oct. 7, 2005).

⁸²⁵ Current staff rules impose a post-employment restriction on staff members from disclosing non-public information acquired by reason of their official position. ST/SGB/2005/5 (Mar. 15, 2005) (hereinafter "2005 Staff Regulations"), Regulation 1.2(i) and commentary; see also ST/SGB/2002/13 (Nov. 1, 2002) (hereinafter "2002 Staff Regulations"), Regulation 1.2(i) and commentary (including this same restriction in an earlier version of the Staff Regulations); ST/SGB/1998/19 (Dec. 10, 1998) (hereinafter "1998 Staff Regulations"), Regulation 1.2(i) and commentary (same). There is otherwise no broader conflict-of-interest restriction governing post-employment activities of United Nations staff members. "Programme Management Report," vol. IV, pp. 187-88.

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III. TUN MYAT

From April 2000 through July 2002, Mr. Myat of Myanmar served at the level of Assistant Secretary-General as Humanitarian Coordinator in Iraq. Thereafter, he transferred to the post of United Nations Security Coordinator in New York, which he held from July 2002 until his forced resignation in April 2004—in the wake of the bombing of the United Nations headquarters at the Canal Hotel in Baghdad.⁸²⁶

While Mr. Myat served as Humanitarian Coordinator, Dagon Timber Limited (“Dagon Timber”), a Myanmar company, successfully negotiated contracts for sale of teak wood to Iraq in November 2001 and March 2002—after this type of teak wood was allowed in 2000 for the first time to be imported into Iraq under the Programme. According to Mr. Myat, the type of teak wood was a specialized form of Burma teak that Iraq had long imported from Myanmar (Burma), and Dagon Timber was a premier exporter of this product. During this time period, Win Aung, the chairman of Dagon Timber, and Mr. Myat formed a lasting friendship, after meeting each other in Baghdad when Mr. Aung traveled there with a Myanmar trade delegation. When interviewed, Mr. Myat and Mr. Aung both stated that Mr. Myat did not assist Dagon Timber in obtaining these contracts from Iraq, and the Committee does not have contrary evidence suggesting that Mr. Myat intervened to assist Dagon Timber to obtain these contracts.⁸²⁷

After securing contracts under the Programme, Dagon Timber encountered a series of problems in delivery of its goods to Iraq, with consequential delays in receiving payment. Many of these problems arose in connection with the general state of disorder following the onset of military hostilities in March 2003. As reflected in a large number of e-mails over the course of approximately one year, in lieu of proceeding through established channels for resolving such problems within the Programme, Mr. Aung repeatedly sought and received assistance directly

⁸²⁶ Tun Myat personnel file, United Nations Office of Human Resources Management (May 31, 2000) (discussing Mr. Myat’s appointment as Humanitarian Coordinator); “Secretary-General Appoints Tun Myat of Myanmar as New United Nations Security Coordinator,” SG/A/800 (May 10, 2002); “Annan takes strong disciplinary measures after probe reveals security failures in Iraq,” *UN News Centre*, Mar. 29, 2004 (announcing the Secretary-General’s call for Mr. Myat’s resignation as Security Coordinator in response to findings of the Security in Iraq Accountability Panel regarding the bombing of the United Nations’ headquarters in Iraq at the Canal Hotel in Baghdad); Tun Myat interview (July 26-27 and Aug. 10, 2005); Rosemary McCreery letter to Tun Myat (Apr. 7, 2004) (accepting Mr. Myat’s tender of resignation). Ms. McCreery is Assistant Secretary-General for Human Resources Management. *Ibid.*

⁸²⁷ Programme contracts, Iraq contract nos. 10-H-00104 (Nov. 26, 2001) (involving the Iraqi Ministry of Trade and Dagon Timber), 11-11-00126 (Mar. 5, 2002) (same); Tun Myat letter to the Committee (Oct. 20, 2005); Tun Myat interviews (July 26-27 and Aug. 10, 2005); Win Aung interview (Aug. 18, 2005). Mr. Aung has acknowledged that he agreed to pay after-sales-service and inland transport fees to the Iraqi regime in connection with the company’s two contracts. *Ibid.*; Company side agreements, COMM nos. 1001246 (Nov. 4, 2001), 1100189 (Mar. 5, 2002); Committee humanitarian kickback table, COMM nos. 1001246, 1100189 (indicating Dagon Timber’s payments of more than €700,000 in after-sales-service and inland transportation fees). The Committee does not have evidence that Mr. Myat was aware of these kickback payments.

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from Mr. Myat (who by this point in time was serving in New York as United Nations Security Coordinator). In turn, Mr. Myat repeatedly contacted relevant Programme officials at the United Nations to seek their assistance for Dagon Timber, while keeping Mr. Aung apprised of his efforts.⁸²⁸

When interviewed, Mr. Myat acknowledged that the proper channel for companies such as Dagon Timber to raise Programme-related problems would have been through the Permanent Mission of Myanmar to the United Nations in New York. Mr. Myat recognized that Mr. Aung solicited his assistance because he was a “co-national” and felt obliged because of their shared nationality to assist him. Mr. Myat, however, stated his view that his assistance to Dagon Timber was not improper and would be open to criticism only if he were trying to acquire business for Dagon Timber.⁸²⁹

Mr. Myat’s most recent letter to the Committee asserts that Dagon Timber approached him “because they were not receiving the required guidance, help and attention from OIP’s Contract Processing and from the CPA during the weeks and months following the war.” The Committee, however, does not have evidence that Dagon Timber attempted to resolve its difficulties through the Myanmar Mission or that Mr. Myat suggested it do so. Mr. Myat further states that he was doing “nothing more than on-forwarding Dagon’s e-mail messages to the relevant personnel at the Treasury or OIP.” To the contrary, Mr. Myat forwarded the e-mails to lower-ranking United Nations staff members, requesting that assistance be provided and that progress be reported back to him.⁸³⁰

⁸²⁸ Win Aung interview (Aug. 18, 2005); Win Aung or Moe Mya Mya e-mails to Tun Myat (Feb. 28, Mar. 17, 20, and 29, June 5, and Dec. 6, 29, and 31, 2003; Jan. 13 and 22, 2004) (involving correspondence between Mr. Myat and Mr. Aung or Mr. Aung’s wife, who was a Dagon Timber director); Tun Myat e-mails to Win Aung (Mar. 9 and 28, Apr. 2, Sept. 25, Oct. 7, and Dec. 31, 2003; Jan. 12, 2004). The following are e-mails between Mr. Myat and United Nations personnel in OIP or Treasury. The first series of e-mails occurred from March 20 to 27, 2003: Tun Myat e-mail to Jennifer Carpio (Mar. 20, 2003); Jennifer Carpio e-mails to Tun Myat (Mar. 20 and 27, 2003); Jennifer Carpio e-mail to Magnus Ahlin (Mar. 25, 2003). The second series of e-mails occurred from May 29 to August 5, 2003: Win Aung e-mail to Benon Sevan (May 29, 2003); Felicity Johnston e-mail to Tun Myat and Win Aung (June 6, 2003); Farid Zarif e-mail to Felicity Johnston and Darko Mocibob (June 7, 2003); Tun Myat e-mail to Felicity Johnston (Aug. 4, 2003); Felicity Johnston e-mail to Nishith Goyal (Aug. 4, 2003); Nishith Goyal e-mail to Win Aung (Aug. 5, 2003). The third series of e-mails occurred from December 12 to 18, 2003: Tun Myat e-mails to Farid Zarif (Dec. 12 and 18, 2003); Farid Zarif e-mails to Teklay Afeworki (Dec. 12, 2003); Teklay Afeworki e-mail to Farid Zarif (Dec. 12, 2003); Tun Myat e-mail to Teklay Afeworki (Dec. 18, 2003). Some of these e-mails included status updates from Mr. Myat to Mr. Aung on his efforts.

⁸²⁹ Tun Myat interviews (July 26-27 and Aug. 10, 2005).

⁸³⁰ Tun Myat letter to the Committee (Oct. 20, 2005); see, e.g., Tun Myat e-mail to Jennifer Carpio (Mar. 20, 2003) (forwarding e-mail and stating: “I’d be most grateful if you could kindly look into this matter advise me pse. Many tks.”); Tun Myat e-mail to Teklay Afeworki (Mar. 19, 2003) (forwarding e-mail with cover note stating “Help!” and “Grateful if you can put me in a position to reassure them pse.”); Tun Myat e-mail to Farid Zarif and Teklay Afeworki (Dec. 18, 2003) (“Very many thanks for your respective

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The Committee does not have evidence that Mr. Myat held a managerial or financial interest in Dagon Timber or that he personally benefited from Dagon Timber’s contracts under the Programme. Mr. Myat granted consent to access his financial records, and—to the extent that financial institutions have timely responded to the Committee’s requests for records—there is no indication that Mr. Myat received any remuneration from Dagon Timber.

In the course of reviewing Mr. Myat’s financial condition, it was discovered that Mr. Myat did not file annual financial disclosure forms—an obligation imposed upon those United Nations staff members serving at the level of Assistant Secretary-General and higher. Despite annual written notifications to Mr. Myat reminding him of this obligation, it does not appear from a review of United Nations records that Mr. Myat filed financial disclosure forms from 2000 to 2004.⁸³¹ After being advised of the lack of record of his filing financial disclosure forms, Mr. Myat replied that he should have been more careful about administrative requirements, but he “kept putting it off and never got around to it.” Mr. Myat asserted that his failure to file financial disclosure forms for five years was an “innocent lapse” with “no devious intent.”⁸³²

A different question presented is whether Mr. Myat improperly used his office “for the private gain of any third party, including family, friends and those they favour,” in violation of Staff Regulation 1.2(g). On balance, however, because there is no evidence that Mr. Myat assisted Dagon Timber in obtaining its contracts, and because his efforts were directed only to redressing delivery and payment delays for contracts that already had been obtained, it is not clear that Mr. Myat’s conduct violated this regulation.⁸³³

Nevertheless, Mr. Myat’s extensive efforts on behalf of Dagon Timber seem to have amounted to far more than a simple courtesy response to a countryman’s call for publicly available information or for general guidance about navigating the United Nations system. Anecdotal

interventions; grateful if I could be informed further as and when confirmation from BNP is received thanks.”).

⁸³¹ 2002 Staff Regulations, Regulation 1.2(m) and commentary (prohibiting staff members from active association with management of or financial interest in business if it is possible for staff member to benefit from such association by reason of his or her position with the United Nations); 1998 Staff Regulations, Regulation 1.2(n) (requiring filing of financial disclosure forms by staff members at the Assistant Secretary-General level and above); “Financial disclosure statements,” ST/SGB/1999/3 (Apr. 28, 1999) (addressing staff disclosure obligations pursuant to Staff Regulation 1.2(n) and Staff Rule 101.2(o)); United Nations letters to Tun Myat (Apr. 12, 2000; Jan. 30, 2002; Jan. 29, 2003; Mar. 1, 2004) (discussing financial disclosure requirements under Staff Regulation 1.2(n) and requesting submission of the requested financial disclosure form by designated dates); Mark Malloch Brown letter to the Committee (Sept. 29, 2005) (stating that there is no record of Mr. Myat filing a financial disclosure statement from 2000 to 2004 and that “[i]t would seem that, notwithstanding the annual standard request sent to all concerned, Mr. Myat never filed any financial disclosure statement”).

⁸³² Tun Myat letter to the Committee (Oct. 20, 2005); Tun Myat interview (Oct. 19, 2005).

⁸³³ 2002 Staff Regulations, Regulation 1.2(g) (prohibiting a staff member from using his or her office “for the private gain of any third party, including family, friends and those they favour”).

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evidence suggests that it is commonplace at the United Nations for staff members to be contacted for assistance by private parties from their home country. Given this reality, the Organization would benefit from providing clearer guidance to govern the conduct of staff members in responding to such requests, particularly where their efforts could be perceived as granting preferential treatment on account of shared nationality..

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IV. RESPONSES OF HUMANITARIAN COORDINATORS

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A. RESPONSE OF TUN MYAT

303 East 57th Street,
Apartment 9D,
New York,
NY 10022.

October 20, 2005

Mr Reid Morden
Executive Director,
Independent Inquiry Committee
825 Third Avenue, 15th Floor,
New York,
NY 10022.

Dear Mr Morden,

I received your letter dated October 14, 2005, providing a three paragraph summarized account of what the IIC intends to include in the next instalment of the Committee's report, in reference to me. While I believe that none of the issues is of sufficient import or relevance to warrant a mention in such a report, I nevertheless appreciate the opportunity given to comment thereon.

With regard to Dagon Timber, as I have explained to the Committee's investigators, the 'humanitarian aid contracts' in question covered the supply of "Burma Teak", not just "wood" or "timber" or even "teak" but very specifically "Burma Teak" and precisely described as such in the Iraqi Ministry of Trade's relevant tender document and procurement contract. This was because Iraq has had a long tradition of procurement of this particular type of timber from Burma (Myanmar) in the many years prior to the UN sanctions. Even after the advent of the Program in 1997, they were not permitted to procure "Burma Teak" until the Security Council agreed to the addition of Housing as a new major sector in the year 2000. Dagon Timber is the premier exporter of 'Burma Teak' in Myanmar and therefore it is hardly surprising that they won these two particular tenders in 2001 and 2002. After all, which other country would you think would have been able to supply "Burma Teak" cheaper than Burma (Myanmar)? To insinuate, as this paragraph attempts to do, that this company somehow won these contracts because a fellow country-man was the Humanitarian Coordinator in Iraq at the time is totally false and uncalled for. I must therefore request a deletion of this paragraph altogether.

It is true that when one of Dagon's shipments ran into a series of problems as a direct result of the outbreak of war in March 2003, they did solicit my help. They did so because they were not receiving the required guidance, help and attention from OIP's Contract Processing and from the CPA during the weeks and months following the war, given the utter confusion and uncertainty that prevailed then. In other words, they sought my assistance, not so much "in lieu of proceeding through established channels" as the draft report states but more accurately, out of some desperation and "in addition to proceeding through established channels". I am also quite intrigued to note the rather

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colourful and somewhat over-dramatic language used in the draft to describe the simple assistance I provided. As far as I can recall, it was nothing more than on-forwarding Dagon's e-mail messages to the relevant personnel at the Treasury or OIP. It is also ironic that despite the help which I tried to render and for which I seemed to be faulted by the Committee, I understand that the distressed part-shipment in question never made it to Iraq within the time limit stipulated by the CPA and as a result, Dagon never received payment for it.

With regard to my not having filed annual financial disclosures, this was clearly an innocent lapse on my part for which the fault is mine and mine alone. It certainly was not an omission with any devious intent, but merely an administrative infraction. The Committee's investigators have already carried out a very intense and thorough review of my bank and credit union records and statements going back over the last seven years, before they assured themselves (and me) that there were no inexplicable transactions nor were there any hint of financial wrongdoing on my part. In the circumstances, any reference to the annual financial disclosures in the Committee's report would be entirely out of context and would be highly prejudicial, misleading and unfair to me. I submit therefore that it be either deleted in its entirety or if this is not possible, I suggest that you add a commensurable statement to the effect that my financial affairs have been vetted by the Committee's investigators and fully cleared.

In the event that the Committee is unable to accede to my submissions for the complete deletion of the paragraphs in question, I respectfully request that this letter be appended to the Committee's report and published in full. I thank you for your consideration.

Sincerely



Tun Myat

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B. RESPONSE OF H.C. VON SPONECK

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| <p>Hans-C. GRAF SPONECK</p> <p>✓ Copy For () Special Counsel IIC Fax 1-212-842-2555</p> <p>For your information. Sincerely,  H.C. von Sponeck</p> <p style="text-align: center;">16 October 2005</p> <p>Mr. Reid Morden Executive Director Independent Inquiry Committee 825 Third Avenue Fax: 1-212-842.2555</p> <p>Dear Mr. Morden,</p> <p>Thank you for your letter of 15 October 2005. The 3 paragraphs which you intend to include in the forthcoming report are a fair account of the contacts I maintained with Messrs. Bauer/Lahkani. For further clarification, particularly since the media will have access to the IIC document, I would ask the Committee to agree to the following amendments in two out of the three paragraphs:</p> <p>a) para 1, sentence 2.: "...in pursuing negotiations for the export of milk powder." (Note: The Bauer AG is a milk product producing company. My agreement with Chairman Bauer to cooperate with him was based on his interest in exporting milk powder.)</p> <p>b) para 2: I initially met Lahkani in 2001 in Geneva at a social function at which he agreed to make a contribution to an anti-sanctions ad in the IHT. He was introduced to me as a 'trader', not an oil trader. He spoke to me about his interest in importing rice and construction materials into Iraq and exporting oil from Iraq. The name 'Continental Oil' became known to me only after I received the third tranche of payment for the writing of articles for EastWest Records in Beirut in 2003.</p> <p>Burgunderstr. 26, D-79373 MÜLLHEIM/BADEN - GERMANY Tel. (49-7631) 937 910, Fax (49-7631) 937 911, e-mail: von_sponeck@yahoo.com</p> <p>The names of Committee Investigators have been redacted from all letters included in the Appendices</p> | | |

REPORT ON PROGRAMME MANIPULATION

CHAPTER SIX

ISSUES RELATING TO ACTIVITIES OF HUMANITARIAN COORDINATORS

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GRAF VON SPONECK

S. 02/02

The reference in para 2 to 'financial opportunities' should be clarified to refer to payment for the writing of articles. 'Mr. von Sponeck's projects in Iraq' sounds mysterious and should also be clarified by referring to a peace initiative in which I was involved together with a group of persons from the US, Germany, Australia and South Africa. In the light of the above, I would be most grateful if the IIC could agree to the following re-wording of para 2 as follows:

"From late 2001 through early 2003, Mr. von Sponeck maintained a relationship with Murtaza Lakhani, a trader under the Programme doing inter alia business as Continental Oil. Mr. Labkani contributed to the payment of a writer's agreement under which Mr. von Sponeck had agreed to write monthly articles for a Beirut-based news agency. He also took financial responsibility for certain expenses in connection with a peace initiative in which Mr. von Sponeck was involved at the time. In exchange, Mr. Lahkani sought Mr. von Sponeck's assistance on his behalf with prominent Iraqi officials in Programme matters. This did not happen, according to Mr. von Sponeck."

Such clarifications would be very important to me to show what exactly had been involved.

Para 3. No changes proposed

I am grateful if the above amendments can be included.

Yours sincerely,


H.C. von Sponeck

REPORT ON PROGRAMME MANIPULATION

CHAPTER SEVEN

REVIEW OF SECRETARY-GENERAL BOUTROS-GHALI BANK ACCOUNTS

I. INTRODUCTION AND SUMMARY

This Chapter addresses questions raised in the Committee's prior reports concerning the financial affairs of former Secretary-General Boutros Boutros-Ghali and specifically whether there is evidence of financial transactions linking the former Secretary-General and two corruption schemes detailed in previous Committee reports. This inquiry was initiated because of the former Secretary-General's relationship with certain persons involved in these schemes.

With respect to the first corruption scheme, the Committee's Programme Management Report described the Iraqi regime's plan to bribe Dr. Boutros-Ghali during his term as Secretary-General through a series of payments to Samir Vincent and Tongsun Park. As set forth in that Report, during the early stages of the Programme in 1996, the Iraqi regime paid in excess of \$1 million to Mr. Vincent and Mr. Park. Amer Rashid, Iraq's Oil Minister, was involved in providing the money to Mr. Vincent and understood that the money was paid to Mr. Vincent and Mr. Park so that they in turn could forward the money to then Secretary-General Boutros-Ghali. The Report explained that available evidence did not indicate that the former Secretary-General received or agreed to receive any of the cash paid out in this plan.⁸³⁴

With respect to the second corruption scheme, the Committee's Third Interim Report found that Benon Sevan corruptly and in concert with Fakhry Abdelnour and Fred Nadler (the brother-in-law of Dr. Boutros-Ghali) derived personal pecuniary benefit from the Programme through the receipt of cash proceeds from sales of oil allocated by Iraq and sold by a business controlled by Mr. Abdelnour and known as the African Middle East Petroleum Co. Ltd. Inc. ("AMEP"). Mr. Sevan's corrupt receipt of oil allocations and cash proceeds occurred from 1998 through 2001. AMEP wired some of its oil sales proceeds to a Swiss bank account in the name of Caisor Services, Inc. ("Caisor Services"), which Fred Nadler controlled, and Fred Nadler in turn withdrew large amounts of money in cash that in turn were transferred to Mr. Sevan.⁸³⁵

This latter scheme occurred during a period when Dr. Boutros-Ghali was no longer Secretary-General but maintained relations with Fred Nadler. Telephone records, for example, indicate telephone calls between numbers for Dr. Boutros-Ghali and his wife, Leia Boutros-Ghali, and numbers for Fred Nadler throughout the time that Mr. Sevan corruptly solicited and received oil allocations. During this period, calls also were placed between telephones used by Fred Nadler and telephones used by Mr. Sevan and Mr. Abdelnour.⁸³⁶

As detailed below, a review of the known bank accounts controlled by and/or associated with Dr. Boutros-Ghali and Mrs. Boutros-Ghali has not revealed evidence that these accounts were used to receive or transfer any illicit funds provided by the former Iraqi regime, or that Dr. Boutros-Ghali or his wife knowingly received the proceeds of oil sales under the Programme.

⁸³⁴ "Programme Management Report," vol. II, pp. 40, 82-96.

⁸³⁵ "Third Interim Report," pp. 26-52.

⁸³⁶ Nadler family telephone records, Verizon (1998-2001).

REPORT ON PROGRAMME MANIPULATION
CHAPTER SEVEN
REVIEW OF SECRETARY-GENERAL BOUTROS-GHALI BANK ACCOUNTS

A review of Caisor Services' records reveals that, on two occasions in 1999 and 2001, a portion of funds, including proceeds received from the sale of oil by AMEP totaling \$16,000 (\$8,000 each), was transferred to an account of Mrs. Boutros-Ghali that Dr. Boutros-Ghali managed. As outlined below, however, these transfers appear to be part of a string of transactions of similar amounts executed both before and after AMEP's participation in the Programme, and which were justified for various reasons, including reimbursements for travel and vacation expenses between members of the Nadler family. Dr. Boutros-Ghali has stated that he had no knowledge of the source and nature of these funds and was likewise unaware that the funds that were used for these transfers were derived from AMEP's sale of oil. No evidence reviewed by the Committee indicates that he knew otherwise.

REPORT ON PROGRAMME MANIPULATION

CHAPTER SEVEN

REVIEW OF SECRETARY-GENERAL BOUTROS-GHALI BANK ACCOUNTS

II. ANALYSIS OF BANK ACCOUNTS OF FORMER SECRETARY-GENERAL BOUTROS-GHALI

As noted in the Third Interim Report, Dr. Boutros-Ghali voluntarily assisted in a review and evaluation of his financial affairs relating to the Committee's continuing investigation by providing access to his personal financial information. The bank account review has focused on the period between early 1996 through 2003 in an effort to determine if incoming funds to the relevant bank accounts came from illicit or unexplained sources. The review extended to family accounts located in Europe, the Middle East, and the United States, and it has included not only the underlying accounts, but also, when possible, the accounts where payments originated or were sent. The review was necessarily limited to those accounts that were identified as under the control of or for the benefit of Dr. Boutros-Ghali and his immediate family.

Through this process, the Committee identified significant transfers into, out of, or among the accounts of, or accounts controlled by, Dr. Boutros-Ghali, Mrs. Boutros-Ghali, and certain members of the Nadler family. Committee investigators reviewed these records and transactions with the participating individuals, with the exception of those persons—including Fred Nadler, Raouf Boutros-Ghali, and Mr. Abdehnour—who have refused to meet with the Committee.

With respect to the first corruption scheme involving Iraq's plan to bribe the Secretary-General, the bank account review has identified legitimate sources for questioned transfers during the relevant time period from 1996 through 2003. The review has not uncovered any transactions that represent or appear to be derived from payments by the Iraqi regime or its agents, including Mr. Park or Mr. Vincent.

With respect to the second corruption scheme involving the payment of monies from AMEP to the Caisor Services account of Fred Nadler, certain transfers from the Caisor Services account warrant further discussion. Apart from the cash withdrawals that were taken from the Caisor Services account for Mr. Sevan, there were a number of transactions where portions of AMEP oil sales proceeds sent to Caisor Services were transferred subsequently to the account of Mrs. Boutros-Ghali and to another Nadler family account ("Nadler Family Account"). In an effort to evaluate whether Dr. Boutros-Ghali knew these transfers involved proceeds from Programme oil sales, the transfers are discussed below.

A. CAISOR SERVICES ACCOUNT DISBURSEMENTS TO A LEIA BOUTROS-GHALI ACCOUNT

The account review identified four transfers between 1997 and 2003 from Caisor Services to an account of Mrs. Boutros-Ghali managed by Dr. Boutros-Ghali, each in the amount of \$8,000. These transfers represent a small portion of the Caisor Services account's balance and likewise a small portion of the receiving account's balance. The transfers occurred in January 1997, November 1999, January 2001, and November 2003. The first and fourth payments, in January

REPORT ON PROGRAMME MANIPULATION

CHAPTER SEVEN

REVIEW OF SECRETARY-GENERAL BOUTROS-GHALI BANK ACCOUNTS

1997 and November 2003, respectively, were not derived from deposits to the Caisor Services account of any proceeds from oil sales under the Programme.⁸³⁷

The second and third transfers appear to have involved the use of proceeds of oil sales by AMEP that were deposited into the Caisor Services account. On November 2, 1999, AMEP transferred approximately \$100,000 of oil sale proceeds to the Caisor Services account. Two days later, \$8,000 was transferred from the Caisor Services account to an account maintained by Dr. Boutros-Ghali for the benefit of Mrs. Boutros-Ghali. On December 6, 2000, AMEP transferred approximately \$96,000 of oil sale proceeds to the Caisor Services account. In January 2001, Caisor Services then made the third \$8,000 payment to the account of Mrs. Boutros-Ghali.⁸³⁸

Notwithstanding these two transfers from the Caisor Services account, the available evidence does not indicate that Dr. Boutros-Ghali was aware of the source or nature of the funds transferred. When interviewed, Dr. Boutros-Ghali stated that he was unaware of Fred Nadler's involvement in the purchase or sale of oil under the Programme, or that the transfers were derived from proceeds of oil sales under the Programme. Initially, Dr. Boutros-Ghali recalled that the transfers from Fred Nadler's account were Mrs. Boutros-Ghali's share of the proceeds from the sale of Nadler family property. He explained that the Nadler family had significant land holdings in Egypt, and that each time an asset was sold, the money was distributed among the family members, including to his wife. However, when shown the banking records evidencing the transfers of \$8,000 from Caisor Services, Dr. Boutros-Ghali stated that the amounts of these transactions were too small for such real estate transactions. He stated that these payments may have represented reimbursements for the cost of Nadler family holidays, which were incurred by Mrs. Boutros-Ghali, but reimbursed by her brothers. Dr. Boutros-Ghali explained that he did not realize that Caisor Services was Fred Nadler's company. Dr. Boutros-Ghali was requested to provide more information on these transactions, and investigators sought to interview individuals who might have knowledge of the nature of these and other transactions.⁸³⁹

On the same day, after the interview of Dr. Boutros-Ghali concluded, he contacted investigators to state that the second \$8,000 payment (November 1999) was made to pay for his mother-in-law,

⁸³⁷ Union Bancaire Privée (“UBP”) record, Caisor Services account, payment orders (Jan. 23, 1997; Nov. 3, 1999; Jan. 4, 2001 (date adjusted to reflect correct year); Nov. 17, 2003); Leia Boutros-Ghali account records (Jan. 27, 1997; Nov. 4, 1999; Jan. 5, 2001; Nov. 18, 2003); Boutros Boutros-Ghali interviews (July 25 and Oct. 17, 2005) (explaining that the account was managed originally by Emanuel Nadler, but that Dr. Boutros-Ghali assumed these duties several years ago when he started depositing money into the account); Leia Boutros-Ghali interview (Sept. 30, 2005).

⁸³⁸ UEB record, AMEP account, debit advices (Oct. 27, 1999 and Dec. 6, 2000); UBP record, Caisor Services account, credit advices (Nov. 2, 1999 and Dec. 8, 2000) and payment orders (Nov. 3, 1999 and Jan. 4, 2001); Leia Boutros-Ghali account records (Nov. 4, 1999 and Jan. 5, 2001). The first transfer from AMEP to Caisor Services took place on November 23, 1998, and the last transfer from AMEP to Caisor Services took place on October 12, 2001. “Third Interim Report,” pp. 30-31, 47-48.

⁸³⁹ Boutros Boutros-Ghali interview (July 25, 2005). Dr. Boutros-Ghali cited vacations in Italy and Geneva as examples of Nadler family gatherings, which he stated he did not attend. Ibid.

REPORT ON PROGRAMME MANIPULATION

CHAPTER SEVEN

REVIEW OF SECRETARY-GENERAL BOUTROS-GHALI BANK ACCOUNTS

Pauline Nadler, to travel from New York to Paris. Dr. Boutros-Ghali stated that the third \$8,000 transfer (January 2001) was a “mistake,” and that, three days later, the money was repaid from the Boutros-Ghali family account at a Paris bank to Fred Nadler’s bank account in New York. The Paris bank records confirm the transfer of \$8,000 to a New York bank account in the name of Fred Nadler.⁸⁴⁰

When asked by Committee investigators whether he knew that Fred Nadler and Mr. Abdelnour were involved in the oil business together, Dr. Boutros-Ghali replied that he knew they were involved in real estate deals in Egypt, but was not aware that their relationship extended to the oil business. When asked if he received other money from Fred Nadler, Dr. Boutros-Ghali replied: “No, never.” Additionally, he stated that his wife did not receive any other money from Fred Nadler.⁸⁴¹

Mrs. Boutros-Ghali explained that the \$8,000 transfers were periodic transfers she received from her brother Fred for various reasons, including from the joint rental of a vacation home, reimbursement of expenses, or a loan of funds. She noted that her husband was more involved in the financial management of the account than she was.⁸⁴²

The Committee identified one other transfer of approximately \$40,000 made from an HSBC account controlled by Raouf Boutros-Ghali, the brother of Dr. Boutros-Ghali, to this same account of Mrs. Boutros-Ghali that Dr. Boutros-Ghali managed. This transfer was significant in that, approximately six months earlier, Raouf Boutros-Ghali received a transfer of \$50,000 into an HSBC Egypt account from an account controlled by Mr. Abdelnour—this earlier transfer occurred during the period in which Mr. Abdelnour received proceeds from the sale of oil under the Programme. Careful examination of these transactions, however, reveals several reasons suggesting that the \$40,000 transfer is not linked to Mr. Abdelnour’s oil proceeds: (1) the account used by Mr. Abdelnour to pay Raouf Boutros-Ghali was not funded with proceeds from oil sales; (2) the transfer of funds to Mrs. Boutros-Ghali’s account occurred six months after the transfer from Mr. Abdelnour; and (3) the \$40,000 transfer amount is consistent with other transfers

⁸⁴⁰ Ibid.; Paris Bank account records (Jan. 4, 2001). Dr. Boutros-Ghali indicated that Ms. Nadler “changed her mind,” and that the trip did not occur, but the money was not refunded. Boutros Boutros-Ghali interview (July 25, 2005). Ms. Nadler passed away in May 2000. “Third Interim Report,” p. 20.

⁸⁴¹ Boutros Boutros-Ghali interview (July 25, 2005). Fred Nadler was in charge of determining the distribution of assets from some Nadler family financial affairs. Emanuel Nadler interview (Sept. 28, 2005). Therefore, Fred Nadler controlled the percentage of funds being allocated to accounts beneficially owned by Mrs. Boutros-Ghali. Although nothing untoward was found in the distributions analyzed by investigators, some of the allocations did not follow an established pattern. Again, because Fred Nadler would not consent to an interview, investigators could not determine the rationale for certain unequal distributions.

⁸⁴² Leia Boutros-Ghali interview (Sept. 30, 2005).

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REVIEW OF SECRETARY-GENERAL BOUTROS-GHALI BANK ACCOUNTS

between family members before and after this transaction. Dr. Boutros-Ghali stated the \$40,000 was a transfer of his proceeds of income from the family properties.⁸⁴³

During the course of the investigation, Committee investigators reviewed the telephone records of Fred Nadler. These records indicate numerous calls between 1998 and 2001 from Fred Nadler's telephone to a Paris telephone number that Dr. Boutros-Ghali used. There is no evidence, however, that these communications involved AMEP's activities or the Programme.⁸⁴⁴

B. CAISOR SERVICES ACCOUNT DISBURSEMENTS TO A NADLER FAMILY ACCOUNT

In addition to the transfers from the Caisor Services account to the account of Mrs. Boutros-Ghali, the inquiry also identified seven transfers—from 1997 to 2003—from the Caisor Services account to the Nadler Family Account that was owned beneficially by Mrs. Boutros-Ghali and Emanuel Nadler (brother of Mrs. Boutros-Ghali and Fred Nadler). Those transfers totaled \$53,200. The transfers occurred in January 1997 (\$5,000), February 1999 (\$5,000), December 1999 (\$9,000), May 2000 (\$20,000), September 2002 (\$8,000), March 2003 (\$3,000), and November 2003 (\$3,200).⁸⁴⁵

Two of these seven transfers (December 1999 and May 2000) occurred close in time to a transfer of money from AMEP to Caisor Services following the sale of oil through the Programme. In November 1999, AMEP transferred \$100,000 to Caisor Services following an oil sale, and, approximately two weeks later, Caisor Services sent \$9,000 to the Nadler Family Account. Likewise, in April 2000, AMEP transferred approximately \$95,000 of proceeds from Programme oil sales to Caisor Services, and this was followed a little more than a month later by a transfer from Caisor Services of \$20,000 to the Nadler Family Account.⁸⁴⁶ The nature and context of these transfers was consistent with the broader historical pattern of activity between the two

⁸⁴³ Boutros Boutros-Ghali interview (Sept. 30, 2005); UEB record, Guirgeh Foundation account, debit advice (Oct. 17, 2001); Leia Boutros-Ghali account records (Apr. 15, 2002); see also Wasef Boutros-Ghali interview (Sept. 30, 2005) (noting that he shared income with his brothers—Boutros and Raouf Boutros-Ghali—relating to real estate sales and rental fees).

⁸⁴⁴ Nadler family telephone records, Verizon (1998-2001); Boutros Boutros-Ghali interview (July 25, 2005). Although Dr. Boutros-Ghali did not recognize the telephone number as belonging to him, this same number appeared in Mr. Sevan's electronic organizer under an entry for Dr. Boutros-Ghali. *Ibid.*; Benon Sevan Lotus Organizer and Electronic Calendar (recording contact information for Dr. Boutros-Ghali).

⁸⁴⁵ Emanuel Nadler interview (Sept. 28, 2005); UBP record, Caisor Services account, payment orders (Jan. 23, 1997; Feb. 16 and Dec. 14, 1999; May 30, 2000; Sept. 11, 2002; Mar. 21 and Nov. 11, 2003); Nadler Family Account records (Feb. 18 and Dec. 14, 1999; May 30, 2000; Sept. 12, 2002; Mar. 24 and Nov. 18, 2003).

⁸⁴⁶ UEB record, AMEP account, debit advices (Oct. 27, 1999 and Apr. 7, 2000); UBP record, Caisor Services account, credit advices (Nov. 2, 1999 and Apr. 12, 2000) and payment orders (Dec. 14, 1999 and May 30, 2000); Nadler Family Account records (Dec. 14, 1999 and May 30, 2000).

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REVIEW OF SECRETARY-GENERAL BOUTROS-GHALI BANK ACCOUNTS

accounts and does not appear to represent the deliberate transfer of oil sale revenue from AMEP to the Caisor Services account.

Nor did these two transfers (of \$9,000 and \$20,000, respectively) represent a significant portion of the balance of either the sending or receiving account. Moreover, during the same time period, a larger amount of money flowed in the opposite direction—from the same Nadler Family Account to the Caisor Services account. Three such transfers occurred in October 1999 (\$148,861), January 2000 (\$7,193), and June 2000 (\$38,291). When questioned, Dr. Boutros-Ghali stated that he did not know of the Nadler Family Account. Mrs. Boutros-Ghali acknowledged having an interest in the account, but stated that this account was managed primarily by her brother, Emanuel Nadler.⁸⁴⁷

In summary, a review of known bank accounts controlled by or associated with Dr. Boutros-Ghali and Mrs. Boutros-Ghali does not indicate that Dr. Boutros-Ghali received any illicit money from the Iraqi regime or from persons associated with the regime's scheme to pay him a bribe through payments made to Mr. Vincent and Mr. Park. Although the review has disclosed that bank accounts controlled by or associated with Dr. Boutros-Ghali and/or Mrs. Boutros-Ghali received some funds from the Caisor Services account, when considered in context, these payments do not indicate that Dr. Boutros-Ghali was involved with transactions occurring under the Programme. These transactions constitute a relatively small amount of the funds held and transferred by the Nadler and Boutros-Ghali family members, and they appear to be a part of a long-standing pattern of financial relationships among family members.

⁸⁴⁷ UBP record, Caisor Services account, credit advices (Oct. 18, 1999; Jan. 18 and June 28, 2000); Nadler Family Account records (Oct. 18, 1999; Jan. 18 and June 28, 2000); Boutros Boutros-Ghali interview (July 25, 2005); Leia Boutros-Ghali interview (Sept. 30, 2005).

REPORT ON PROGRAMME MANIPULATION

CHAPTER SEVEN

REVIEW OF SECRETARY-GENERAL BOUTROS-GHALI BANK ACCOUNTS

III. RESPONSE OF BOUTROS BOUTROS-GHALI

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| <p style="text-align: center;">JUNOD, GUYET, MUHLSTEIN & LEVY AVOCATS AU BARREAU DE GENÈVE 17, RUE TOFFER, CH-1200 GENÈVE TELÉPHONE 41-22 703 4 703 - TÉLECOPIEUR 41-22 703 4 704 - E-mail: info@jgml.ch</p> | | |
| <p>ASSOCIÉS: CHARLES-ANDRÉ JUNOD DOCTEUR EN DROIT PROFESSEUR HONORAIRE DE L'UNIVERSITÉ DE GENÈVE MICHEL MUHLSTEIN ALAIN BRUNO LÉVY DOCTEUR EN DROIT PROFESSEUR TITULAIRE À L'UNIVERSITÉ DE FRIBOURG JEAN-PIERRE AUGIER</p> | | |
| <p>COLLABORATEURS MARTINE GRUAZ LAURENT MUHLSTEIN</p> | | |
| <p>CONSEILS JAQUES GUYET ANCIEN BÂTONNIER BLAISE KNAPP DOCTEUR EN DROIT PROFESSEUR HONORAIRE DE L'UNIVERSITÉ DE GENÈVE VALÉRIE JUNOD DOCTEUR EN DROIT LL.M. (PENNSTATE) J.S.M. (STANFORD)</p> | | |
| <p>Independent Inquiry Committee United Nations Oil for Food Program 825 Third Avenue New York 10022 USA Attention of Mr Reid Morden, Executive Director By fax 001 212 842 25 55 and by mail</p> | | |
| <p>October 17th, 2005 V-rp</p> | | |
| <p>Re: Dr Boutros Boutros-Ghali</p> | | |
| <p>Dear Mr Morden,</p> | | |
| <p>You are aware that I am acting for Dr Boutros Boutros-Ghali who asked me to answer your letter dated October 14th, 2005.</p> | | |
| <p>In the future, you will be kind to correspond directly with me.</p> | | |
| <p>My client duly noted that the Committee has not found any deposit or transfer of funds that appear to be related to the Iraqi payment scheme conducted by Messrs Vincent and Park.</p> | | |
| <p>My client and myself have been able to give to your representatives all information regarding the specific transfers you have identified. There is only one transfer based on a check, a copy of which your representatives will review this week. The check has been written by Mr Boutros-Ghali himself for a transfer to his own account.</p> | | |
| <p>In your letter, you are indicating that the Committee will complete its investigation of the disbursement of the proceeds of the sale of the oil</p> | | |

REPORT ON PROGRAMME MANIPULATION

CHAPTER SEVEN

REVIEW OF SECRETARY-GENERAL BOUTROS-GHALI BANK ACCOUNTS

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allocations solicited by Benon Sevan and report, in substance, that a portion of these proceeds were transferred to an account in the name of Caisor Services controlled by Fred Nadler. This cannot be linked to my client notwithstanding the small transfers made from Caisor Services to a company whose beneficiary is the wife of my client.

First of all, the two transfers are part of a longstanding pattern of transfers between family members in connection with their mutual family business.

Second, these two small transfers would have been made even if Caisor Services would not have received any transfer from AMEP. Caisor Services had an account with sufficient assets to make the transfers that were due according to the family arrangements and it is completely wrong to state that the amounts that were transferred by Caisor Services to the company's account of my client's wife derive from these proceeds.

Third, my client was not maintaining an account for the benefit of his wife. My client's wife was a beneficiary of a company account and my client was not the beneficiary of this account even though he decided a few years ago to transfer certain assets to his wife to arrange his succession.

Therefore, my client cannot accept the conclusions of the Committee and will immediately take action if you were to publish a report indicating that amounts received by Caisor Services, which you consider as linked to the U. N. Oil for food program were transferred to an account where my client has a benefit.

The alleged facts are simply wrong. I reserve all rights of my client who will take action against the Committee for the damage he will suffer, if the Report states the facts as mentioned in your letter.

Yours sincerely,

Dr Alain B. LEVY

c.c. to Mr M. Pieth

REPORT ON PROGRAMME MANIPULATION
CHAPTER SEVEN
REVIEW OF SECRETARY-GENERAL BOUTROS-GHALI BANK ACCOUNTS

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REPORT ON PROGRAMME MANIPULATION

APPENDIX A

EXPLANATION OF COMMITTEE TABLES

PREFACE

With its Report on Programme Manipulation, the Committee publishes eight statistical tables on oil and humanitarian transactions under the Programme. Tables 1 through 5 focus on the oil transactions during the Programme and contain the following information: (1) general data on contracts executed by oil purchasers, such as total value of executed oil contracts and quantity of lifted barrels; (2) information on Iraqi oil allocation recipients and oil contracts used for execution of allocations; (3) data on known underlying financiers for purchases of Iraqi oil under the Programme; and (4) information on surcharge payments associated with certain contracts under the Programme.

Tables 6 through 8 focus on humanitarian goods purchases (including transactions involving oil spare parts). These tables contain the following information: (1) general data on humanitarian contracts executed by the Government of Iraq, such as the value of executed contracts and description of purchased goods; and (2) information on illicit payments made in connection with humanitarian contracts, including payments made in the form of after-sales-service fees and inland transportation fees.

I. NOTICE TO COMPANIES

A. OIL PURCHASERS

Based upon its review of SOMO records, the Committee identified 139 companies whose purchases of oil were associated with a surcharge paid to the Government of Iraq during the Programme. The Committee sent notice letters to 127 companies stating that they would be represented on a table showing that unauthorized payments were made in connection with their contracts under the Programme. The companies were invited to respond and submit any evidence corroborating or refuting the information. The Committee received 26 responses.⁸⁴⁸

B. HUMANITARIAN GOODS SUPPLIERS

Prior to the publication of this Report, the Committee sent notifications to 2,253 suppliers who had contracts for which the Committee had evidence of actual or projected illicit payments. The letters advised each company that it would appear in a table accompanying the Committee's report. The companies were invited to respond and submit any evidence corroborating or refuting the information. Some companies responded to the Committee's notification, but many did not.

The Committee made every effort to obtain the most current mailing and contact information for the identified companies, using information from United Nations contract and Treasury files as well as from other documents obtained during the investigation. Where necessary, publicly

⁸⁴⁸ Due to an administrative error, twelve companies were not sent notifications.

REPORT ON PROGRAMME MANIPULATION

APPENDIX A

EXPLANATION OF COMMITTEE TABLES

available database systems were searched for contact information. In those cases where mail was returned to the Committee as “undeliverable,” the Committee conducted additional searches for the contact information. For a small number of companies, the Committee was unable to successfully mail notices where current information was unavailable or the company was apparently no longer in existence.

As a result of its mailings, the Committee received 293 responses from companies.

C. SUMMARY OF RESPONSES

The table below summarizes the responses received by the Committee from the oil and humanitarian companies based on the following categories:

Category Definitions:

- A: Company admits that it knowingly made illicit payments to the Government of Iraq or its agents.
- B: Company denies that it made payments to the Government of Iraq or its agents in violation of the Programme.
- C: Company acknowledges payments were made or may have been made but denies knowing at the time that its agents or employees made illicit payments.
- D: Company acknowledges that payments were made or may have been made, but contends that payments were made with the belief that they were authorized under the Programme or for actual services performed by legitimate private contractors.
- E: Company acknowledges receipt of the Committee’s letter and takes no position or has expressly requested that its response not be disclosed.
- F: Company did not respond.
- G: Company was not noticed by the Committee or subsequent information was identified and it was no longer appropriate to list the company.

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APPENDIX A

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Table A – Categories of Responses to Mailings

| Category | Oil Entities | | Humanitarian Entities | |
|---|--------------------|---------------|-----------------------|---------------|
| | Number of Entities | % of Total | Number of Entities | % of Total |
| A – Admits payment | 1 | 0.7% | 26 | 1.2% |
| B – Denies payment | 18 | 12.9% | 152 | 6.7% |
| C – Admits payments but denies knowledge at the time | – | 0.0% | 10 | 0.4% |
| D – Admits payments but believed authorized at the time | 2 | 1.4% | 41 | 1.8% |
| E – Takes no position | 5 | 3.6% | 64 | 2.8% |
| <i>Subtotal of responses</i> | <i>26</i> | <i>18.6%</i> | <i>293</i> | <i>12.9%</i> |
| F – Does not respond to IIC | 101 | 72.7% | 1,785 | 79.2% |
| G – Company not noticed | 12 | 8.6% | 175 ⁸⁴⁹ | 7.8% |
| Total | 139 | 100.0% | 2,253 | 100.0% |

The majority of the oil and humanitarian companies noticed did not respond to the Committee. Responses received by the Committee are indicated in Tables 1 and 7. Although the majority of companies that did respond denied that illicit payments had been made, more than 75 admitted to payments, albeit with certain caveats as described in the table above.⁸⁵⁰

II. OIL TABLES

The Committee presents its information concerning the oil purchases under the Programme in five tables:

Table 1—“Oil Allocations and Sales Summary by Contracting Company”—presents a list of oil allocations and oil sales by contracting company for oil sold under the Programme.

⁸⁴⁹ Of the 175 companies, documentation for 27 led to the conclusion that they should not be included in the table. For the remaining 148, there was insufficient time to notify them before the publication of the Report.

⁸⁵⁰ Table 1 lists all 139 oil entities, including those that did not receive a notice from the Committee. This is due to the fact that the evidence of surcharges paid was based on SOMO records that were largely corroborated by bank account documentation and embassy receipt records. Table 7, however, does not list the 175 humanitarian companies that the Committee was unable to notice because some number of the companies’ illicit payments were solely based on projections.

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Table 2—“Oil Sales Summary by Contracting Company and Contract”—presents a list by contracting company for oil sold under the Programme.

Table 3—“Summary of Oil Sales by Non-Contractual Beneficiary”—details Iraq’s oil allocations to individuals and entities other than the named contracting party.

Table 4—“Known Underlying Financiers”—provides a list of the underlying financiers that the Committee identified during its investigation.

Table 5—“Surcharge Payments Associated with a Contracting Company”—provides a list by company of the surcharges that were paid in connection with certain contracts.

A. SOURCES OF EVIDENCE

The information in these tables is broadly based on four sources:

- Databases and records maintained by the United Nations, specifically, the Office of Iraq Programme (“OIP”) and the United Nations Treasury department and hereinafter is collectively referred to as “United Nations OFFP records.”
- Records of the Government of Iraq, primarily from the Ministry of Oil and the State Oil Marketing Organization (“SOMO”). These records include ledgers of oil surcharge payments, lists of allocations for each phase, letters from the executive director of SOMO to the Minister of Oil seeking approval for allocations with handwritten approvals by the Minister of Oil, and records from Iraq’s embassies in Austria, Greece, Egypt, Italy, Malaysia, Russia, Syria, Switzerland (Permanent Mission to the U.N. in Geneva), Turkey, Vietnam, and Yemen.
- Records from various financial institutions involved in the financing aspects of the oil transactions, as well as financial institutions that received deposits of oil surcharges.
- Records provided by certain entities involved in the purchase of oil from Iraq.

B. DESCRIPTION OF TABLES AND METHODOLOGIES

1. Table 1: Oil Allocation and Sales Summary by Contracting Company

Table 1 (hereinafter referred to as the “Committee oil summary table”) presents an alphabetical list of the companies that were allocated oil; and, to the extent the oil was lifted, it provides details of the amount lifted and the amount paid. This list provides summary information from Iraq’s Ministry of Oil regarding the total oil allocated to the contracting company, the names of non-contractual beneficiaries associated with the one or more contracts executed by the contracting party, and surcharges associated with the contracts executed by the contracting company. It should be emphasized that the fact that a company is listed on this table does *not*

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mean that company—as opposed to another third party with a financial interest in the transaction--paid the surcharges associated with its contracts.

2. Table 2: Oil Sales Summary by Contracting Company and Contract

Table 2 (hereinafter referred to as the “Committee oil company table”) presents a second alphabetic list of the contracting companies purchasing oil, this time providing details by contract of the barrels lifted, the value of contracts, and surcharges associated with certain contracts. This list updates the information on companies purchasing oil, published by the Committee in October 2004, and also provides summary information from Iraq’s Ministry of Oil regarding surcharges levied, paid and outstanding.

3. Table 3: Summary of Oil Sales by Non-Contractual Beneficiary

As described in Chapter 2 of the Report, the Government of Iraq distributed oil allocations to particular countries, and in the names of particular individuals and entities. A number of these beneficiaries were not the parties that executed contracts for the purchase of oil, which are listed in Tables 1 and 2. Rather, they are beneficiaries who usually sell their rights to the oil. Table 3 (hereinafter referred to as the “Committee oil beneficiary table”) is based on Ministry of Oil records and presents an alphabetic list of oil allocations made in the names of individuals and entities other than the named contracting party, or “non-contractual beneficiary”. This table contains the name of the non-contractual beneficiary, the country under which the allocation was granted, the name of the contracting party, and details of oil allocated and lifted by contract number. In instances when no contract was executed, the contracting company is listed as “no contracting company per SOMO.”

4. Table 4: Known Underlying Oil Financiers

Many of the letters of credit executed under the Programme were financed by companies that did not appear on the SOMO contracts or the documentation made available to the United Nations. The Committee has focused on identifying the underlying financiers of the oil purchases during the surcharge period. Based on the various records obtained, the Committee has identified the underlying financiers for approximately seventy-five percent of the letters of credit issued to purchase oil during the surcharge period. Table 4 (hereinafter referred to as “Committee oil financier table”) provides a listing of the underlying financiers that the Committee was able to identify.⁸⁵¹ The table provides each underlying purchaser, the letter of credit, the name of the contracting party, the barrels lifted, and the value of the oil financed. Much of this information was provided by banks in Switzerland, which included letter of credit customer files and bank account statements. Additional information was provided by company financial records regarding their oil purchases.

⁸⁵¹ In selected instances, the table lists the financing company even where it is also the also the contracting company. Committee oil financier table, Bayoil.

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5. Table 5: Surcharge Payments Associated with a Contracting Company

Table 5 (hereinafter referred to as “Committee oil surcharge table”) provides a listing of the contracting company and contract associated with surcharge payments. This table lists information from internal SOMO documents that record levied and collected surcharges (“SOMO surcharge records”); (2) transaction histories of bank accounts used by SOMO to receive surcharge payments; and (3) Iraqi records of receipts for cash deposits made at various Iraqi embassies in cities worldwide. The SOMO surcharge records comprehensively identify the amounts of surcharges levied and paid and the oil contracts for which surcharges were paid. The Committee has corroborated more than ninety-eight percent of these listed transactions by cross-reference to further bank account documentation and embassy receipt records. It should be emphasized that the fact that a company is listed on this table does *not* mean that company paid the surcharges associated with its contracts.⁸⁵²

III. HUMANITARIAN TABLES

Tables 6, 7, and 8 provide information on humanitarian goods transactions. When reviewing the information presented in these tables, it is important to note that the Committee has not been able to obtain a complete set of records of kickback levy and payment data from all Iraqi ministries that were involved in the purchase of humanitarian goods under the Programme. Accordingly, these tables reflect a distinction between “projected” kickback figures and “actual” kickback figures. A “projected” kickback figure indicates that the evidentiary basis for the conclusion that there was a kickback paid is Iraq’s uniform policy of requiring the payment of kickbacks during certain time periods until July 2003 when the Coalition Provisional Authority reduced all contracts to eliminate estimated kickback amounts. An “actual” amount reflects the fact that the Committee has acquired contract-specific payment data from the relevant ministry, from a banking institution, or from the supplier itself or its collection/shipping agent.

A. SOURCE OF EVIDENCE

As discussed at length in the Report on Programme Manipulation, the Committee’s findings as they relate to the imposition and collection of illicit kickbacks and fees are based on the collection and analysis of an extensive body of evidence. Much of the evidence comes from contemporaneous documentation and data provided by the various Iraqi contracting ministries, including financial ledgers, internal correspondence, and database records. Other evidence is in

⁸⁵² SOMO levied more in surcharges than it was eventually paid. Surcharges valued at \$263 million were levied on 169 companies that contracted for the purchase of oil. Of these 169 companies, 138 ultimately made payments in connection with 309 contracts. The remaining thirty-one companies succeeded in lifting oil without remitting funds to Iraq. Ninety of the companies that lifted oil paid surcharges only in part rather than the full amount levied. A few companies paid surcharges totaling \$588,800 on contracts that were never executed. These companies are not listed in Table 5.

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the form of bank records and deposits, as well as information provided by the suppliers that participated in the transactions, their agents and shipping companies.

In many instances, this body of evidence not only demonstrates that a kickback was levied with respect to a contract, but also provides confirmation of the amount of the solicitation and its payment. Moreover, the information supplied by one source is often corroborated by other information and evidence. For example, ministry financial ledgers are supported by internal ministry correspondence. In addition, bank statements of paying suppliers as well as those of the Government of Iraq reflect transfers in and out of bank accounts consistent with the kickback schemes. In other instances, the corroboration is provided through company responses to the Committee's notification of adverse findings as well shipping and agent records.

The specific sources of information presented in the table are:

1. Side agreement with the Government of Iraq – document outlining a bilateral contractual relationship with a supplier for the payment of kickbacks.
2. Ministry correspondence/documents – letters, memos, facsimiles, unilateral promises to pay, and invoices/receipts from Iraqi Ministries.
3. Company correspondence/documents – letters, memos, facsimiles, and invoices/receipts on company letterhead.
4. Other documents – letters, memos, facsimiles, and invoices/receipts from other parties, such as agents or shipping companies.
5. Ministry financial data – Iraqi Ministry spreadsheets and accounting records and ledgers.
6. Banking Records – account statements, receipts, and advices relating to the following:
 - a. Housing Bank for Trade and Finance (Jordan), Central Bank of Iraq accounts
 - b. Jordan National Bank (Jordan), Alia Company for Transport and General Trade accounts
 - c. Al-Rafidain Bank (Jordan), Central Bank of Iraq accounts
 - d. Fransabank SAL (Lebanon), Central Bank of Iraq accounts
 - e. Jordan National Bank (Jordan), Arrow Trans Shipping Company accounts

The Committee's evidence confirmed the existence of the policy requiring the payment of kickbacks. Where the Committee did not have access to certain Ministry and banking information, the amount of illicit kickbacks and fees paid for many of the suppliers was projected based on Government of Iraq directives, other available evidence, and historical trends. The basis for and components of the projections are more fully described in the notes to Table 8.

B. EVIDENCE AND QUANTIFICATION OF ILLICIT AFTER-SALES-SERVICE AND TRANSPORTATION FEES

In its Programme Management Report, issued in September 2005, the Committee presented estimates of total after-sales-service fees and inland transportation fees collected by the former regime. The estimated amounts then reported were \$1.056 billion in after-sales-service fees and \$527 million in transportation fees and were largely based on projected data. Since the release of that Report, the Committee has obtained additional information and data from the Government of Iraq and various banks providing levied and actual payments of after-sales-service fees and

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transportation fees. As a result of this new information, the Committee revises the following: (1) the estimate of after-sales-service fees and transportation fees levied and paid for particular suppliers where the amounts for that supplier had been previously estimated; (2) the assessment and recovery rates used by the Committee for after-sales-service fees levied and paid in projecting amounts where no actual data was available; and (3) the estimate of total after-sales-service fees levied and paid for all suppliers to \$1.024 billion. The new information did not cause a revision to the Committee's estimate of total transportation fees collected.⁸⁵³

Some of the evidence obtained by the Committee details the distribution of illicit payments between after-sales-service fees and inland transportation fees, an example of which is provided in Chapter 3, Section IV.B. In other instances, the Committee had evidence of illicit payments but no clear indication as to the exact proportion attributable to after-sales-service fees versus inland transportation fees. In such cases, ten percent of the uninflated disbursement amount was assumed to be associated with after-sales-service fees; and the balance was apportioned to inland transportation fees. This approach was based on the review of evidence discussed in Section III.A.

1. Quantification of Illicit Payments of After-Sales-Service Fees

The imposition of after-sales-service fees began in Phase VIII and was to be applied by each contracting ministry to each and every humanitarian contract entered into from that point forward. The rate to be imposed was generally ten percent of the contract's value. As discussed in the Report on Programme Manipulation and previous Reports, the Committee found compelling evidence indicating that the order was strictly enforced, even on Iraqi insiders and front companies. Therefore, even in the absence of direct evidence of participation—such as a signed side agreement—the Committee finds sufficient evidence that, from Phase VIII on, all suppliers were required to pay a kickback in order to obtain or execute a humanitarian contract under the Programme.

As described in Tables 7 and 8, evidence of an illicit payment of after-sales-service fees is both actual and projected. From Phase VIII onward, a total of 3,554 contracts, or slightly over half of the total contracts, had actual data available pertaining to the after-sales-service fees amounts levied and paid, the latter of which totaled \$495 million. After-sales-service fees levied and paid for the remaining 3,204 contracts were projected by the Committee based on historical data trends and Iraqi policy records. The amounts paid totaled \$588 million. Based on a comparison of actual levied to actual paid data, the historical trends show that the regime did not collect about ten percent of the after-sales-service fees levied. Accordingly, the Committee reduces its estimate of projected after-sales-service fees collected by ten percent to arrive at total after-sales-service fees collected.

⁸⁵³ "Programme Management Report," vol. I, p.103

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Table B- Estimation of ASSF Paid/Collected (in USD millions)

| | # of Contracts | ASSF Paid |
|-----------------------------------|-------------------|------------------------|
| Where Amounts Are: | | |
| Actual | 3,554 | \$494,558,040 |
| Projected | 3,204 | \$587,885,415 |
| Total | 6,758 | \$1,082,443,455 |
| Less Estimate of 10% Shortfall on | | |
| Projected Amounts | | \$(58,788,542) |
| Adjusted Total | | \$1,023,654,913 |

2. Quantification of Illicit Payments of Inland Transportation

The imposition of inland transportation fees began in 1999 during Phase VI, and was to apply to each and every humanitarian contract with goods delivered through Umm Qasr. The rate to be imposed was determined by a rate table and was based on the weight, number of containers or other characteristic of the shipment. It was not based on a flat percentage of the contract's value.⁸⁵⁴

Although there is evidence corroborating the imposition of inland transportation fees, there is little or no data readily available allowing for the estimation of the fee amount. Since the fees imposed were not based on a flat percentage of the contract's value, but instead varied due to multiple factors such as container size and product packaging specifications, it was not always possible to determine the applicable rate. For example, a contract for vegetable ghee specified in metric tons might have inland transportation fees imposed based on the number of 20-foot and 40-foot containers needed to ship the goods, whereas a contract for sheets of wood could have fees levied based on numbers of crates, without an indication as to how many sheets constitute a crate. The lack of specific shipping information foreclosed conducting a computation or good

⁸⁵⁴ As noted in the Report on Programme Manipulation, there is evidence indicating the imposition of inland transportation fees on some shipments delivered through land border crossings. However, there is no compelling evidence to indicate that the imposition was wide-scale or formalized, as was the imposition of fees for goods delivered through Umm Qasr; therefore, the Committee has not included any quantification of them.

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faith estimate of inland transportation fees for many contracts. The Committee notes such cases in Tables 7 and 8 by indicating that a fee was assessed, but without specifying a dollar amount.⁸⁵⁵

As the Committee noted in its Report on Programme Management, the total amount of inland transportation fees estimated to have been collected by the Iraqi regime is \$527 million, of which \$225 million represented actual data. No new information has been obtained since the release of that report to cause the Committee to amend its estimate of total inland transportation fees collected by the Government of Iraq.

C. DESCRIPTION OF TABLES AND METHODOLOGIES

1. Table 6: Humanitarian Goods Purchased by the Government of Iraq by Supplier

Table 6—“Humanitarian Goods Purchased by the Government of Iraq by Supplier”—presents an alphabetical list of all suppliers of humanitarian goods under the Programme for contracts for which goods were delivered and paid for as of May 31, 2005. This list largely reflects the information published in tables by the Committee on October 21, 2004, but has been updated to reflect revised information where applicable pertaining to the supplier’s name and other descriptive information. Under the column heading “Evidence of Illicit Payments,” the table identifies those suppliers who had Programme contracts on which illicit payments were made to the Government of Iraq. The Committee emphasizes that the identification of a particular company’s contract as having been the subject of an illicit payment does not demonstrate that the company had knowledge at the time that it was making an illicit payment or that it, as opposed to an agent or secondary purchaser with a financial interest in the transaction, made or authorized the payment. The table distinguishes the evidence of participation by indicating whether it is based at least in part on actual, contract-specific payment data (“A”) or was entirely based on projections (“P”) derived from Iraq’s uniform policy of requiring all contractors to make payments during certain contracting time periods.⁸⁵⁶

⁸⁵⁵ While projections of inland transportation fees by individual contracts were generally not possible given the peculiar nature of how the fees were assessed, and the lack of specific detailed information on which to base the estimate, based on actual data available, it is known that inland transportation fees ranged from 0.01% to 20.82% of a contract’s value.

⁸⁵⁶ Because the Government of Iraq sometimes required that illicit payments be made upon the execution of a contract, some companies paid the kickback upfront on contracts that were ultimately cancelled without the goods being delivered. The Committee has identified twelve entities which have been found to have paid illicit kickbacks, but did not have any deliveries of contracted goods and, thus, did not receive any payments from the Escrow Account under the contract. Because Table 6 only lists suppliers with contracts delivered, the twelve entities are not listed in this table; rather, they are listed as part of Tables 7 and 8. Additionally, these tables reflect contracts procured by the Government of Iraq primarily for the Central and Southern Governorates. Although these items include some bulk commodities and oil spare parts a portion of which was allocated to the Northern Governorates, the tables do not include any contracts

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2. Table 7: Actual and Projected Illicit Payments on Contracts for Humanitarian Goods Summary by Supplier

Table 7 presents only those suppliers that had contracts for which there is evidence of collection of illicit after-sales-service fees and/or inland transportation fees by the former Government of Iraq. For each supplier, the table presents a summary total of only the contracts executed by the supplier for which direct or indirect evidence of participation was found. The table also quantifies, where possible, the aggregate dollar amount of the solicitation and payment. The table also provides the nature of any response from each company to the Committee's letter of notice.⁸⁵⁷

3. Table 8: Actual and Projected Illicit Payments on Contracts for Humanitarian Goods Summary by Supplier and Contract

Table 8 expands on the information provided in Table 7, listing by supplier each individual contract for which a kickback payment was made and providing an estimate of the amounts imposed and paid. The amounts are based on either actual or projected data. The table identifies the type of evidence relied upon and indicates whether the amounts are based on actual data or were projected by the Committee. Although a printed version of Table 8 is not included in the report due to its length, it can be found on the Committee's official website.⁸⁵⁸

procured for the North by any of the UN-related Agencies. Finally, the term "supplier" is used to represent the company which directly contracted with the Government of Iraq for the supply and delivery of humanitarian goods. This company may have been an agent, middleman, trading company or Iraqi front company, and may not have been the ultimate supplier of the goods contracted.

⁸⁵⁷ This includes twelve companies not listed as part of Table 6—Capex Spain, Core Health Care Limited, Eastman Kodak S.A, Emtamitas Energy and Construction Inc., Energopromstroy 1, Four Stars Energy Srl, Grunenthal Pharma Ag, International Conversion Foundation, Isd Intur-Deka Trade Limited Company, Newbridges, Rego Gollwitzer GmbH & Co. Kg, and Rhodia Silicones—who paid fees, but did not have their goods delivered.

⁸⁵⁸ Independent Inquiry Committee, <http://www.iic-offp.org/documents.htm>

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In its First Interim Report, the Committee concluded that Joseph Stephanides, while employed as the Director of the Security Council Affairs Division in the United Nations Department of Political Affairs (“DPA”) violated the procurement rules that required Mr. Stephanides to act with “absolute impartiality” towards all bidders and that he not disclose outside the United Nations organization information relating to the acceptance or rejection of a bid. The basis for this conclusion was Mr. Stephanides’s approach to the United Kingdom Mission, in early August 1996, in an effort to have the United Kingdom arrange for Lloyd’s Register Inspection Ltd. (“Lloyd’s”) to lower its bid to furnish inspection services under the Programme. Specifically, Mr. Stephanides told a diplomat of the United Kingdom that “it looked like a tender from a competitor would be approved” because of “what the diplomat called a ‘whopping’ difference in price between the higher bid of Lloyd’s and the lower bid of its competitor. Mr. Stephanides and the diplomat spoke about having Lloyd’s submit a lower bid, and Mr. Stephanides told the diplomat how much lower the bid need to be in order for Lloyd’s to be awarded the contract.”⁸⁵⁹

At a meeting with the Committee, Mr. Stephanides, through his counsel, admitted that he had contacted the United Kingdom delegation to engage its assistance in having Lloyd’s bid lowered, and that this may be viewed as a “technical violation” of the procurement rules. The First Interim Report made a finding that “the regular competitive bidding process was tainted by Mr. Stephanides’s contacts with a member state mission and preempted for political reasons dictated by the Iraq Steering Committee.”⁸⁶⁰

Since the First Interim Report, Mr. Stephanides, through counsel, has provided three submissions to the Committee in which he disputes the Committee’s findings regarding his conduct during the 1996 selection process for the humanitarian inspection contract under the Programme. Mr. Stephanides maintains that when he approached the United Kingdom Mission regarding Lloyd’s he acted “pursuant to directions he received from the Chairman of the Steering Committee reflecting an understanding reached between the members of the Steering Committee and members of the Security Council, in furtherance of the political requirements set by the Security Council.” Second, Mr. Stephanides asserts that once it became clear that the humanitarian inspection contract could not be awarded to Bureau Veritas due to its nationality, Lloyd’s was the only viable choice, and there no longer was an ongoing competitive bid process when he reached out to the United Kingdom Mission. Finally, he describes the process of selecting Lloyd’s as

⁸⁵⁹ “First Interim Report,” pp. 99, 107-11. In 1996, the procurement rules were in a notebook volume entitled “Purchase and Transportation Service Procurement Manual” (Procurement Manual), and were revised as of April 13, 1988. Procurement Manual, Version 01, secs. 9.002, 9.005 (Apr. 13, 1988); see Kiyohiro Mitsui interview (Feb. 1, 2005).

⁸⁶⁰ Committee meeting with Joseph Stephanides (Feb. 2, 2005); “First Interim Report,” pp. 107-08, 110.

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highly politicized, and this characterization is indeed supported by several of the statements accompanying his submissions.⁸⁶¹

In his letter to the Committee dated August 2, 2005, Mr. Stephanides advised that his actions were taken under the authority of and with the full knowledge of Chinmaya Gharekhan, the Chairman of the Steering Committee and relevant members of the Security Council, and that his action resulted in substantial savings to the United Nations. At no time prior to the publication of the First Interim Report did Mr. Stephanides ever inform the Committee that he was acting pursuant to the authority and direction of Mr. Gharekhan. Mr. Gharekhan has been interviewed on two occasions, the second time to discuss the points raised by Mr. Stephanides subsequent to the First Interim Report's publication. Mr. Gharekhan had no recollection of having directed or authorized Mr. Stephanides to approach the United Kingdom delegation, and he denied having specifically requested that Mr. Stephanides advise the United Kingdom Mission that Lloyd's would need to lower its price in order to be awarded the contract.⁸⁶²

Edward W. Gnehm, Jr., the former United States Deputy Permanent Representative (1994-97) has offered his support for Mr. Stephanides, stating that the position of the United States and several other members of the Security Council that the inspection contract could not be awarded to Bureau Veritas, a French company, was conveyed clearly to the Steering Committee and made known to Mr. Stephanides. He further stated that he did not know what actions Mr. Stephanides took but that "we [the United States] told Stephanides to negotiate down the price [with Lloyd's]."⁸⁶³ Mr. Gnehm, however, did not sit on the Steering Committee, nor did he supervise Mr. Stephanides. Moreover, the information recently provided by Mr. Gnehm had not been previously disclosed by United States officials questioned about Mr. Stephanides role in the selection of Lloyd's.

The Committee is not aware of information indicating that Mr. Stephanides was authorized by any superior to share competitive bidding information with the United Kingdom Mission in violation of United Nations procurement rules.

⁸⁶¹ George Irving letters to the Committee (July 8 and Oct. 7, 2005) (including statements from a number of persons knowledgeable about Mr. Stephanides); George Irving letter to the Committee (Aug. 2, 2005) (including a letter from Edward W. Gnehm, Jr.). Mr. Gnehm, Jr. was the Deputy Permanent Representative of the United States to the United Nations from May 1994 to August 1997.

⁸⁶² George Irving letter to the Committee (August 2, 2005); Joseph Stephanides interviews (Sept. 27, 2004 and Jan. 17, 2005); Committee meeting with Joseph Stephanides (Feb. 2, 2005); "First Interim Report," pp. 107-08; Chinmaya Gharekhan interviews (Nov. 30, 2004 and Aug. 23, 2005) (stating that selection of the Programme contractors was done in accordance with those United Nations procedures governing the selection process and acknowledging that political factors would be considered and that one country would not get two contracts under the Programme).

⁸⁶³ George Irving letter to the Committee (Oct. 7, 2005); George Irving letter to the Committee (Aug. 2, 2005) (including statement of Edward W. Gnehm, Jr.).

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To the extent that Mr. Stephanides's preference for Lloyd's was supported by the Steering Committee and members of the Security Council for various political reasons, this background information is already set forth at length in the First Interim Report. But the basis for the Committee's adverse finding against Mr. Stephanides is not the political nature of the selection process, the fact that Mr. Stephanides personally preferred one contractor over another, or that he expressed his preference to others within the United Nations as he was allowed to do under the United Nations procurement rules. To the contrary, the basis for the Committee's adverse finding against Mr. Stephanides was the acknowledged violation of the procurement rules in the manner in which he decided to share bidding information with the United Kingdom Mission in an effort to have Lloyd's Register chosen over another company that submitted a lower bid.⁸⁶⁴

While the Committee acknowledges that there were political considerations at play during this selection, the procurement rules existed for the purpose of bringing transparency to the process. Contrary to Mr. Stephanides's assertion that at the time of his approach to the United Kingdom Mission, the bid process was at an end, the August 8 letter from the United Kingdom Mission and the Steering Committee minutes of August 9, 12, and 13 make clear that no decision had yet been made to terminate the process. More explicitly, the procurement rules specifically provide for waiving certain technical requirements if the "interests of the Organization" so justify, with the proviso that a waiver be accompanied by a full explanation of the reasons thereof. No such explanation has been forthcoming from those involved in this decision or from Mr. Stephanides.⁸⁶⁵

The balance between political considerations and the adherence to established standards should not tip in a manner that undermines transparency. The Committee has considered carefully the information provided by Mr. Stephanides and other witnesses, and it maintains its earlier finding that he violated the procurement rules by the manner in which he sought an advantage for Lloyd's, and more broadly, by not providing a contemporaneous explanation of the political basis for his actions.

⁸⁶⁴ "First Interim Report," pp. 98-99, 101-03, 110, 113-19.

⁸⁶⁵ Ibid., p. 108; Committee meeting with Joseph Stephanides (Feb. 2, 2005); "Financial Regulations and Rules of the United Nations (Series 100)," ST/SGB/Financial Rules/1/Rev.3, Rule 110.21 (1985).

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RESPONSE OF JOSEPH STEPHANIDES

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July 8, 2005

Mr. Michael Cornacchia
Chief Investigative Counsel
Independent Inquiry Committee
United Nations Oil-for-Food Programme
825 Third Avenue
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Via facsimile 212-842-2555

Re: Joseph Stephanides

Dear Mr. Cornacchia,

Further to our discussions, I would like to provide you with some additional information concerning the findings of the First Interim Report of the IIC with respect to Mr. Stephanides.

The following statements from principals who were knowledgeable about the circumstances surrounding the award of the humanitarian goods inspection contract to Lloyd's Register were prompted by the issuance of your report. They have all indicated their availability to provide further information upon request.

Victor Comras was with the US State Department and an expert on sanctions policy in the 1990's. He cites among others statements by former UK diplomats John Weston and Carne Ross, confirming that there was nothing improper in the selection of Lloyd's and that it is unfair to blame Mr. Stephanides for the political decisions emanating from the Security Council (Attachment 1)

Ambassador Tono Eitel of Germany was the Chairman of the 661 Committee and his statement confirms that the UN Steering Committee was in close touch with the permanent members of the Security Council who were the decision makers on all sanctions questions. (Attachment 2)

Ambassador Edward W. Gnehm was the then US Deputy Permanent Representative to the UN and is ready to provide a clear explanation of the process for setting up the OFF programme and Mr. Stephanides' role. Ambassador Gnehm also made a statement

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recently to Fox News that was reported in the June 13th UN Spokesman's comments, to the effect that "We made it clear to the United Nations, to Joseph personally and to his superiors that we would not support the contract going to the French firm and that it should go to Lloyd's of London." (Attachment 3) He also indicated recently that the Volcker investigators had never asked him specifically for his views about Mr. Stephanides' role.

Mr. Jean Noel Poirier, then representative of France to the 661 Committee is available through the French Mission to be questioned concerning the selection of Lloyd's.

The then US representative on the 661 Committee, Edwin Brown, has also indicated his availability to be questioned with respect to the decision making process in the award of the inspection contracts and Mr. Stephanides' role in particular.

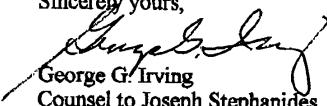
A statement signed by twelve notable experts on Security Council sanctions policy and enforcement is also attached (Attachment 4) Ms. Sue Eckert acts as coordinator for the group and can be contacted at 401-862-4060.

Mr. Stephen Avedon, who has been interviewed before by the Committee, is prepared to discuss in greater detail the events and communications leading up to the selection of Lloyd's.

Mr. Stephanides' consistent position has been that he acted pursuant to directions he received from the Chairman of the Steering Committee reflecting an understanding reached between the members of the Steering Committee and members of the Security Council, in furtherance of the political requirements set by the Security Council. That policy decision was confirmed in Mr. Stephanides' memorandum of 6 August 1996 which was duly authorized by Mr. Goulding and cleared with the Chairman of the Steering Committee, Mr. Gharekhan.

We would like to be advised whether the IIC would be in a position to re-examine these issues. We would be happy to provide a more detailed and documented explanation of Mr. Stephanides' position if that is the case. Following the completion of his disciplinary hearing, Mr. Stephanides is also ready to provide any additional information the IIC might wish to request.

Sincerely yours,


George G. Irving
Counsel to Joseph Stephanides

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| <i>ATTACHMENT 1</i> | | |
| <p>Victor D. Comras Attorney at Law 2601 N.E. 12th Street Fort Lauderdale, Florida 33304 VICCOMRAZ@AOL.COM Telephone 954 543 4386</p> | | |
| February 15, 2005 | | |
| <p>To Whom It May Concern:</p> <p>I am writing this statement voluntarily, but at the request of Joseph Stephanides, in order to explain some of the background to the matters discussed in the Interim Report of the Independent Inquiry Committee (Volcker Commission). I make the following observations based on my own personal knowledge and belief:</p> <ol style="list-style-type: none">1. The Volcker Commission Interim Report has charged that, in setting up the Oil for Food program, UN Secretariat officials deviated from the UN's procurement regulations. Their selection of BNP, Saybolt and Lloyd's Register, the report finds, was based largely on "political" factors and "to achieve a balance among broadly political interests of some member states." The Volcker report makes no suggestion of "corruption" in the selection of these companies, but concludes that the process did not conform to UN procurement regulations and procedures. I find it surprising that the political nature of these selections came as a surprise to the Volcker Commission.2. I am confused and disturbed by the finding of the Volcker Commission that Mr. Joseph Stephanides improperly used his role and influence to obtain the selection of Lloyd's Register to monitor the importation by Iraq of civilian goods subject to the Oil for Food program. To my knowledge and belief, this selection was made in capitals by the concerned member countries on the Security Council.3. The atmosphere and events surrounding the establishment of the Oil for Food program could only be described as highly "political." The issues raised by the program, and its administration, touched directly on the national security and foreign policy interests of several countries including the United States. All of these issues, including the selection of the companies charged with monitoring and inspection responsibilities under the program, were discussed and reviewed in capitals, including Washington D.C. They were also the subject of side discussions and negotiations between these interested countries.4. My recollection of these events is borne out also by recent statements to the press by a former British Diplomat, Carne Ross, who was in charge of Iraq policy at the British UN mission. He has reportedly told the UK newspaper The Telegraph that "the contracts were 'carved up' by diplomats. Official rules which favoured companies that submitted the lowest bids were routinely flouted...That is the way the UN operates and it seems a | | |

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little harsh if Joseph Stephanides is carrying the can for this as a UN official." Former British UN Ambassador Sir John Weston also told the Telegraph that his actions in assuring the selection of Lloyd's Register were also based on "ministerial instructions" from London. "We were to advise Lloyd's Register on the best tactic in the face of apparent competition," he said. "There was nothing the least bit improper."

5. At the time of these events I knew Joseph Stephanides to be Chief of the Sanctions Branch. I, and my colleagues in the US government knew him as one of the "good guys" who took the sanctions against Iraq seriously. He had worked hard to put in place a viable Iraq sanctions monitoring and enforcement structure.

6. Following Iraq's invasion of Kuwait, the US moved quickly to get the Security Council to impose sanctions against Iraq. This included authorizing the operation of a Multilateral Interdiction Naval Force (MIF) to cut off goods flowing to Iraq through the Persian Gulf and up the Gulf of Aqaba via Jordan. Jordan protested this arrangement as it had resulted also in great losses for Jordan's own Aqaba port. Jordan reached an agreement with the United States and the United Kingdom in 1994 to substitute inspection of goods within the Port of Aqaba once the goods were landed. These sanctions inspections were to be conducted by Lloyd's Register which was trusted by both the UK and the US and acceptable to Jordan. This arrangement predated the Oil for Food program by more than two years.

7. When it came to setting up the Oil for Food program Lloyd's seemed like a logical choice to take on this additional function. They had done a good job. They were well known to the US, UK, and Jordan. The system was working. And Lloyd's Register wanted to carry on. Having two different inspection systems -- one for the Oil for the Food program and one for the Iraq Sanctions program -- seemed to make little sense. Lloyd's, which had the confidence of the US and UK, was willing to take on these new responsibilities.

8. Political pressure was already being exerted at very high levels in the United Nations to select a French bank -- BNP -- to handle the Oil for Food escrow account. Several European Union countries were also pushing for the selection of the Dutch firm Saybolt to monitor Iraq oil exports. The United States went along with the selection of Saybolt based on its reputation and the fact that the Dutch were active supporters of the Iraq sanctions program. The United States also indicated its support for the United Kingdom's desire to retain Lloyd's Register. At that time the United States' greatest concern was to make sure that no weapons or dual use technology or equipment were going to Iraq. We wanted to make sure the job was being done right. This view was reinforced by the fact that its chief competitor for that contract was Veritas, a French firm. The French government was already pushing for the selection of BNP for the escrow account and it would not be politically acceptable to allow them to also take on the monitoring of the goods flowing into Iraq under the program. These factors were considered and weighed by US authorities in determining their support for Lloyd's selection.

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| <p>9. To my knowledge and belief, the final decision to select Lloyd's was made by the Oil for Food Steering Committee, in close consultation with members of the Security Council. It appeared that the Steering Committee remained sensitive to the views of Security Council members – including the United States and the United Kingdom throughout this process.</p> <p>10. My knowledge of these events stems from various positions I held in the US Department of State related to the Iraq sanctions program. I served as the Director of the U.S. Department of State Office of East West Trade (subsequently renamed as the Office of Sanctions Policy) from June 1991 to February 1993. Thereafter, I remained engaged in US sanctions policy development as Director of a special inter-agency task force on sanctions established under the White House until March 1994 when I was appointed as Chief of Mission of the US Liaison Office in Skopje, FYR Macedonia. During 1996-97 I served as Diplomat in Residence at the University of Pittsburgh's Graduate School of Public and International Affairs where I taught courses on U.S. Sanctions Policy. I returned to the role of special State Department Advisor on Sanctions Policy in late 1998. In January, 2000, I was charged by the incoming US Administration with developing a new program to 're-energize' the sanctions on Iraq. I continued in that role until I retired from the U.S. State Department in September 2001. During all of these periods I remained cognizant of events related to Iraq sanctions and to the establishment and implementation of the Oil for Food Program. I was aware, also, of the role Mr. Stephanides played in supporting the Iraq sanctions effort, as well as his efforts to help put in place a successful Oil for Food program. I subsequently dealt with Mr. Stephanides on a regular basis in my capacity as one of the five monitors appointed by the Secretary General to oversee and report on the implementation of measures against Al Qaeda and the Taliban.</p> <p>11. To conclude, Joseph Stephanides, in my opinion, used his best efforts to facilitate the implementation of the Iraq sanctions program and its humanitarian goals within the context and constraints imposed by legitimate political considerations stemming from the Security Council and its members. In my view his work on this important sanctions program was directed solely at ensuring that the monitoring process was conducted with the highest standards of efficiency, competence and integrity.</p> | | |

Sincerely yours

Victor D. Comras

Victor D. Comras

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ATTACHMENT 2

Prof. Tono Eitel
Ambassador (ret.)

Staufenstr. 40, 48145 Münster
Germany

February 15th, 2005

To Whom It May Concern

I have met Mr. Joseph Stephanides probably in July 1995 when I took up my work as German Permanent Representative to the UN, Member of the Security Council and Chairman of the Iraq Sanctions Committee. As a newcomer I had much to learn and Mr. Stephanides most kindly helped me a lot; I have come to know him as an honest and generous colleague.

I can confirm that the Iraq sanctions were a highly politicised topic where, at a given occasion, when in the Security Council I made legal representations the object of which I have forgotten I was told: We are here not at Court! At another occasion, I had to complain in the Council and to Secretary-General Boutros-Ghali that members of the Steering Committee habitually gave information to Permanent Members of the Council, but withheld it from me. My complaint did not change this practice. I had to acquiesce and work under the assumption that Permanent Members were running the Iraq sanctions in an informal and close cooperation with the Steering Committee and other bodies of the Secretariat concerned.

This is to say that, from what knowledge I have about this cooperation, I have little doubt that Mr. Stephanides also in his dealing with the British interest in a contract for Lloyd's acted on behalf of the Steering Committee or of another competent body.

(Tono Eitel) *Tono Eitel*

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ATTACHMENT 3

Subj: Fw: Spokesman's Morning Headlines for Monday
Date: 6/13/05 11:04:24 AM Eastern Daylight Time
From: rickard-martin@un.org (Lorraine Rickard-Martin)
To: Fqpol@aol.com
CC: GivInG030@aol.com

See Spokesman's statement below.

Former American ambassador Edward Gnehm, who helped oversee oil-for-food, backs up Joseph Stephanides's contention that it was the Security Council members and the UN bosses who encouraged Stephanides to help the British firm. "We made it clear to the United Nations, to Joseph personally and to his superiors that we would not support the contract going to the French firm and that it should go to Lloyd's of London," Gnehm said. He added that he did tell this to the Volcker Investigators. (Fox)

— Forwarded by Anita Mathur/DPA/NY/UNO on 13/06/2005 10:41 AM —

Frederic Eckhard
13/06/2005 09:11 AM

To: Frederic Eckhard/NY/UNO@UNHQ
cc:
Subject: Spokesman's Morning Headlines for Monday

SPOKESMAN'S MORNING HEADLINES FOR MONDAY, 13 JUNE 2005

UN REFORM: A Congressionally mandated panel will report this week that the UN suffers from poor management, "dismal" staff morale and lack of accountability and professional ethics but will acknowledge the broad changes proposed for the organization by Secretary General Kofi Annan and urge the United States to support them. The panel, headed by Newt Gingrich and George Mitchell, says the UN should put in place corporate style oversight bodies and personnel standards to improve performance. It also calls on the UN to create a rapid reaction capability from its member states' armed forces to prevent genocide, mass killing and sustained major human rights violations before they occur. (NYT Mon)

Nobody says that the United Nations is perfect. In fact, the organization's top bureaucrats are pressing for reform. But some demands for change are unproductive. The extreme bill sponsored in the House by Rep. Henry Hyde is a case in point. The United Nations, for all its flaws, is needed. Hitting it with a sledgehammer is the wrong way to go. (WP Sun ed)

Foreign ministers of the Group of 77 plus China met in Doha Monday ahead of a summit of the largest Third World coalition due to discuss UN reform and measures to strengthen their developing economies. (AFP)

According to Germany's Permanent Representative to the UN, Gunter Pleuger, three veto-holding powers – France, Britain and Russia – have pledged their support for the G-4 draft resolution on enlarging the Security Council to encompass new permanent members. (Handelsblatt,

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ATTACHMENT 4

THE WATSON INSTITUTE FOR INTERNATIONAL STUDIES

February 23, 2005

To Whom It May Concern:

For nearly a decade, we have worked with Joseph Stephanides in his capacity first as Chief of the Sanctions Branch of the Secretariat, and then as Director of Security Council Affairs Division. Based on our extensive interactions and cumulative experience working with him, we are writing now of our own volition and without reservation to attest to the exceptional character, integrity, and professionalism of Mr. Stephanides.

Our association with Mr. Stephanides revolves around the reform of UN sanctions. In the aftermath of comprehensive economic sanctions directed against Iraq, the instrument of sanctions itself came under serious and growing attack. The Oil-for-Food program was the Security Council's initiative to ameliorate the humanitarian effects of comprehensive sanctions while sanctions remained firmly in place. This extraordinarily complex task was compounded by a deeply divided Security Council. Motivated by the need to sustain and strengthen the Security Council's primary means of maintaining peace and international security, Mr. Stephanides mobilized a group of non-governmental organizations to study sanctions and make recommendations to refine the instrument. As a result of his insight, creativity, and personal leadership, the Interlaken, Bonn-Berlin, and Stockholm Processes were organized from 1998-2002. Sponsored by the governments of Switzerland, Germany and Sweden respectively, the sanctions reform exercises resulted in practical tools to assist UN Member States and the Secretariat in drafting and implementing Security Council resolutions imposing targeted financial, travel, and aviation-related sanctions, and arms embargoes. We are proud to be associated with these efforts, none of which would have come about without the tireless efforts of Mr. Stephanides.

The manuals and subsequent initiatives resulting from interactions among UN Secretariat staff, Member States, NGOs and academic experts are but one example of the many ways that Mr. Stephanides continually seeks creative and innovative solutions to complex problems confronting the UN. Growing out of the Interlaken, Bonn-Berlin, and Stockholm Processes, workshops have been organized on an annual basis for Security Council members to learn of recent developments in sanctions issues, and to spawn new ideas to help make such measures more effective. Mr. Stephanides' commitment to and passion for addressing such critical issues has inspired others to contribute their time, energy, and resources to these initiatives, forming a model of cooperation among the policy and NGO communities on a common agenda. All of this has been undertaken without requiring additional resources of the UN.

Watson Institute for International Studies, Brown University • 111 Thayer Street, Box 1970 • Providence, Rhode Island 02912-1970
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Mr. Stephanides was known to be a diligent and effective protagonist of the Security Council's policies on Saddam Hussein's Iraq. His initiatives helped to ensure more forceful implementation of the Security Council sanctions against Iraq. It is now widely recognized, in the aftermath of the removal of the former regime that UN sanctions helped to contain Iraqi military capabilities and prevent the development of prohibited weapons of mass destruction. The efforts of Mr. Stephanides and his associates in the Secretariat contributed to this success.

In all of our individual interactions with Mr. Stephanides through the years, we have found him to be of the highest moral character and integrity. Indeed he exemplifies the utmost dedication to international public service and an unparalleled depth of commitment to the United Nations and its objectives. He is an extraordinary individual with an outstanding record who has unselfishly given of himself, thereby motivating others to work together in the best interests of effective multilateral policies. We hold Mr. Stephanides in the highest regard, and we respect and admire this extremely talented and dedicated international civil servant. Over the period of years we have worked with Mr. Stephanides, we have observed the confidence in which he was held by Security Council members and responsible UN officials, and the steadfastness with which he served them.

Please feel free to contact each of us to discuss our experience with Joseph Stephanides in greater detail.

Sincerely,

SIGNED BY THE FOLLOWING:

Thomas Biersteker, Director, Thomas J. Watson Institute for International Studies, Brown University

Michael Brzoska, Bonn International Center for Conversion

Jeremy Carver, Clifford Chance, London

David Cortright, President, Fourth Freedom Forum

Antonius De Vries, European Commission, Directorate General for External Affairs

Sue Eckert, Senior Fellow, Watson Institute and former U.S. Assistant Secretary of Commerce

Anthony Gammon, formerly Head of Sanctions, Bank of England

Rae Lindsay, Clifford Chance, New York

George Lopez, Joan B. Kroc Institute, Notre Dame University

Alex Vines, Chatham House, The Royal Institute of International Affairs, London

Peter Wallensteen, Department of Peace and Conflict Research, Uppsala University, Sweden

Herbert Wulf, former Director, Bonn International Centre for Conversion

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August 2, 2005

Mr. Michael Cornacchia
Chief Investigative Counsel
Independent Inquiry Committee
United Nations Oil-for-Food Programme
825 Third Avenue
Fifteenth Fl.
New York, NY 10022

Via facsimile 212-842-2555

Re: Joseph Stephanides

Dear Mr. Cornacchia,

The findings of the Volcker Committee concerning the selection of Lloyd's Register, and the UN's charge of misconduct based thereon, are the result of an incomplete and inaccurate accounting of the timing and nature of the process that led to the selection of Lloyd's Register. The actions Mr. Stephanides undertook with respect to the UK delegation to the Security Council were based on decisions already taken that Lloyd's was the sole remaining viable bidder. The goal was then to ensure that the UN paid no more than it should have to secure these services. Mr. Stephanides used his best efforts to serve these interests and objectives. His actions were taken under the authority of, and with the full knowledge of, the Chairman of the Steering Committee, Mr. Gharekhan, and relevant members of the Security Council, and they resulted in substantial savings of \$900,000 for the United Nations. At no time did Mr. Stephanides prejudice the decisions of the Steering Committee to direct the contract to Lloyd's Register, or violate procurement regulations or procedures.

The IIC report specifically indicates that the IIC "[did] not doubt the sincerity of Mr. Stephanides view that Lloyd's was the best company for the contract or that this view was shared by high ranking officials of the United Nations and some members of the Security Council. However, there were procurement rules to follow, and Mr. Stephanides violated these rules by the manner in which he sought an advantage in the process for Lloyd's". This statement reflects a failure to understand that the decision to give the contract to Lloyd's Register had been arrived at before Mr. Stephanides approached the British delegation to encourage them to use their influence with Lloyd's to reduce their price. This fact was reflected in the correspondence sent on 6 and 8 August 1996, which

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summarized the position of the Steering Committee at that time. The letter of the UK Representative dated 8 August 2005 (which, it should be noted, was directly addressed to Mr. Gharakan) reflected the fact that the UK delegation was not fully informed of the status of the decision making process, precisely because of the need to put pressure on Lloyd's. The deliberations that were reported in subsequent meetings of the Steering Committee did not alter the fundamental decision but merely sought a way to convey this decision in a manner consistent with the financial rules.

The specific questions you have formulated continue to be based upon a false premise, namely that the bidding process had not yet been concluded and would be decided solely on the basis of the lowest bid. This is an incorrect premise, which appears to be based in part on an oral statement by Mr. Stephanides' former counsel that his actions could be viewed as a technical violation of the procurement rules. This is a view Mr. Stephanides never shared and which is contradicted by his written submission to the IIC dated 2 February 2005. There is also some question as to what his counsel was referring. While the broader decision to allow nationality to dictate the award of contracts could be construed as being inconsistent with the notion of competitive selection, Mr. Stephanides' demarche with the UK delegation was fully in compliance with the technical requirements of the procurement rules, the primary objective of which is to secure the best available service for the lowest possible price.

In answer to your specific questions, Mr. Stephanides was not authorized by anyone to solicit a lower bid from Lloyd's in order to underbid the French company. This was not the objective and in any event would not have been allowed. He was authorized by Mr. Gharekhan to approach the UK delegation in order to elicit a commitment from Lloyd's to lower its bid as a condition for receiving the contract. He did not disclose that it had been decided to award them the contract. He told them in general terms what he thought would be acceptable to the Steering Committee.

Mr. Stephanides did not act alone. He made his demarche to the UK delegation after he was informed by the Chairman of the Steering Committee, Mr. Gharekhan, of the strong representations made to him by the United States and other members of the Security Council against awarding a further contract to a French company [Bureau Veritas], following the awarding of the escrow account contract to a French Bank, BNP. Mr. Gharekhan agreed with the members of the Council that the proposal by Bureau Veritas could not be accepted under the circumstances, but before proceeding with Lloyd's Register, the latter needed to considerably lower its price. He specifically requested Mr. Stephanides to make that point clear to the UK delegation, which was strongly supporting Lloyd's Register.

It should be added that members of the Security Council had informed Mr. Stephanides of their representations made to members of the Steering Committee and the understanding reached among themselves and members of the Steering Committee that the proposal by Bureau Veritas could not be accepted for valid political reasons.

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What needs to be made explicitly clear is that the proposal by Bureau Veritas was deemed unacceptable by the policy makers, i.e., the members of the Steering Committee and the members of the Security Council, once the escrow account contract was awarded to a French bank. The notion therefore that Bureau Veritas was denied the contract as a result of Mr. Stephanides' representation to the UK delegation is not supported by the actual record of events.

It should be stressed that crucial records of meetings of the Steering Committee held on 30 July 1996 and on 6 and 8 August 1996 are missing. These records would demonstrate that the proposal by Bureau Veritas could not be accepted because of opposition by members of the Security Council, whose views on the matter were shared by the members of the Steering Committee, in view of the fact that BNP and a French Oil Overseer had already been selected.

It is not fair to Mr. Stephanides to ignore the significance of the missing records and to exaggerate his role in a manner suggesting that he acted on his own initiative. It should be pointed out that the existing record of the meeting of the Steering Committee held on 9 August 1996 begins with the sentence, "the purpose of the meeting was to REVIEW [emphasis added] the dilemma caused by the bid by Bureau Veritas, a French company..." The use of the term "review" confirms that the issue had been discussed before by the Steering Committee, and that therefore the assertion that the issue was first dealt with on the 9th of August 1996 is untrue.

It is moreover unfair to fail to recognize the significance of the statement by the then Chairman of the 661 Committee, Ambassador Eitel of Germany, who clearly described the circumstances under which Mr. Stephanides was operating and stated his conviction that Mr. Stephanides' demarche to the UK delegation was authorized.

I referred in my previous letter to Mr. Jean Noel Poirier, then representative of France to the 661 Committee, who is available to be questioned concerning the selection of Lloyd's and the role of Mr. Stephanides. Mr. Poirier, in a briefing to the Members of the European Union under article 19 of the European Union Treaty on 4 February 2005, stated that it was made clear in the Security Council that no country could procure more than one sanctions monitoring contract. Once BNP procured one contract, it was unrealistic for Bureau Veritas to be awarded the humanitarian goods inspection contract. Mr. Stephanides, he added, simply did his job and was unfairly criticized by the IIC. Had he not acted in a timely fashion towards the United Kingdom delegation, Lloyd's Register would have gotten the contract at a much higher price.

The then United States representative on the 661 Committee, Mr. Edwin Brown, and Mr. Steven Avedon, a former colleague of Mr. Stephanides, are available to the Committee in order to confirm their personal knowledge of events leading up to the selection of Lloyds.

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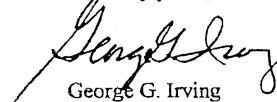
Ambassador Edward W. Gnehm , who has spoken publicly about the selection process, has kindly produced a written statement that is attached herewith, in which he acknowledges that his own delegation made it clear thorough direct contacts with Mr. Gharekhan and other members of the Steering Committee why Lloyd's had to be selected. He rejects any notion that Mr. Stephanides attempted to influence the outcome by his actions. His full statement is attached.

Mr. Stephanides' consistent position has been that he acted pursuant to directions he received from the Chairman of the Steering Committee reflecting an understanding reached between the members of the Steering Committee and members of the Security Council, in furtherance of the political requirements set by the Security Council. That policy decision was confirmed in Mr. Stephanides' memorandum of 6 August 1996, which was duly authorized by the then Head of DPA, Mr. Goulding, and cleared with the Chairman of the Steering Committee, Mr. Gharekhan.

I am concerned that there is a continuing fundamental misconception concerning the circumstances and events surrounding the selection of Lloyd's Register and my client's role therein. Your letter seeks to segregate the political aspects and circumstances that led to the selection of Lloyd's Register from the technical details you cite. I do not believe such segregation is appropriate. Once the determination was made, on political or other grounds, that Lloyd's was, in fact, the only remaining viable candidate for the goods inspection contract, the usual policies and procedures relating to the bidding process became moot .At that point the principal objective was to move forward with the selection of Lloyd's as quickly as possible and at the best attainable price. Under such circumstances, particularly with Bureau Veritas no longer in competition, contacting the UK delegation-not an outsider but a member of the Security Council- was reasonable, appropriate and duly authorized. It succeeded in getting Lloyd's to lower its price, resulting in considerable savings to the United Nations. It facilitated putting in place the necessary mechanisms to get the oil for food programme up and running as quickly as possible. Your letter seems to imply that these factors were extraneous to the selection process, when in fact they were central to it and to my client's actions.

I hope you will take this information and these observations into consideration as you further review and revise your findings concerning Mr. Stephanides.

Sincerely yours,



George G. Irving

Enclosure
cc: Mr. J. Stephanides

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July 13, 2005

TO WHOM IT MAY CONCERN:

I, Edward W. Gochman, Jr., served as Deputy Permanent Representative of the United States to the United Nations from May 1994 to August 1997. During this time I worked closely with the officers who covered Middle East issues in the Security Council, including the Security Council's Iraq Sanctions committee, also known as the 661 Committee.

During my tenure the Security Council initiated the Oil-for-Food Program (OFF). There were many political considerations in setting up the OFF program. The US Government supported the program and considered that an effective monitoring system was critical to its success.

I became acquainted with Joseph Stephanides in his role as head of the UN Sanctions Branch. In my opinion Mr. Stephanides was an outstanding international civil servant who recognized the need to create an effective and accountable framework for OFF management and oversight. He also appreciated the need to respect the concerns of the Security Council members.

The US delegation made it clear to the United Nations Secretariat, through its contacts directly with the Chair and Members of Steering Committee, as well as through Mr. Stephanides, who acted as a liaison between the Steering Committee and the Security Council that the selection of contractors for the various inspection functions was critical to the success of the program. In addition to seeking the best qualified contractors, it was the consensus of the Sanctions Committee members that it was also essential that there be as wide a representation as possible of nationalities in the selection of contractors.

Once the Banque Nationale de Paris was selected to manage the OFF escrow account, my government supported by several other members of the Security Council believed that a French company should not also be selected for the inspection contracts. This view was clearly conveyed to the Steering Committee and made known to Mr. Stephanides. When we became aware that there were only two candidates under consideration, Bureau Veritas and Lloyd's Register, for the Inspection of Goods contract, it was obvious that Lloyd's was the only viable choice and the Steering Committee was made aware of the views of the Security Council in this regard.

I should add that earlier the United States and other Members of the Security Council had strongly supported the award of the oil installation inspection contract to Saybolt of the Netherlands.

Any suggestion that Mr. Stephanides favored any of the contractors and attempted to influence the outcome is based on a misunderstanding of the political process leading to the selection. As far I am aware, his contacts with the British delegates served only to secure a substantial price reduction from Lloyd's after it had been determined that the

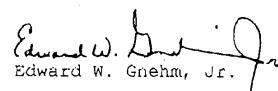
REPORT ON PROGRAMME MANIPULATION
APPENDIX B
CONSIDERATION OF RESPONSE FROM JOSEPH STEPHANIDES

08/02/2005 17:06 FAX 9787445532

LAW OFFICES KECK IRVING

007/007

contract would be awarded to them. We were all aware of the complexities that the UN faced in trying to satisfy the sometimes conflicting demands of various governments and the pressures to put the program into operation as quickly as possible. To my knowledge, Mr. Stephanides always acted in the best interests of the OFF program and should be commended for the success he achieved in light of these difficult considerations.


Edward W. Gnehm, Jr.

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October 7, 2005

Mr. Michael Cornacchia
Chief Investigative Counsel
Independent Inquiry Committee
United Nations Oil-for-Food Programme
825 Third Avenue
Fifteenth Fl.
New York, NY 10022

Via facsimile 212-842-2555

Re: Joseph Stephanides

Dear Mr. Cornacchia,

Further to my letters to you dated 8 July and 2 August 2005, I wanted to provide the IIC with some additional information from highly credible sources and to point to some serious anomalies in the First Interim Report that should be reviewed and clarified. I believe that your reconsideration of these issues in the light of the additional information that we provided will convince the IIC to amend its findings with respect to Mr. Stephanides.

The foundation of the IIC's adverse finding against Mr. Stephanides is that he "tainted" the bidding process by divulging confidential bidding information to a member of the Security Council (the UK), with a view to obtaining a lower price from Lloyd's Register thus giving the latter an advantage and preferential treatment.

Attention should be drawn to the implementation of Financial Rule 110.20 for the goods inspection contract, which was considered in the first Interim Report of the IIC. On page 67 of the Report is stated that, "to ensure an open and competitive bid process, no information of a material nature, such as the number of bids received, the names of bidders or the amount of bids could be revealed to any individual or to the general public prior to the time of the bid opening. Consistent with these principles, the bids or proposals received were required to be "publicly opened at the time and place specified in the invitation to bid, and an immediate record" was to be made."

On page 14 of the first Interim Report it is stated that, "five companies responded with bids that were accepted for consideration, and the procurement department conducted an open reading of the bid prices on July 30, 1996." It is thus clear that the amount and

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source of all the bids was public knowledge as of 30 July 1996, well before it is alleged that Mr. Stephanides tainted the bidding process by disclosing confidential information to the UK delegation to the Security Council. Obviously, if the information was in the public domain at least since 30 July 1996, the IIC finding that Mr. Stephanides tainted the bidding process by divulging information to a Security Council member (the UK) cannot be sustained and should be rectified immediately.

Mr. Stephanides has consistently stated his conviction at the time of the events that the competitive bidding process was no longer active at the time he was authorized to make his demarche to the UK delegation to the Security Council. Mr. Stephanides was merely implementing the above policy decision following authorization by the Chair of the Steering Committee and after being informed by members of the Security Council of the agreement reached between them and the Steering Committee. The reliable eyewitness testimony we have submitted fully corroborates the above. We urge you to fully interview all of our witnesses. They will confirm to you the facts as they experienced them directly.

I also want to provide you with additional relevant documentation that, we believe, has a direct bearing on the accuracy and tenor of the finding against Mr. Stephanides. This includes a further statement from Ambassador Tono Eitel, the then Chairman of the 661 Committee, (Attachment 1) as well as statements from Ambassador John Weston, the then UK Permanent Representative to the UN, (Attachment 2) and Mr. Carne Ross, former First Secretary of the UK Mission to the UN. (Attachment 3). Also included is a statement from Mr. Edwin Brown, a career officer of the United States State Department and the then Representative of the United States to the 661 Committee. (Attachment 4). Attached is also a statement from Mr. Steven Avedon, the then Senior Political Affairs Officer in the Sanctions Branch of the UN Secretariat (Attachment 5).

The then Chairman of the 661 Committee, Ambassador Eitel, confirms that the details of the OFFP were treated and decided exclusively between the UN Secretariat (Steering Committee) and the P 5. He also confirms his knowledge that the (goods) inspection contract would not and could not have been awarded to a French firm. He remains convinced that Mr. Stephanides would not have acted without instruction from the Steering Committee.

Ambassador Weston's statement, which closely coincides with the statement of the former United States Ambassador, Edward Gnehm that we previously provided, confirms in particular that Mr. Stephanides, "was acting on the basis of higher authority within the Secretariat" in making his representation to the UK delegation. The clear and unambiguous written testimony of the above former senior officials confirms that Mr. Stephanides acted in a completely proper manner. Ambassador Weston confirms that based on Foreign Office papers he had reviewed and his own reports to the Foreign Office as well as his recollection of events, Mr. Stephanides' demarche with the UK delegation was fully authorized by higher officials of the UN and it was for this reason he addressed his letter of 8 August 1996 to Mr. Gharekhan. He rejects the unfounded notion that any of the contacts between Mr. Stephanides and his delegation were tainted but

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rather were a normal interaction between the Secretariat and a permanent member of the Security Council. (Attachment 2)

Mr. Ross, whose portfolio included the OFFP, affirms the programme was highly politicized. It was, he stated, under the direct control of the Security Council and the views of the permanent members as to the nationality of the contractors was paramount. As a direct observer, he notes that Mr. Stephanides always acted for the good of the Programme and was completely impartial. He concludes by noting the lack of any justification for the treatment Mr. Stephanides has received. (Attachment 3)

Of crucial importance is also the eyewitness testimony of Messrs. Edwin Brown and Steven Avedon (Attachments 4 and 5), both of whom fully confirm Mr. Stephanides' account of events. They were all active participants in those events and have had a first hand knowledge of what really took place. Mr. Brown states that the Steering Committee decided to award the contract to Lloyd's and believes the decision " was made before the Committee began looking for a way to award the contract in a manner that would satisfy UN rules, and thus before Mr. Stephanides made his demarche to the UK delegation.

Mr. Avedon confirms his specific recollection that the Chairman of the Steering Committee had briefed Mr. Stephanides that, "a French company was now, without question, out of the running and that the UK delegation should use its influence to get Lloyd's to reduce the cost of its proposal" and that Mr. Stephanides was careful never to take any action without instructions.

All the foregoing statements should be contrasted with the self -serving, inaccurate and incomplete statements upon which the IIC relied earlier in reaching the initial finding concerning Mr. Stephanides.

Once it became clear that Lloyd's Register was the only viable choice for the contract, since the French company, Bureau Veritas, had been ruled out due to its nationality, there was no longer a competitive bidding process in play. It became a negotiated contract process. This is crucial to understanding the motivation for Mr. Stephanides' authorized demarche with the UK delegation to the Security Council. It was, as pointed out by Ambassador Gnehm in his statement, for the sole purpose of obtaining a substantial price reduction from Lloyd's. Although the latter was the only candidate left, it was important to the Steering Committee that the significant price differential reflected in the initial competitive bidding process be reduced -not to underbid Bureau Veritas (indeed Lloyd's did not underbid them), but to get the best price in terms of a negotiated contract. Time was of the essence and they did not want it known that Lloyd's was the sole remaining contractor. Hence the oral instructions from the Chairman of the Steering Committee to Mr. Stephanides to see if he could get the UK delegation to the 661 Committee, to approach Lloyd's to be more flexible in price.

The fact that the initial bidding competition was completed, the bids were opened and made public and the Steering Committee had decided in agreement with the members of the Security Council to exclude Bureau Veritas and to award the contract to Lloyd's

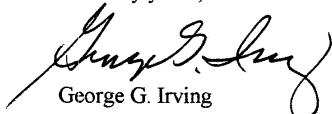
REPORT ON PROGRAMME MANIPULATION
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Register subject to a substantial price reduction, raises serious questions concerning the accuracy of the IIC's initial findings that Mr. Stephanides "tainted" the bidding process by disclosing confidential information.

I urge the IIC now to reconsider these findings given that they have been invoked as the sole reason for the exceptionally harsh treatment that has been afforded to Mr. Stephanides.

Sincerely yours,



The signature is handwritten in black ink, appearing to read "George G. Irving". It is written in a cursive style with a long, sweeping line extending from the left.

George G. Irving

Enclosures
cc: Mr. J. Stephanides

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Attachment 1

Prof. Tono Eitel

Staufenstr. 4a, 48145 Münster

Germany

October 3rd, 2005

To Whom It May Concern

I want to add to my statement of February 15th, 2005, concerning Mr. Joseph Stephanides the following.

I remain surprised about the accusations against Mr. Stephanides regarding details of the Oil-for-Food Program.

Since – to my great regret – these matters were treated and decided exclusively between the UN Secretariat (Steering Committee) and the P 5, I was not aware of the above mentioned details. What I knew, however, was that the inspection contract would and could not go to a French firm, France having already obtained one oil overseer, and the escrow account for BNP. Under the circumstances I found it normal that the contract would go to a firm of another P 5 member.

I remain sure that Mr. Stephanides in this matter would not have acted without instruction from the Steering Committee. And I certainly have never seen or heard any indication of Mr. Stephanides's seeking his personal advantage in official transactions.

Tono Eitel
(Tono Eitel)

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ATTACHMENT 2

Subj: Re: Joseph Stephanides
Date: 9/30/05 3:34:43 PM Eastern Daylight Time
From: john.weston-pjweston@btinternet.com (john weston)
To: Gliving030@aol.com

I am happy to agree that my note be made available to the Volker Committee in confidence; and am delighted (but not surprised) to see that the views of my US colleague and friend Skip Gnehm accord closely with my own. Yrs sincerely, John Weston

— Original Message —

From: <Gliving030@aol.com>
To: <john.weston-pjweston@btinternet.com>
Cc: <Fqpol@aol.com>
Sent: Friday, September 30, 2005 4:27 PM
Subject: Re: Joseph Stephanides

> Dear Ambassador Weston,
>
> As Joseph may have told you, we believe the disciplinary hearing went well
> and your letter had a great impact.
>
> We have also been advised by the Volcker Committee of its readiness to review
> any material we may have in connection with its reconsideration of his case. I
> have attached below the text of a letter Ambassador Gnehm wrote for our use
> that you may wish to see.
>
> I am fully aware of your request for use of your confidential statement only
> for disciplinary purposes but wonder if there is a way it could be made available on a confidential basis to the Volcker people as well. I think it would help greatly.
>
> Please let me know your views. With kindest regards, George Irving
>
> I, Edward W. Gnehm, Jr., served as Deputy permanent Representative of the United States to the United Nations from May 1994 to August 1997. During this time I worked closely with the officers who covered Middle East issues in the Security Council, including the Security Council's Iraq Sanctions committee, also known as the 661 Committee.
>
> During my tenure the Security Council initiated the Oil-for-Food Program (OFF). There were many political considerations in setting up the OFF program. The US Government supported the program and considered that an effective monitoring system was critical to its success.
>
> I became acquainted with Joseph Stephanides in his role as head of the UN

Monday, October 03, 2005 America Online: Gliving030 Page: 1

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> Sanctions Branch. In my opinion Mr. Stephanides was an outstanding international
> civil servant who recognized the need to create an effective and accountable
> framework for OFF management and oversight. He also appreciated the need
> respect the concerns of the Security Council members.
>
> The US delegation made it clear to the United Nations Secretariat, through
> its contacts directly with the Steering Committee, directly with the Chair and
> Members of the Steering Committee person, as well as through Mr. Stephanides,
> who acted as a liaison between the Steering Committee and the Security Council
> that the selection of contractors for the various inspection functions was critical to the success of the program. In addition to seeking the best qualified contractors, it was the consensus of the Sanctions Committee members that it
> was also essential that there be as wide a representation as possible of nationalities in the selection of contractors.
>
> Once the Banque Nationale de Paris was selected to manage the OFF escrow account, and one of the four overseers selected was also French, there was a
> clear consensus that a French company could not also be selected for the inspection contracts. This view was clearly conveyed to the Steering Committee and
> made known to Mr. Stephanides. When we became aware that there were only two
> viable candidates, Bureau Veritas and Lloyd's Register, for the Inspection of
> Goods contract, it was obvious that Lloyd's was the only viable alternative and
> the Steering Committee was made aware of the views of the Security Council in
> this regard.
>
> I should add that earlier the United States and other Members of the Security Council had strongly supported the award of the oil installation inspection contract to Saybolt of the Netherlands,
>
> Any suggestion that Mr. Stephanides favored any of the contractors and attempted to influence the outcome is based on a misunderstanding of the political process leading to the selection. As far I am aware, his contacts with the British delegates served only to secure a substantial price reduction from Lloyd's
> after it had been determined that the
>
>
> contract would be awarded to them. We were all aware of the complexities that the UN faced in trying to satisfy the sometimes conflicting demands

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of
> various governments and the pressures to put the program into operation as
quickly
> as possible. To my knowledge, Mr. Stephanides always acted with the best
> interests of the program and of the UN in general and should be commended
for the
> success he achieved in light of these difficult considerations.
>
> [Signed]
> Edward W. Gnehm, Jr.
>

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To: <Girving030@aol.com>
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CONSIDERATION OF RESPONSE FROM JOSEPH STEPHANIDES

Subj: To Whom To It May Concern
Date: 9/20/05 5:08:09 AM Eastern Daylight Time
From: john.weston-pjweston@btinternet.com (john weston)
To: Givng030@aol.com
CC: Fqpol@aol.com

File: ToWhomItMayConcer1.doc (23040 bytes)
DL Time (48000 bps): < 1 minute

Dear Mr Irving, I attach a personal note as requested by Joseph Stephanides. I have read it over to the Foreign Office who see no objection to my sending it, but it is not an official document within the meaning of the Volker Commission's remit. No further distribution please (beyond the panel) without consulting me. Yrs sincerely, John Weston

----- Headers -----
Return-Path: <john.weston-pjweston@btinternet.com>
Received: from rly-yh03.mx.aol.com (rly-yh03.mail.aol.com [172.18.180.67]) by air-yh02.mail.aol.com (v107.10) with ESMTP id MAILINYH21-2b4432fd15d244; Tue, 20 Sep 2005 05:08:08 -0400
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by smtp812.mail.ukl.yahoo.com with SMTP; 20 Sep 2005 09:07:39 -0000
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From: "john weston" <john.weston-pjweston@btinternet.com>
To: <Givng030@aol.com>
Cc: <Fqpol@aol.com>
Subject: To Whom To It May Concern
Date: Tue, 20 Sep 2005 10:07:40 +0100
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WESTON

(This personal note is not an official document, and is for use at the Appeal Panel on 21 September 05 only. No further distribution without author's permission)

To Whom It May Concern

I understand Mr Joseph Stephanides is shortly appearing before an Appeal Panel within the UN Secretariat, in connection with his role in the UN decision to award a contract to Lloyds Register in 1996.

I was British Ambassador to the UN in New York at that time. I gave evidence to the Volker Commission in January this year about my recollection of events, having refreshed my memory by looking at Foreign Office papers.

I note from page 107 of the first Interim Report of the Volker Commission that Mr Stephanides' view that Lloyds was the best company for the contract in the circumstances "was shared by high-ranking officials of the UN". I understand Mr Stephanides has insisted that the views he conveyed to my Mission staff about Lloyds' chances of securing the contract, if they kept their price competitive, had been authorised orally by higher level officials within the UN Secretariat. This accords with the notes I made from Foreign Office papers in January this year and my Mission's views conveyed to London in 1996, to the effect that the UN Sanctions Unit and Mr Stephanides were subject to higher level oversight within the UN Secretariat on the question of the award of contracts. It was no doubt for this reason that I wrote to Under Secretary-General Garekhan on 8 August 1996 to make sure he was aware of the British company's final offer (which, by the way, I make no apology for, it being part of my duty as Permanent Representative of the United Kingdom to advance the case for a British company that had prior experience of sanctions enforcement against Iraq).

I am also aware that UN rules provide (FR 110 – 21) that the Secretariat does not have to go to the lowest bidder in awarding a contract if there are other reasons for not doing so. The Volker Commission Interim Report, according to my notes, records that on 9 August the UN Steering Committee (including Messrs Corell, Garekhan, Akashi and Goulding) took the view that "it would be unacceptable to award the contract for goods inspection agents to a French company". This also supports Mr Stephanides' contention that he was acting under higher authority.

So far as I am aware, Mr Stephanides behaved with complete propriety in his contacts with my Mission over this matter and was acting on the basis of higher authority within the Secretariat, whether or not that was recorded in writing at every step. I reject the notion that these normal working contacts between the UN Secretariat and the Mission of a Permanent Member of the Security Council were in any sense "tainted". such language betrays a serious lack of understanding about the normal flow of daily business between the UN Secretariat and the Missions of Member States.

Sir John Weston
UK Permanent Representative to the United Nations 1995-98

REPORT ON PROGRAMME MANIPULATION

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CONSIDERATION OF RESPONSE FROM JOSEPH STEPHANIDES

08 SEP '05 07:43 TIBEB INTERMEDIA LTD

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TO:

P01

FAX TO MR. GEORGE IRVING 001 978 744 5532

ATTACHMENT 3

Statement by Carne Ross regarding Mr Joseph Stephanides, 15 September 2005

To Whom It May Concern:

I was between 1998-2002 the First Secretary in the UK Mission responsible for Iraq, including the oil-for-food (OFF) programme. Although my time at the UK Mission were subsequent to the events which gave rise to the accusations against Joseph Stephanides, I had close experience of his work, the contracting process and the oil-for-food (OFF) programme in general. I had extensive contact with Joseph Stephanides in his then capacity. (I left the UK Foreign Office in September 2004.)

Joseph Stephanides always conducted himself and the issues he supervised with considerable professionalism, integrity and honesty. He was straightforward with me and my colleagues in the UK Mission, and, as far as I could be aware, with other missions too.

The oil-for-food programme was deeply politicised. It was well- if informally understood by all Security Council members, but particularly the P5, that certain aspects of the programme were divided among the permanent members. For instance, France had the (BNP) bank account for the programme; the UK had the customs and inspection contract. If the UK ever complained about the BNP contract, France would threaten to insist that a non-UK company win the customs/monitoring contract (I have a clear memory of such exchanges during informal sessions of the 661 Committee). This was not right, but it is the way it was. The UN Secretariat understood this too. It made their lives very difficult in terms of running the OFF programme where they had to balance the competing interests and wishes of the P5, but they were obliged to respect this political reality. In the circumstances of a programme under the direct charge and political control (if not management) of the UN Security Council, as the OFF programme was, this political imperative trumped all other considerations.

In this context, I was very surprised by the accusations against Joseph Stephanides of his alleged involvement in undermining the formal contracting process for the customs contract in the OFF programme. As far as we in the UK Mission were concerned, Joseph's involvement was to ensure that the programme had the best possible customs and monitoring operation. Joseph had no personal stake in this contract and received no personal benefit from the award of the contract to any one company or another, including Lloyds. Nothing in my experience and observations would lead me to believe that the treatment he has received, including his dismissal, was in any way justified in this case.

If you require further information, please do not hesitate to contact me at carne@carneross.com or +44 (0) 207 793 7942.

Carne R

Carne Ross
15 September 2005

REPORT ON PROGRAMME MANIPULATION

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CONSIDERATION OF RESPONSE FROM JOSEPH STEPHANIDES

09/08/2005 10:18 FAX

44 002/000

ATTACHMENT 4

7 September 2005

PRIVILEGED AND CONFIDENTIAL

To Whom It May Concern:

I am providing this statement at the request of Joseph Stephanides. This statement is made in my individual capacity and is based upon my personal knowledge. It does not represent the views of the U.S. Government.

I am a Foreign Service Officer in the U.S. Department of State. From April 1995 to June 1998 I was assigned to the U.S. Mission to the UN in New York. Among my responsibilities I represented the Mission on the Iraq Sanctions Committee (The 661 Committee). Mr. Stephanides, as head of the sanctions office, was one of my principal contacts in the UN Secretariat. I had almost daily contact with him for the entire period of my service at the U.S. Mission.

We frequently talked about ideas for making the Iraq sanctions regime more effective. At one point in 1996 Mr. Stephanides traveled to the Gulf region, and upon his return we specifically discussed the possibility of a larger sanctions monitoring role for Lloyds Register, including transferring its operations from Aqaba to ports of entry on Iraq's borders. This conversation was related to general efforts to strengthen the sanctions regime, and took place before there was any indication that Lloyds would become involved in the OFF program.

Following the selection of BNP as the escrow bank, and the decision that France would name one of the oil overseers, it became clear that a French firm should not get the goods inspection contract. It was important to the U.S. and other Security Council members that the several functions of OFF oversight were distributed among companies representing different UN member states.

For this and other reasons, an understanding emerged between the U.S. and other Security Council members that the inspection contract should be awarded to Lloyds Register, as opposed to a French competitor. Lloyds' previous experience with Iraq sanctions was also a strong factor in its favor. In the course of my duties, I personally communicated this to Mr.

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CONSIDERATION OF RESPONSE FROM JOSEPH STEPHANIDES

09/08/2005 17:28 FAX

002/002

Stephanides. The U.S. Mission also communicated the Council Members' understanding to the Steering Committee.

At some point the Steering Committee agreed that the Secretariat, consistent with the wishes of the Security Council members, would award the contract to Lloyds. I do not recall exactly when the Committee made this decision, but I believe it was before the Committee began looking for a way to award the contract in a manner that would satisfy UN rules, and thus before Mr. Stephanides contacted the UK Mission to discuss Lloyds' bid.

Throughout this process, Mr. Stephanides kept me informed about the discussions taking place in the Steering Committee. I recall him telling me that the Committee had agreed Lloyds would get the contract and now had to square its decision with UN rules. He also told me the situation was sensitive because the Committee would not provide him with formal instructions, even though it was clear what the Committee wanted the outcome to be. I recall him stating that because of the politics of the situation and the need to conform to UN rules, he would take action concerning Lloyds Register only with the knowledge and approval of his superiors at the UN, including the Steering Committee.

Respectfully Submitted


Edwin P. Brown

315 South Lee
Alexandria,
Va. 22314

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ATTACHMENT 5

TO WHOM IT MAY CONCERN

In 1996, during the period in question, I was a Senior Political Affairs Officer in the Security Council Subsidiary Organs (Sanctions) Branch, Security Council Affairs Division, United Nations Department of Political Affairs (DPA) in New York. At that time my functions and responsibilities included work related to the phasing in and implementation of the Oil-for-Food Program (OFF). Mr. Joseph Stephanides was my immediate supervisor, to whom I reported directly.

As a senior political officer in DPA, it was a given that I would have a special relationship with my national government with respect to the sharing and communication of non-proprietary information in order to best serve the interests of the Organization. From very early on in the OFF process, I was made to understand that the individuals and entities to be entrusted with monitoring or authenticating functions would only be acceptable if they were perceived as supporting the sanctions. In addition, it was clear from the onset that those chosen could not all come from the same country: in other words, the major players in the Security Council had agreed to "split up the pie". It was again my understanding that this "way of doing business" was communicated to the members of the Steering Committee, which was thus aware of this approach from almost the onset of its discussions.

With this in mind, I should like to go on record that the accusations against Mr. Stephanides included in the Volcker Commission's First Interim Report display a grave and critical lack of understanding of the political process at play at the time with respect to the workings of the Security Council and the Steering Committee.

Specifically, once a French bank had been chosen as one of the major three OFF vendors, it was not feasible for a French company to be selected for the goods inspection. In fact, due to the British commitment to sanctions enforcement as well as Lloyd's Register's acknowledged expertise and ongoing experience at the Port of Aqaba, choosing Lloyd's seemed to me



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like a foregone political decision by the Security Council. Ultimately, this position was communicated to me by the US delegation as well as other members of the Security Council; they also indicated that it had been agreed to by the Steering Committee.

To my knowledge, all of Mr. Stephanides' actions concerning the selection of Lloyd's reflected his commitment to facilitate an end result sanctioned by both the Security Council and the Steering Committee, thereby encompassing the wishes of Member States while epitomizing the best of an international civil servant. He had confirmed my basic understanding of the situation by keeping me abreast of discussions in and decisions taken by the Steering Committee, including a briefing he had received from its Chairman that a French company was now, without question, out of the running and that the UK delegation should use its influence to get Lloyd's to reduce the cost of its proposal.

I am, therefore, sure that any representation Mr. Stephanides made to any national authority – including and specifically the UK delegation – was within this context as well as reflected his normal duties as Chief of Branch. Being cautious by nature, Mr. Stephanides was always extremely careful in such critical circumstances never to take action except when under instruction – in this case by both the Security Council and the Steering Committee.

In my view, Mr. Stephanides acted at all times with the utmost integrity as well as in the best interests of the United Nations. Once a policy decision was made by the Steering Committee in consultation with members of the Security Council, he carried out their wishes in resolute fashion and, I believe, with maximum results. For him to be held liable for such actions not only misses the crux of how the political process works but is also a glaring miscarriage of justice.



Steven R. Avedon
August 19, 2005

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RESPONSE OF S. IQBAL RIZA

New York, 31 August 2005

Honourable Chairman and Members of the Independent Inquiry Committee,

It is gratifying that your Third Interim Report acknowledges that the Committee “did not make any finding that Mr. Riza intended to obstruct its inquiry”. This provides a new and significant frame of reference. The absence of any such finding can only mean that the Committee found no evidence of any ill intent on my part. That is not surprising because no such ill intent existed.

It is unfortunate, however, that this acknowledgement is buried in language, including the parsing of circulars, that continues to imply, as did the Second Interim Report, wrongdoing on my part, though the Committee has found no such evidence. These insinuations have been highly damaging to my personal and professional reputation.

I concede that my failure to connect my secretary’s routine request to shred “chron” files with the Committee’s legitimate concern to preserve evidence was unfortunate. It was, however, an innocuous and inadvertent lapse. This may have been imprudent, but it was in no way linked to the Committee’s inquiry, in no way motivated by an intent to obstruct the inquiry, and did not, in fact, in any way obstruct the inquiry. It is regrettable, therefore, that the Committee has dedicated so many pages to this innocuous error, and used language which gives rise to the impression of mala fides, though the Committee itself ultimately concludes that there was none.

The explanation for my actions is, in summary, as follows: I treated my secretary’s request for approval to shred these files – since the office had run out of filing space – as a routine administrative matter. I made no connection between that request and the Committee’s inquiry. It did not occur to me that my “chron” files, which contained only extra copies of outgoing correspondence on every subject that crossed my desk, were covered by the instruction that I had circulated to preserve records and documents (or other similar instructions) related to the Oil-for-Food Programme.

As I have previously brought to the Committee’s attention, the “Retention Schedule” issued in 1995 by the UN Archives Section describes chronological files as “copies of outgoing correspondence...arranged chronologically for quick reference”. It further stipulates that “chron” files may be destroyed annually by the Secretariat office concerned. It is regrettable that the Committee reached its conclusions in the body of its Second Interim Report without even mentioning the existence of this basic policy document, which the Committee states it was aware of at that time. (In fact, I clearly recall having brought this document to the Committee’s attention the evening before the issue of the report on 29 March 2005).

Mr. Paul A. Volcker, Chairman,
Judge Richard Goldstone, Member,
Mr. Mark Pieth, Member
Independent Inquiry Committee into the
United Nations Oil-for-Food Programme
New York

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I also must point out several instances where the Committee's language in the Second Interim Report was insinuating and misleading (see Annex), possibly due to the zeal of the investigators. This contributed to the exaggerated and destructive reporting in the media, seriously damaging my reputation, and deserves corrective action by the Committee.

I write again, therefore, to respectfully request that the Committee, in its forthcoming final report, acknowledge the explanation which I have provided of my actions (summarized above), state forthrightly that the Committee accepts this explanation and has concluded that my actions were unrelated to the Oil-for-Food Inquiry, and formally clear me of any wrongdoing, even implied. This would be consistent with the committee's recent conclusion that there was no intent on my part to obstruct its inquiry, and would provide at least some redress to a genuine grievance and its injurious consequences to a 25 year career with an honourable reputation for integrity.

I also request that this letter be annexed to your forthcoming report.

Thank you for this opportunity.

Sincerely,

S. Iqbal Riza

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ANNEX TO LETTER OF 31 AUGUST 2005 TO IIC:

Instances of tendentious language in second interim report of IIC:

- In the first interview with the Committee's investigators on 20 December 2004, Mr. Riza "was questioned about the filing system at the Secretariat". **This statement is untrue. There was not a single question about the filing system.** The transcript shows about six passing references to "file/s" and four to "registry" (many by me in a session of 1 ½ hours).
- (In the same interview Mr. Riza) "did not disclose that he had authorized the destruction of three years of his documents". **This statement is misleading and insinuating in that it suggests an intention to conceal** the destruction of official records and is not negated by the observation (in the third interim report) that "the Committee does not suggest that Mr. Riza was untruthful about this issue". In fact almost the entire interview focused on the exchange of notes with Mr. Connor, Mr. Kojo Annan's relationship with Coctena etc. "Chron" files were not even mentioned. It was only after this meeting when I asked my secretary about copies of the exchange of notes with Mr. Connor, that I was reminded that the "chron" files for 1999 had been shredded. I so informed the investigators on the phone (as noted in the report). It was in the second meeting that "chron" files were discussed. They hardly figured in the third meeting, on 28 December with the Chairman and an investigator.
- "Two days later...Mr. Riza produced a copy of his memorandum authorizing the shredding of his "chron" files". **This statement is untrue.** A copy of my secretary's note requesting approval was "produced" by the investigators in the second interview on 23 December 2005 (as corroborated by the transcript).
- "The Committee has not identified any other evidence disputing this claim that he was unaware that the shredding continued until December 2004...Mr. Riza denies knowing of this continued destruction". **These statements are misleading and insinuating.** They suggest that my replies might be less than true, even though two pages before, it is recorded clearly that my secretary "did not update him on the status of her ongoing shredding of the "chron" file documents or the completion of this task in December 2004". (She was interviewed on 23 February and 16 March 2005, and I learned of this only in late March 2005).

There are other examples of inaccuracies (e.g. reference to copies of the incoming notes from Mr. Connor "presumably" being in "chron" files which actually held only outgoing papers) on which there is no need to dwell.

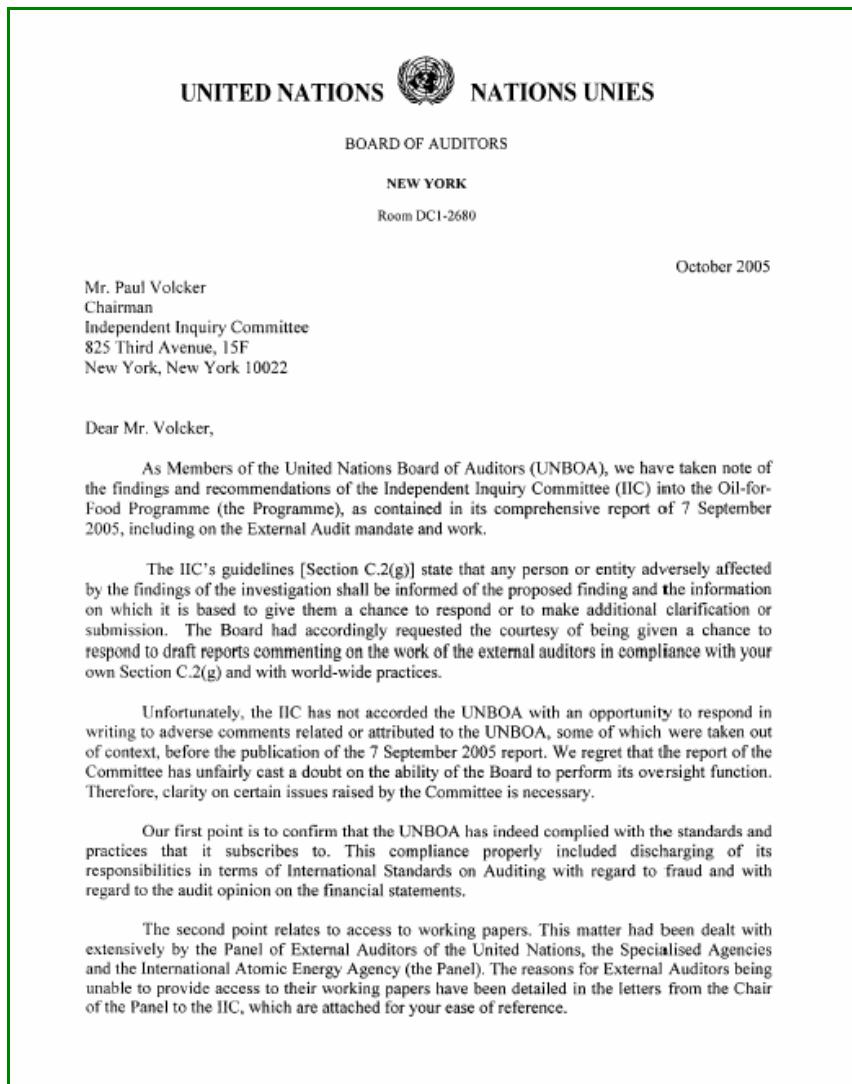
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RESPONSE OF THE UN BOARD OF AUDITORS

On October 20, 2005, the United Nations Board of Auditors (“BOA”) provided the Committee with its detailed review of the Committee’s BOA-specific findings included in the Committee’s Programme Management Report.⁸⁶⁶ The Committee is unable to consider this document given the timing of its submission. In addition, BOA submitted a letter to the Chairman of the Committee, which is reproduced below at BOA’s request.



⁸⁶⁶ Sabiniano Cabatuan letter to the Committee (Oct. 20, 2005) (attaching a schedule of BOA comments on the Committee’s findings).

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The UNBOA has taken great care to fully cooperate with the IIC within the standards and practices of the external auditing profession, in the absence of providing access to its working papers, as acknowledged by the IIC's report.

We have also noted the concern of the Independent Inquiry Committee as to the level of audit resources, and we are reconsidering the depth of our coverage in general. Accordingly, we plan to submit to the Administration and, through it, to the General Assembly, a request for additional resources to that effect, once agreed to by the Board later this year.

In addition to the above general comments, the UNBOA has also analysed in detail, in a tabular format, the external audit issues raised by the IIC. This analysis is sent to your staff under cover of a separate confidential letter.

We reiterate our support to the work of the Committee and assure you of the continued cooperation of our representatives.

Please accept, Sir, the assurances of our highest consideration.

Sincerely yours,

Guillermo N. Carague
Chairman, Commission on Audit, Republic of the Philippines
Chairman, United Nations Board of Auditors

Shauket A. Fakie
Auditor-General of the Republic of South Africa

Philippe Séguin
First President of the Court of Accounts of France

Cc:
Mr. Kofi ANNAN, Secretary General
Mr. Jan ELIASSON, President of the General Assembly
The President of the Security Council
The Panel of External Auditors of the United Nations, the Specialised Agencies and the IAEA

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RESPONSE OF DIANA MILLS-ARYEE

14 October 2005

Ms. Susan Ringler
Independent Inquiry Committee
825 Third Avenue
15th Floor
New York, NY 10022

Dear Ms. Ringler,

I am writing in reference to the interim reports of the Independent Inquiry Committee (IIC), in which my name has been mentioned in connection with the activities of Mr. Kojo Annan. The reports of the IIC created the erroneous impression, that through my friendship with the mother of Mr. Kojo Annan, I somehow influenced the award of a UN inspection contract to Cotecna under the "oil-for-food" programme.

Kindly permit me to draw your attention to the inaccuracies and errors in the reports in respect of my relations with Mr. Kojo Annan, who served as a consultant to the Cotecna company. In the annex to this letter, I have provided responses to the referenced paragraphs of the reports where I am mentioned. These explanations and documented evidence should convince the Committee, that an amendment is warranted to the reports in order to address these inaccuracies. Such an amendment should help alleviate the adverse conclusions in the media and the verbal accusations levelled against me by the UN that I compromised the high standard of professionalism and accepted procedures of UN procurement guidelines in aiding Cotecna win an "oil-for-food" contract.

The IIC reports may not have directly accused me of wrong doing. Nonetheless, the tone and emphasis given to deliberately selected words such as 'aunty' in the IIC's reports, rather than clarifying my non-involvement, nor knowledge of the tender exercise, and subsequent award of contract to Cotecna, have had an adverse effect. This is exemplified by the United Nations verbal notification to me that in the interest of the Organisation, I should leave the Procurement Service.

Throughout my tour of duty with the United Nations Office of the Humanitarian Coordinator in Iraq (UNOCHI) as a Chief Procurement Officer (CPO), I was stationed in Baghdad, Iraq from September 1998, until end May 2000. My duties limited me to the procurement of items for UNOCHI operations in Iraq. I had nothing to do with neither the award of "oil-for-food" programme contracts nor with the management of UN inspection programmes. I was not even aware of the bid exercise and the decision to award the UN inspection contract to Cotecna, let alone influence the process. As the IIC indicated in its first interim report, decisions for "oil-for-food" programme contracts were made and awarded in New York by the Security Council/OIP and UN Headquarters

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Procurement Division. It is therefore inconceivable that I had any influence on the award of the subject contract to Cotecna.

Finally, I shall be grateful if the Committee will also correct the spelling of my surname in future references and reports. My surname was spelled incorrectly in the Third Interim report (pages 206 of 277 and 211 of 277).

Ms. Ringler, in the interest of fairness and justice, I expect the Committee to carefully review the responses that I have provided to the referenced paragraphs of the reports. I am confident that as a reputable Committee of Inquiry, devoted to getting to the truth, you will act speedily to correct these inaccuracies for me to regain my professional integrity and health. The current impression of wrong doings in the media and UN as a result of your reports are damaging my professional career and greatly impairing my health. Accordingly, the Committee is requested to make these corrections through categorical statements in the impending final report.

Thank you for your cooperation and understanding.

Sincerely,



Diana Mills-Aryee
United Nations

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Paragraph by Paragraph Responses to IIC Interim Reports In

Connexion to Diana Mills - Aryee

The IIC requested and received my bank records with the United Nations Federal Credit Union (UNFCU) from 1998 through 2003. Yet the Third Interim Report did not mention in its findings that I had accumulated my savings through my salary and allowances as a staff member of the UN. I would have expected the IIC to reflect this observation in its reports. I would be grateful, if the IIC would indicate in its next report that the transfer of US\$ 10, 000 on 1 June 2001 into my account in Ghana was from my savings account at the UNFCU. The decision was purely a financial one -- to take advantage of higher interest rates paid on US dollar accounts in Ghana. My financial records contained no improper or irregular payments from any outside source other than my own savings. (Attachment A – UNFCU wire transfer request form dated 1 June 2001 and UNFCU bank statement of transactions for June 2001).

Based on these documents, I respectfully request the IIC to reflect in its next report that my financial records contained no improper or irregular payments from any outside source other than my own accrued savings.

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Two days later, on the afternoon of November 6, 1998, Kojo Annan's phone records reflect that he made three calls for a total of eight minutes to the United Nations procurement department, and that these calls were interspersed with two one-minute calls to Robert Massey. All of these calls took place within half an hour of each other. At the procurement department, Kojo Annan called a telephone number that was assigned to Nora Dias. Ms. Dias was an acquaintance of Kojo Annan, and she served as secretary to both Sanjay Bahel, the supervisor of the procurement department, and Alexander Yakovlev, the main procurement officer involved with the bidding process for the Programme's 1998 inspection contract.

The implication of the above referenced paragraph is that the unanswered telephone calls of Kojo Annan, one or two days before the contract award was announced, were meant to influence UN procurement procedure and process. On the contrary, the IIC's second interim report of 25 March 2005 on "the Selection of Cotecna

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Inspection S.A", affirmed: "*On December 3, 1998, OIP recommended the award to Cotecna on the ground that it was the acceptable lowest bidder. On behalf of OIP, Ms. Sheer acknowledged that Cotecna was "the smallest of the three bidders," but added that the company was "accustomed to working on similar tasks, including sanctions regimes, under austere conditions in Africa."*"(Page 23 of 90)

On December 3, 1998, Ms. Scheer wrote to Mr. Bahel in the procurement department to recommend the award of the inspection contract to Cotecna based upon her assessment that Coctena was the "lowest acceptable bidder."(Page 212 of 277)

The above information, furnished by the IIC, should have dispelled any suspicion that Mr. Kojo Anna, Ms. Nora Dias and I, could have influenced the results of a bid exercise from afar, which I did not know was even taking place. It would have been highly impossible for two junior level staff members like me and Ms. Dias to influence a bid exercise which was uniquely decided by the Security Council and at the senior levels of OIP.

Unfortunately, by not clarifying this most important point, the IIC's report painted a picture which inferred that I colluded in assisting Mr. Kojo Annan to gain undue advantage during the subject bid exercise and in the process, circumvented established UN procurement procedure and guidelines.

It is difficult to comprehend the fixation of the IIC on telephone calls from Kojo Annan to Nora Dias and me, which went unanswered. Yet, the report presents a picture of collusion and conspiracy to influence a high profile bid exercise by three people on three continents and three time-zones. The failure of IIC reports to indicate that Mr. Annan's telephone calls to Ms. Dias and myself, (a few days before the subject contract was awarded) could not have influenced the subject bid exercise, left a fluid impression that was distorted and reported in the press as criminal activity involving Mr. Kojo Annan, Ms. Dias and Mills-Aryee. Due to the segregation of duties in the Procurement Service, much of what I know of the bid exercise (Sept. 1998) for the supply of Inspectors to monitor goods under the Oil for Food Programme, were gleaned from the IIC's interim reports.

Owing to the serious and negative consequences of the IIC's reports in connexion to me, I sincerely hope that the IIC will correct the record and indicate that I had no knowledge of the issuance of the subject bid exercise, nor attempted to influence the award of contract to Cotecna.

In hindsight, I can surmise that Mr. Kojo Annan may have called Ms. Dias because he did not know of my whereabouts. Needless to say,

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Ms. Dias would not have been of much assistance to him as the hotel name and telephone number of my residence were unknown to Ms. Dias.

The IIC should have been aware that approximately 95% of vendors responding to tender exercises often call procurement staff members to ask about the stage or status of a respective bid. Without disclosing price and confidential information, procurement staff is allowed to inform a bidder of the procedural stage of a bid. For example, we are permitted under UN procurement guidelines to state that the bid is undergoing technical evaluation by the Requisitioner, the bid is under commercial evaluation, the bid has been submitted to the HCC, the bid is awaiting ASG approval, etc.

The UN Procurement Manual, Section 8 (1998 Version) stipulate:

Requests for Information

8.19.01 Prior to making an award, no information with respect to the probable acceptance or rejection of any offer may be available to any person. The reasons for any delay in making the award may be known upon request, if the furnishing of such information is not prejudicial to the interest of the United Nations or does not compromise the confidentiality of the bidding process.

8.19.02 Unsuccessful bidders or proposers should be informed of the results of the bidding exercises. The information should be limited to: (a) the name of the successful bidder, (b) the value at which the award was made, and (c) the basis of the award (e.g. whether the lowest bid or lowest acceptable bid etc.) If the offer of the bid making the inquiry is rejected for other than the price, a brief reason for the rejection should be given. The information made available to bidders or proposers may also be provided to the concerned officials and permanent missions and consulates.

Procurement Manual – Section 7

Opening of Bids and Proposals

7.03.03 The abstracts of bids will be available for thirty days from the date of opening, for viewing by suppliers who submitted offers or by members of their permanent missions to the United Nations, in the Office of the Chief, PD.

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Five minutes after this call to Ms. Dias number, Kojo Annan called Ms. Diana Mills-Aryee ("Aunty D"), who, by that point in time, had transferred from the procurement department to a temporary position in Iraq with the office of Humanitarian Aid Coordinator. This call lasted four minutes. Approximately

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twenty-five minutes later, Kojo Annan called Mr. Wilson with a total duration of thirty-seven minutes.

The initial sentence of this paragraph left the impression that I transferred myself to Iraq in order to assist Mr. Kojo Annan in illegal ventures. DPKO/OIP officially seconded me to UNOHC to serve as its Chief Procurement Officer. I therefore respectfully request the IIC to clarify the matter and amend the sentence to read as follows:

"Five minutes after this call to Ms Dias' number, Kojo Annan called Ms. Mills-Aryee, who, by that point in time, was seconded to serve as UNOHC's Chief Procurement Officer"

I also made it known to the IIC investigators that Mr. Kojo Annan's attempted telephone calls to me in Baghdad would have been unfruitful even if he had succeeded in reaching me. The calls were made to the UNOHC radio-room operator because they were placed after UNOHC office hours in Baghdad. The date and time stamp indicated 4:15 p.m. Assuming the call was placed in middle Europe to Iraq, the local time would naturally be very late at night in Iraq.

I had probably just returned from Jordan, a day or two before the placement of those two calls. This was because from the middle of November 1998 to the early part of December 1998, the security situation in the UN mission in Iraq had deteriorated owing to the threat of hostilities. Threats of US-UK bombings of Baghdad in the latter part of November 1998 prompted the Humanitarian Coordinator to make me the responsible Officer in charge of evacuating non-essential international staff. (UNOHC, UN Agencies and Programmes staff) Including a few of Lloyd's Register Inspection Ltd. staff, from Baghdad to Amman, Jordan.

In addition, as the CPO, I had to arrange buses and visas for the Iraqi drivers for the evacuation from Baghdad to Amman. These evacuation exercises in the latter part of November and early December 1998 completely occupied me. Consequently, I was not even aware that there was a bidding exercise taking place in New York for an inspection contract, involving a company in which Mr. Kojo Annan served as a consultant. Logic dictates that this cannot be a convincing picture of conspirators at work, because the so called puppet master did not know where the other co-conspirators could be located.

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Footnote

Although there is no way to tell what Kojo Annan discussed with Ms. Mills-Aryee, the close nature of their relationship and Ms. Mills-Aryee's acquaintance with Mr. Wilson is made clear from an exchange of e-mails between Kojo Annan and Ms. Mills-Aryee in June 1999 that were recovered by the committee from Ms. Mills-

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Aryee's United Nations e-mail account. On June 1, 1999, Kojo Annan sent an e-mail to Ms. Mills-Aryee, addressing her as "Aunty" and writing that "Michael [Wilson] and I have been expecting you in Europe quite some time ago and it seems that you have disappeared for a while." On the next day, Ms. Mills replied with a salutation; "Hello, Love." Then she advised that she was "afraid to call Michael 'because the last time I called him to tell him about decisions with negative implications for his company [Cotecna], he sounded irritated and was not listening. For example, I called to give him advance notice that Saybolt [sic] is about to get another UN vehicle so they should request equal treatment, and offered advise [sic] on several areas to save the company money. Well I guess he is a big shot now so why should he listen to me?" United Nations e-mail account records for Diana Mills-Aryee (June 1-2 1999).

I provided numerous accounts of West African norms and practices, as related to interaction between generations; which expect the young to address an older person as aunty, uncle, brother, sister etc. Unfortunately, the authors of the IIC reports held on to its parochial use of 'aunty' to refer to me throughout its Reports. (Some deem the reference Eurocentric and malevolent) The incessant reference to this matter by the IIC investigators led me to ask whether the habit of addressing priests of the Catholic Church hierarchy, as "brother" or "father" imply familial relationship between the priest and the congregation?

To correct the impression that Kojo Annan and I share a familial relationship and conspired to defraud the Organisation, I request the IIC to correct the record by stating the social and cultural context of the salutation "aunty" in the West African tradition of respect for elders and older people.

Secondly, in tabloid fashion, the IIC gratuitously extracted a few words from a lengthy e-mail between Kojo Annan and myself, but failed to note that the above referenced e-mail exchange occurred in early June 1999, six months after the inspection contract had been awarded to Cotecna. This created the impression that I had actively broken UN procurement rules and acted in favour of Cotecna. Like the media, this was much owed to the IIC's stereotypical portrayal ("the close nature") of my relationship with Mr. K. Annan and the reference to Mr. M. Wilson (a Ghanaian compatriot) at Cotecna in the same sentence, automatically conjured a picture of a conspiracy when none existed.

The same IIC report, quoted the last sentence of a lengthy e-mail exchange between Mr. Kojo Annan and myself on 6th January 1999. The sentence was "*Don't worry Aunty, your son will structure your early retirement*". The IIC saw fit to extract this sentence without reference to the entire contents of the e-mail. (See attachment) If the IIC had placed the full contents of the e-mail on record, it would have

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then removed the impression created by the selective quotation that I had worked in tandem with Mr. K. Annan to win a contract for Cotecna and hence the offer of structuring an early retirement on my behalf. This e-mail was written in January 1999 after the inspection contract was awarded to Cotecna. The subject e-mail made it clear that Mr. K. Annan and I had been out of touch and that for a while Mr. Annan did not know of my whereabouts. The contents of the email were focused mainly on a slew of companies that Mr. K. Annan and his partners had formed or served as consultants. He indicated that Cotecna was one of their clients. That information alone should have been enough to dispel the selective reporting which the media gleefully reported as proof of collusion. Even the last sentence in that e-mail should have made it clear that this was a young man with a lot of optimism to a bright future. The e-mail ends as follows:

"With all the privatisation projects taking place in Nigeria in every sector, e.g. power, telecommunications, oil and gas, transport, etc... and the new optimism created by a civilian govt. (let's pray they don't ruin it overnight), the prospects for the future are very bright. Don't worry Aunty your son will structure your early retirement!!" (See attachment)

Much has been made over my contacting Michael Wilson over lack of equal treatment related to the equitable distribution of transport vehicles for the two contractors implementing the inspection of goods into Iraq. What the IIC failed to mention is that once a contract is awarded, the contractor and its employees always work in tandem with UN Staff. As the CPO in Baghdad at the time, I was the primary contact to inform the contractors' representatives of their privileges as well as their responsibilities. This is entirely consistent with my role as a Procurement Officer. The IIC distorted the reason for contact and created the impression that I had provided confidential information to a contractor and therefore violated procurement rules and procedure. In fact the opposite is true. I would have been derelict as a procurement officer not to provide direction to a vendor on how to avail itself of the inherent responsibilities and privileges accorded to vendors which are enshrined in the respective provisions of UN contracts. Vendors are encouraged at UN procurement websites, in publications and in procurement related seminars around the world to contact the procurement staff if they have UN procurement related questions. I have travelled to Poland on two occasions to conduct seminars on 'How to do business with the United Nations'. (See attached) Should I have deviated and refused to inform Cotecna of UN procurement procedure, basic entitlements, privileges and

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responsibilities accorded to all vendors, simply because I am from the same country as Mr. M. Wilson?

I believe Cotecna and its employees are entitled to the same information and privileges as Saybolt, or any other vendor.

Throughout its report, the tone of the IIC infers that the mere fact that I am a Procurement Officer and have known Kojo Annan for a number of years automatically spelled collusion, in spite of overwhelming evidence to the contrary.

MANAGEMENT OF THE OIL FOR FOOD PROGRAMME

VOLUME III – CHAPTER 7

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As discussed in the Second Interim Report, Kojo Annan had at least two contacts who worked at the United Nations procurement department – Diana Mills-Aryee (a long-time family friend of the Annans whom Kojo called "Aunty") and Nora Dias (a friend of Ms. Mills-Aryee). At the end of March 1998, Kojo Annan sought information from Ms. Mills-Aryee, as reflected in a lengthy memorandum from Kojo Annan to Mr., Wilson on March 25, 1998, outlining points about the inspection process for goods entering Iraq. In this memorandum, Kojo Annan promised that "[i]n the next few days I will furnish you with other points gathered by Aunty D." Kojo Annan's memorandum added that "I would suggest that you fax me a list of questions, etc, that will provide you with all the extra information that you need," and "I can then forward this to my people in New York and see what they can do for us."

When Kojo Annan was asked by the Committee's investigators about his reference to "my people in New York," he stated that this referred both to Ms. Mills-Aryee ("Aunty D") in the procurement department and Ms. Assebe in the Secretary-General's office. He claimed that he contacted Ms. Mills-Aryee to get general information about how to participate in the Programme. Kojo Annan insisted that Ms. Mills-Aryee shared only publicly available information, but his memorandum further states "Aunty D confirmed to me that any company that one uses must be big boys in their own particular field or an associated field (i.e. real estate company can't do sugar)." When asked about this statement, Kojo Annan stated that he discussed this with Ms. Mills-Aryee about his and Mr. Wilson's interest in getting involved in the Programme. Ms. Mills-Aryee suggested that "the UN would deal only with the big companies, not little ones."

The IIC interviews with Mr. Kojo Annan contained in the report, reveal nothing criminal with regards to providing general information on procurement bidding exercise to prospective vendors. As indicated above, the UN encourages procurement staff to provide such guidelines in line with UN rules and regulations. I provided the information in line with established procurement practice and in tune with the UN

REPORT ON PROGRAMME MANIPULATION

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RESPONSES TO PRIOR COMMITTEE REPORTS

procurement manual and publications, without any motive of circumventing procurement procedure.

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Aunty D confirmed to me that any company that one uses must be big boys in their own particular field or an associated field (i.e. real estate company can't do sugar).

Mr. Kojo Annan was correct in insisting that he was provided with information which is made available to the public every day. In fact the United Nations encourages UN procurement staff to be transparent and educate vendors on how to register and conduct business with the United Nations. My answer that a "*Real estate company can't do sugar*" is entirely consistent with UN guidelines, manual, pamphlets and the UN Procurement Service's website, require companies to prove that they are qualified/authorised to provide the goods or services they wish to supply to the United Nations. Similarly, a number of UN member states have dedicated staff members whose duties include daily interaction with the Procurement Service on behalf of their respective local companies. For that reason, in accordance with the procurement guidelines some often attend bid openings. Similarly, a number of UN member states have dedicated staff members whose duties include daily interaction with the Procurement Service on behalf of their respective local companies. For that reason, in accordance with the procurement guidelines some often attend bid openings.

It is not uncommon for some UN member States to host seminars at their permanent missions and invite procurement staff to engage in discussions with the assembled company representatives from that particular country on how to navigate the UN procurement process by giving them the information needed to successfully become a supplier of required goods or services to the United Nations.

Hence, my practical example to Mr. K. Annan.

a) United Nations Procurement Division
Expression of Interest Web Page

"Firms/organizations interested in a particular EOI that have not been registered with the United Nations Procurement Division must submit

REPORT ON PROGRAMME MANIPULATION

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RESPONSES TO PRIOR COMMITTEE REPORTS

applications for vendor registration, along with detailed information demonstrating experience and qualifications in provision of the relevant commodities and services."

b) How to do Business with the United Nations Procurement Division Registration

"It is the policy of the UN to have as wide a database of suppliers as possible, from all its Member States and Observers. In order to do business with the UN, it is necessary to register as a potential supplier with the Procurement Division. Invitations to tender are normally sent only to registered vendors.

....The criteria for registration include the relevance of the goods and services to the UN's needs as well as international business experience and financial stability of the company.

If the answers to your questions about doing business with us are not in this booklet, nor at the PD website, then please contact our Help-Desk directly. You can fax the PD Help-Desk on (212)963-6315, send an e-mail to pd-registry@un.org or call us (212)963-9350 or (212)963 – 6251. If we can, your answer will be answered by return, or you will be put in touch with the officer concerned with your product/service category."

c) United Nations Procurement Manual, (1998 version)
Chapter 5.01.01 – Roster of Suppliers

"The Procurement Division (PD) maintains a computer roster in which it registers prospective contractors on a worldwide basis for its requirements. Suppliers, after an evaluation of the information provided by them in the application form and determination of their qualification as potential suppliers to the United Nations, are registered in the roster under the commodities and services they provide. The PD Supplier Roster is distributed to all Peacekeeping missions and offices away from Headquarters for use to the extent possible."

From the preceding information, it is obvious that it would have been eminently more honest if the IIC had acknowledged that the "public information" referenced by Kojo Annan was not only procurement related guidelines and practice, but also proof that I adhered to the United Nations rules and regulations and my actions were in the interest of the United Nations.

Indeed, I issued several invitations to the IIC's investigators to reference the relevant parts of several United Nations procurement related documentation. It is now apparent they failed to do so. A quick glance in the relevant parts of the United Nations Procurement Manual (1998 Version), the UN pamphlet entitled "How to do Business with the

REPORT ON PROGRAMME MANIPULATION

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RESPONSES TO PRIOR COMMITTEE REPORTS

United Nations Procurement Division" (2001), a visit to the United Nations Procurement Website (www.un.org/depts/ptd) would have confirmed that the information I provided to Kojo Annan on how to register to become a vendor to the United Nations is indeed part of the public record.

If the IIC had bothered to reference any one of these publications and website, it would have realized that my actions were in accordance with the established Procurement procedure and practice. Indeed, I would have been derelict in my duty as a Procurement Officer not to educate a prospective vendor who wishes to register in order to conduct business with the United Nations. To illustrate the point fully, the IIC investigators were aware that the Procurement Service regularly receives invitations from the respective UN member states to visit their countries to conduct seminars and educate assembled local companies on how to conduct business with the United Nations, for example, UK, USA, France, Canada, Australia, Spain, Sweden, Poland, Russia, China, Italy, Singapore.

Similarly, a number of UN member states have dedicated staff whose duties include daily interaction with the Procurement Service on behalf of companies from their respective countries. For that reason, in accordance with the procurement guidelines, some often attend bid openings.

My answer to Mr. K. Annan is therefore in concert with prevailing procurement guidelines, procedures and practice.

Requests for Information

8.19.01 Prior to making an award, no information with respect to the probable acceptance or rejection of any offer may be available to any person. The reasons for any delay in making the award may be known upon request, if the furnishing of such information is not prejudicial to the interest of the United Nations or does not compromise the confidentiality of the bidding process.

8.19.02 Unsuccessful bidders or proposers should be informed of the results of the bidding exercises. The information should be limited to: (a) the name of the successful bidder, (b) the value at which the award was made, and (c) the basis of the award (e.g. whether the lowest bid or lowest acceptable bid etc.) If the offer of the bid making the inquiry is rejected for other than the price, a brief reason for the rejection should be given. The information made available to bidders or proposers may also be provided to the concerned officials and permanent missions and consulates.

SECOND INTERIM REPORT

REPORT ON PROGRAMME MANIPULATION

APPENDIX C

RESPONSES TO PRIOR COMMITTEE REPORTS

THE SELECTION OF COTECNA INSPECTIONS S.A. C. COTECNA, KOJO ANNAN, AND THE SECRETARY-GENERAL PAGE 25 OF 90

As recounted below, Ms. Mills-Aryee knew of Cotecna because she knew Kojo Annan and that he worked at Cotecna. Ms. Mills-Aryee, however, stated that she did not discuss the news articles or anything about Cotecna with other procurement personnel. Diana Mills-Aryee interview (Jan 10, 2005); UNOCHI Staffing Table (Oct. 5 1999).

Although Ms. Mills-Aryee was a procurement officer, she was not assigned to work on the bidding or award process for the Iraqi inspection contract. The "line" procurement officer for this contract was Alexander Yakovlev, and Mr. Yakovlev's supervisor was Mr. Bahel. According to Ms. Mills-Aryee, at some point in 1997 when Kojo Annan's name came up in connection with the appointment of his father as the Secretary-General, Mr. Bahel was aware that Kojo Annan visited the procurement office on occasion.

On September 27, 1998 – two weeks before the procurement department issued the RFP and while Kojo Annan was in New York for the General Assembly meeting - Ms. Mills-Aryee started an assignment in Iraq, where she remained through the middle of 2000. Although Ms. Mills-Aryee was aware that Kojo Annan worked for Cotecna and believed that she must have been aware from news reports also of Cotecna's troubles with respect to its Pakistan contract bidding and negotiation process.

Ms. Mills-Aryee introduced Kojo Annan to Nora Dias, the secretary to Mr. Bahel. According to Ms. Dias, Kojo Annan visited the procurement department two or three times between 1995 or 1996 and the end of 1997; she did not see him at the procurement department during 1998, and he never met with Mr. Bahel to her knowledge.

Again, this is but another example of the IIC's gratuitous references which tried to link my name, however, remote or unconnected to the events being described such as the above.

I recall informing the IIC investigators () and () that in late 1998 or early 1999, while stationed in Iraq, I had read either in the Daily Telegraph or the Financial Times website of Lloyds Register's complaints against Cotecna and then Prime Minister Ms. Bhutto, after Lloyds lost a bid to Cotecna in Pakistan.

() and () asked if I had called Mr. Kojo Annan after reading the referenced article. My reply at the time was "it is none of my business" as I was not in the habit of calling all the people I know who worked for companies who appear in newspapers.

On the matter of Kojo Annan's visits to the procurement department between 1995 and 1998, to the best of my knowledge, I

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recall Mr. Kojo Annan may have visited me in the office not more than on three occasions within the period indicated. Accordingly, I would appreciate an amendment of the number of visits from ten to two or three occasions.

I request this amendment, because the number of visits was arrived at when () inquired whether Mr. Kojo Annan had visited me more or less than ten occasions between 1995 and 1998. I replied that Mr. Kojo Annan had visited me in the office less than ten times. The IIC's inclusion of this number in the report led to the United Nations allowing some journalists access to the Procurement Service to reconnaissance the "playground of Kojo Annan". One was heard to quip "So this is where Kojo Annan comes to roam around". As a direct result of the IIC's publishing an inaccurate number of visits of Mr. Annan to my office, the Organisation issued a directive that all visitors must be escorted during visits to the Procurement Service.

During an interview with the IIC's () and () on 10th January 2005, () asked what Mr. Kojo Annan and I talk about during his visits to my office. I replied that he normally pays a flying visit (5-10 minutes) and he is usually in the company of his friends. The talk normally centered on a gamut of topics. Soccer, new technologies, latest computer launches and computer enhancement programmes. However, the IIC's interpretation of this exchange placed Mr. Kojo Annan behind every computer in the Procurement Service. As far as I'm aware Mr. Kojo Annan is not a computer specialist. He is a knowledgeable young man who keeps up with modern technology.

I should like to think that the IIC would have credited me with some professional responsibility to safeguard and protect the interest of the Organisation, irrespective of my social relationship with any visitor.

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APPENDIX C
RESPONSES TO PRIOR COMMITTEE REPORTS

RESPONSE OF NORA DIAS

NORA DIAS

September 15, 2005

To:
Mr. Paul A. Volcker
Chairman, Independent Inquiry Committee
Into the United Nations Oil-for-Food Programme
825 Third Avenue, 15th Floor
New York, N. Y. 10022

Ref: Report on the overall management and oversight of the
Oil for Food Programme – Report Dated September 7th, 2005

Dear Chairman Volcker:

I am writing to bring to your attention a factual inaccuracy in your recently released report on September 7th, 2005 and also to reiterate what I told the Committee's staff during my three interviews with them.

On Page 207 of 277 (Volume III – Chapter 7) the report states the following:

"Ms. Dias was an acquaintance of Kojo Anan, and she served as secretary to both Sanjay Bahel, the supervisor of the Procurement Department, and Alexander Yakovlev, the main procurement officer involved with the bidding process for the Programme's 1998 inspection contract" (See attached page from report)"

I draw the attention of your committee to the fact that during the period in question (November – December 1998), I was the Secretary to Mr. Sanjay Bahel only and NOT to Mr. Yakovlev. During my three interviews with the Committee's staff in January 2005, June 29, 2005 and August 25, 2005; I clearly mentioned that I was the Secretary to Mr. Bahel only. I also told them that another colleague, Ms. Florence Low was the Secretary to Mr. Yakovlev during the period in question. This fact can easily be collaborated by verification with the United Nations staff records and/or interviews with Procurement Department management during that time. Also attached as a reference, is the Procurement Division Organization Chart dated June 26, 1998 that shows the organization structure during the period in question. I would appreciate a correction to this factual inaccuracy, which has resulted in wrongly linking me to issues around the selection of Cotecna and the media drawing inaccurate conclusions.

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RESPONSES TO PRIOR COMMITTEE REPORTS

Paul Volcker
Page 2
September 15, 2005

I also want to go on record to confirm that I have never spoken on the phone to Mr. Kojo Annan at any time either in November/December 1998 or any time before or after this period. Though the calls made from Mr. Kojo Annan's cell phone in November 1998 and December 1998 were made to a United Nations number assigned to me, I do not have any recollection of these calls nor did I speak to Mr. Annan during this period. I also note that the Committee in its report confirmed that I was not in the office when the calls were placed to my number in December 1998.

I would appreciate if the Committee could correct the factual inaccuracy in its next report.

Thank You.

Sincerely



NORA DIAS

Cc: Ms. Susan Ringler, IIC
Ms. Janet Engel, IIC
Mr. Appleton, IIC
Office of the UN Secretary General
Ms. Rosemarie Waters, United Nations Staff Union

REPORT ON PROGRAMME MANIPULATION

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RESPONSES TO PRIOR COMMITTEE REPORTS

INDEPENDENT INQUIRY COMMITTEE INTO THE UNITED NATIONS OIL-FOR-FOOD PROGRAMME

MANAGEMENT OF THE OIL-FOR-FOOD PROGRAMME

VOLUME III - CHAPTER 7

THE SELECTION OF COTECNA INSPECTION S.A.

Wagaye Assebe. Kojo Annan acknowledged that he received inside information from Ms. Assebe regarding the “pet project.”⁵³⁰

Within the first few days of November 1998, Cotecna submitted its formal bid proposal to the United Nations procurement department. On November 2, 1998, Kojo Annan’s records indicate that three calls were placed from his cell phone to Mr. Wilson’s telephone number. On November 5, 1998, the procurement department opened the bids from various companies, and on that same day Kojo Annan called a cell telephone number used by Mr. Wilson two more times; these calls lasted for a total of twenty-five minutes. While Mr. Wilson and Kojo Annan were friends, Mr. Wilson was also on the “task force” created by Cotecna to pursue the Iraq inspection contract.⁵³¹

Two days later, on the afternoon of November 6, 1998, Kojo Annan’s phone records reflect that he made three calls for a total of eight minutes to the United Nations procurement department, and that these calls were interspersed with two one-minute calls to Robert Massey. All of these calls took place within half an hour of each other. At the procurement department, Kojo Annan called a telephone number that was assigned at the time to Nora Dias. Ms. Dias was an acquaintance of Kojo Annan, and she served as secretary to both Sanjay Bahel, the supervisor of the procurement department, and Alexander Yakovlev, the main procurement officer involved with the bidding process for the Programme’s 1998 inspection contract.⁵³²

⁵³⁰ Ibid.; “Second Interim Report,” pp. 42-48 (discussing meeting between Elie Massey and the Secretary-General on September 18, 1998 and follow-up letter sent by Elie Massey on October 6, 1998 and stamped as “received” in the Executive Office of the Secretary-General on October 15, 1998). Kojo Annan stated that this reference to a “pet project” was to Elie Massey’s idea for a United Nations-sponsored fund-raising lottery for humanitarian purposes. As discussed in the Second Interim Report, Elie Massey met with the Secretary-General on September 18, 1998 to discuss this lottery proposal and then eventually sent a follow-up proposal letter to the Secretary-General and Under-Secretary-General Joseph Connor (with whom Elie Massey also met). “Second Interim Report,” pp. 45-47.

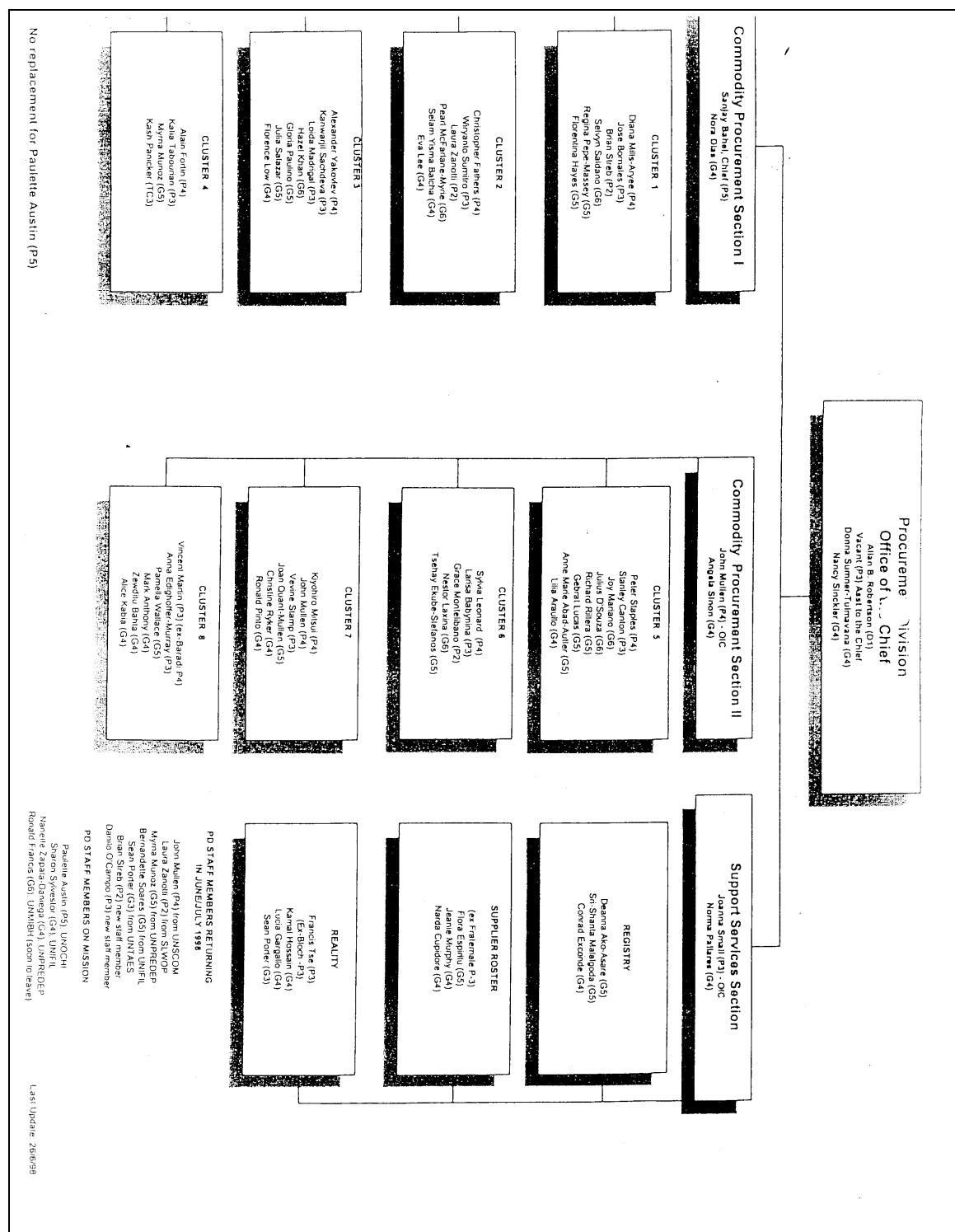
⁵³¹ Ibid., p. 20 (indicating that bids for the inspection contract were received on November 4 and 5, 1998); Cotecna record, Robert Massey letter to United Nations Procurement Division (dated in Geneva on November 2, 1998); “Second Interim Report,” pp. 22-26 (noting Mr. Wilson as friend of Kojo Annan and member of task force); Kojo Annan cell telephone records. The telephone calls detailed in this Report concern only calls placed from Kojo Annan’s Nigeria-based cell phone; Kojo Annan voluntarily disclosed these records to the Committee. The Committee does not have subscriber records for any other telephones that Kojo Annan may have used in the autumn of 1998. Nor does the Committee have telephone records of other parties who may have placed calls to Mr. Annan at other points in time. As such, this analysis only reflects calls placed by Kojo Annan. Because of the passage of time, the United Nations does not have telephone call records for calls made from the procurement department for the relevant period. Mr. Wilson has refused the Committee’s request for copies of his telephone records.

⁵³² Kojo Annan cell telephone records; Nora Dias interviews (June 29 and Aug. 25, 2005) (confirming that the number was her direct dial extension at the procurement department in November 1998). Ms. Dias’s telephone number appeared on the letterhead in later correspondence sent from the procurement department to Cotecna. Sanjaya Bahel fax to Robert Massey (Nov. 27, 1998). Mr. Bahel uses both “Sanjaya” and “Sanjay” for his first name.

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RESPONSES TO PRIOR COMMITTEE REPORTS



REPORT ON PROGRAMME MANIPULATION

APPENDIX D

ERRATA

ERRATA SHEET

The Committee makes the following factual corrections to its Programme Management Report:

Volume Two, Chapter 7, page 207:

Text:

“Ms. Dias was an acquaintance of Kojo Annan, and she served as secretary to Sanjay Bahel, the supervisor of the procurement department, and Alexander Yakovlev, the main procurement officer involved with the bidding process for the Programme’s 1998 inspection contract.”

Corrected Text:

Ms. Dias was an acquaintance of Kojo Annan, and she served as secretary to Sanjay Bahel, the supervisor of the procurement department.

Explanation:

Additional information made available to the Committee, subsequent to the Report, demonstrates that Ms. Dias was not assigned as secretary to Mr. Yakovlev during the bidding process for the Programme’s 1998 inspection contract.⁸⁶⁷

Volume Two, Chapter 7, pages 206-07:

Text:

“Kojo Annan confirmed to the Committee that the reference to “his copy” was to the copy sent to the Secretary-General and the reference to “our friend” was most likely to Wagaye Assebe. Kojo Annan acknowledged that he received inside information from Ms. Assebe regarding the “pet project.”

Corrected Text:

Kojo Annan confirmed to the Committee that the reference to “his copy” was to the copy sent to the Secretary-General and the reference to “our friend” most likely was to Wagaye Assebe.

⁸⁶⁷ Procurement Division organizational chart (June 26, 1998); Nora Dias letter to Chairman Paul Volcker (Sept. 15, 2005).

REPORT ON PROGRAMME MANIPULATION

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ERRATA

Explanation:

When interviewed on July 2, 2005, Kojo Annan discussed a number of occasions on which he contacted Ms. Assebe, the Secretary-General's personal assistant, for some general information about the Programme that was publicly available.⁸⁶⁸ Upon additional review of the notes of that interview, it has been determined that the reference to Ms. Wagaye providing inside information on the “pet project” was an error.

⁸⁶⁸ “Programme Management Report,” vol. III, pp. 203-04.

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APPENDIX E

GLOSSARY

INDIVIDUALS

| Name | Description |
|--|---|
| Talal Hussein Abu-Reyaleh | Agent for Glencore International AG; Associated with Al-Khaled Engineering |
| Othman Al-Absi | General Manager, Alia for Transportation and General Trade |
| Hikmat Al-Azzawi | Former Minister of Finance and Deputy Prime Minister, Iraq |
| Burhan Mohammed Al-Chalabi | Iraqi businessman based in the United Kingdom; Recipient of oil allocation to benefit the Mariam Appeal and George Galloway |
| Adel Al-Dzhilaui | President, A.V.M. Air |
| Mohammad Al-Farraj | General Manager, M/S International Engineering Group (“IEG”) |
| Abd-al Tawab Abdullah Al-Mullah Al-Huwaysh | Former Deputy Prime Minister and Minister of Military Industrialization, Iraq |
| Isam Rashid Al-Huwaysh | Former Governor of Iraq’s Central Bank |
| Shakir Al-Khafaji | Iraqi-American facilitating in the granting of oil allocations |
| Ahmed Mortada Ahmed Al-Khalil | Former Minister of Transportation and Communication, Iraq |
| Hussain Al-Khawam | Iraqi businessman and co-founder (with Iraqi Ministry of Transportation) of Alia for Transportation and General Trade |
| Riyadh Al-Khawam | Founder and Chairman, Al-Hoda International Trading Co. |
| Ahmed Hussein Al-Samarrai | Former Head of the Presidential Diwan, Iraq |
| Luis Alvarez | Trader for Iraqi crude oil, Glencore International AG |

REPORT ON PROGRAMME MANIPULATION

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GLOSSARY

INDIVIDUALS

| Name | Description |
|----------------------------|--|
| Win Aung | Chairman, Dagon Timber Limited |
| Jaber Khalef Awad | Iraqi businessman associated with European Oil and Trading Company (“E.O.T.C.”) |
| Tariq Aziz | Deputy Prime Minister of Iraq, 1991 - 2003 |
| Josef Bauer | Chief Executive Officer, Bauer AG |
| Ahmed Saif Belhasa | Founder and Chairman, Belhasa Group; Chairman, Belhasa International Company LLC |
| Father Jean-Marie Benjamin | Founder, Benjamin Committee for Iraq, 1999; Assistant to the Vatican State Secretary, 1991 - 1994 |
| Amr Abdul Sattar Bibi | Director and beneficial owner, Alcon Petroleum Ltd.; formerly trader at Taurus Petroleum Ltd.; Delta Petroleum representative dealing with Glencore International AG |
| Alain Bionda | Swiss attorney, businessman and oil trader; Owner, Zyrya Management Services |
| Suzanne Bishopric | United Nations Treasurer |
| Serge Boidevaix | President, Franco-Arab Chamber of Commerce; Former French diplomat; Consultant to Vitol S.A.; Titled as President of Vitol, France |
| Peter Boks | Managing Director, Saybolt Eastern Hemisphere BV; formerly a consultant for Petroplus International Ltd. |
| Aernout Boot | Executive for Middle East business development, Petroplus International Ltd. |
| Boutros Boutros-Ghali | Secretary-General of the United Nations, 1992 - 1996 |

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GLOSSARY

INDIVIDUALS

| Name | Description |
|-------------------------|---|
| Leia Boutros-Ghali | Spouse of former Secretary-General Boutros Boutros-Ghali; sister to Efraim (Fred) Nadler |
| Raouf Boutros-Ghali | Brother of former United Nations Secretary-General Boutros Boutros-Ghali |
| Andrea Catanese | Managing Director, Costieri Genovese Petrolferi (“CO.GE.P”) |
| David Chalmers | American oilman, President of Bayoil |
| Robin D’Alessandro | Trader for Iraqi crude oil, Vitol S.A. |
| Wolfgang Denk | Area Sales Manager, Overseas Department, DaimlerChrysler AG |
| Marco Mazarino de Petro | Long time associate of Roberto Formigoni; Consultant to the office of the President of the Lombardy Region, Italy |
| Lyudmil Dionissiev | Bayoil employee |
| Roland Favre | Financial director, Vitol S.A. |
| Elias Firzli | Recipient of oil allocation; Acted as intermediary between other allocation recipients and oil traders |
| Roberto Formigoni | President, Lombardy Region, Italy |
| George Galloway | Member of Parliament, United Kingdom; Founder, Mariam Appeal |
| Augusto Giangrandi | Trader for Bayoil and Italtech; business associate of David Chalmers |
| Wilfried Grunewald | Sales Manager, Osram Middle East FZE |
| Bernard Guillet | Former diplomatic advisor to Charles Pasqua, Ministry of the Interior, France |

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INDIVIDUALS

| Name | Description |
|--------------------|---|
| Saddam Zibn Hassan | Executive Director of Iraq's State Oil Marketing Organization (SOMO), 1994 - 2001; Deputy Minister of Oil, 2001 - 2003 |
| Sergei Issakov | Chairman of the Board of Directors, Russian Engineering Company ("REC") |
| Igor Ivanov | Former Minister of Foreign Affairs, Russia |
| Hikmat Jergi | Iraqi citizen listed as co-owner of Al Wasel & Babel General Trading LLC, on behalf of the former Government of Iraq |
| Felicity Johnston | Chief Customs Expert, United Nations Office of the Iraq Programme |
| Victor Kalyuzhny | Minister of Fuel and Energy, Russia |
| Claude Kaspereit | General Manager, European Oil and Trading Company ("E.O.T.C.") |
| Alexandre Kramar | Oil Overseer for the Programme, Russia, 1996 - 2003 |
| Musbah Ladki | Beneficial owner, Fenar Petroleum Ltd.; Signatory to the accounts of Jabal Petroleum and Petrocorp AVV First National Bank in Lebanon |
| Murtaza Lakhani | Agent for Glencore International AG; Owner of Continental Oil, Ltd. |
| Igor Lebedev | Son of Vladimir Zhirinovsky; one of the leaders of the Liberal Democratic Party of the Russian Federation ("LDPR") |
| Michael Long | General Manager for International Sales and Marketing, AWB Ltd. |
| Ibrahim Lootah | Co-owner, Al Wasel & Babel General Trading LLC |
| Paolo Lucarno | Official at Costieri Genovese Petrolferi ("CO.GE.P") |
| Rune Lundberg | President, Volvo Construction Equipment |

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INDIVIDUALS

| Name | Description |
|----------------------|--|
| Andrew Macleod | Weir employee |
| Noor Asiah Mahmood | Co-owner of Mastek Sdn Bhd; Business partner of Faek Ahmad Shareef; sister-in-law of Malaysian Prime Minister Badawi |
| Sandi Majali | Advisor to the African National Congress (“ANC”); Chairperson, South Africa-Iraq Friendship Association (“SAIFA”) and South African Business Council for Economic Transformation (“SABCETT”) |
| A. Hamid Majid | Consultant to Maloney Industries Inc. |
| Riad Marei | Jordanian agent for Bukkehove A/S |
| Kho Hui Meng | President, Vitol Asia |
| Jean-Bernard Mérimée | Permanent Representative of France to the United Nations, 1991 - 1995; Former Special Advisor on European Affairs to the Secretary-General of the United Nations |
| Jean-Loup Michel | Managing Director, Aredio Petroleum |
| Catalina Miguel | Held power of attorney for Nafta Petroleum and Mednafta Trading Co.; Beneficial owner, Mednafta Trading Co. account at BNP Paribas (Suisse) SA |
| Nicholas Moriarty | Executive and expert in crude oil, Petroplus International Ltd. |
| Kgalema Motlanthe | Secretary-General, African National Congress (“ANC”) |
| Gilles Munier | Secretary-General, Amitiés Franco-Irakiennes (French-Iraqi Friendship Association) (“AFI”) |

REPORT ON PROGRAMME MANIPULATION

APPENDIX E

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INDIVIDUALS

| Name | Description |
|--------------------------|---|
| Tun Myat | Humanitarian Coordinator, United Nations Office of the Humanitarian Coordinator for Iraq, 2000 - 2002; United Nations Security Coordinator, 2002 - 2004 |
| Hamida Na'ana | Syrian journalist; Recipient of oil allocation |
| Efraim (Fred) Nadler | Friend of Benon Sevan and Fakhry Abdehnour; former Corporate Officer (Treasurer) and Director of African Middle East Petroleum Co. Ltd. Inc. (AMEP) |
| Hakan Nirstedt | Marketing Director, Volvo Construction Equipment |
| Armando Carlos Oliveira | Supervising inspector, Saybolt Eastern Hemisphere BV |
| Aziz Pahad | Deputy Foreign Minister, South Africa |
| Charles Pasqua | Senator, France; Former Minister of the Interior and Administration, France, 1986 - 1988 and 1993 - 1995 |
| Ben Pollner | Director, Taurus Group; Founder, Taurus Petroleum Nassau and Taurus Petroleum Nevis; formerly Senior Vice President, Bayoil (USA) |
| Peter Post | Area Export Manager for Iraq, Bukkehav A/S |
| Mo'tasset Fawzy Qatishat | Jordanian businessman and part owner of Alia for Transportation and General Trade |
| Ali Hassan Rajab | Former Senior Official, State Oil Marketing Organization (SOMO), Iraq |
| Taha Yassin Ramadan | Former Vice President of Iraq |
| Amer Muhammad Rashid | Former Minister of Oil, Iraq |

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INDIVIDUALS

| Name | Description |
|----------------------|--|
| Mohammed Saidji | Held power of attorney for Mednafta Trading Co. |
| Mohammed Mehdi Saleh | Former Minister of Trade, Iraq |
| Antoine Santiago | Representative of Atlas Copco Compressor International N.V. (“ACCI”) |
| Martin Schenker | Director of Finance and Administration, Taurus Group; Co-owner, Aredio Petroleum; associate of Ben Pollner |
| Benon Sevan | Under-Secretary-General and Executive Director of the United Nations Office of the Iraq Programme, 1997 - 2004 |
| Assef Shaleesh | General Manager, SES International Corp. |
| Faek Ahmad Shareef | Recipient of Iraq oil allocations; Iraqi-born businessman and co-owner of Mastek Sdn Bhd |
| Victor Shevtsov | Chairman, Board of Directors of Infobank |
| Jaya Sudhir | Co-owner of Mastek Sdn Bhd; Business partner of Faek Ahmad Shareef |
| Abdallah Suedi | Consultant to Cotecna Inspection S.A. |
| Khamis Suedi | Director, Office of Strategic Planning & Policy Development, World Intellectual Property Organization |
| Niels Troost | Senior employee, Taurus Petroleum Services Limited; for a time, held power of attorney to sign contracts on behalf of Fenar Petroleum Ltd. |
| Sazhi Umalatova | Chairperson, Party of Peace and Unity, Russia (“PPU”) |

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APPENDIX E

GLOSSARY

INDIVIDUALS

| Name | Description |
|------------------------------|--|
| Marcel van Poecke | Managing Director and Chief Executive Officer, Petroplus International Ltd. |
| Arthur Ventham | Former inspector, Cotecna Inspection S.A. |
| Samir Vincent | Iraqi-born American businessman; President, Phoenix International L.L.C.; former Consultant for Coastal Corporation |
| Alexander Voloshin | Former Chief of Staff, Administration of the Russian President; Chairman of the Board of Directors, Unified Energy Systems of Russia (“UES”) |
| Hans von Sponeck | Humanitarian Coordinator, United Nations Office of the Humanitarian Coordinator for Iraq, October 1998 - March 2000 |
| Andrew Walker | General Manager of crude and products trade, Taurus Group |
| Michael Wilson | Vice President for Marketing Operations in Africa, Cotecna Inspection S.A. |
| Oscar Wyatt | Chairman, Coastal Corporation |
| Vladimir Zair-Bek | President, Council for Trade and Economic Cooperation with Middle East and North Africa Countries (“ACTEC”) |
| Amineh Naji Daoud Abu Zayyad | Spouse of George Galloway |
| Vladimir Zhavrid | Director, Belmetalenergo |
| Vladimir Zhirinovsky | Head of the Liberal Democratic Party of the Russian Federation (“LDPR”) |
| Fawaz Abdullah Zureikat | President, Middle East Advanced Semiconductor; associate of George Galloway |

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APPENDIX E

GLOSSARY

INDIVIDUALS

| Name | Description |
|------------------|--|
| Gennady Zyuganov | Head of the Communist Party of the Russian Federation (“KPRF”) |

ORGANIZATIONS

| Term | Description |
|-------------------|--|
| ACCI | Atlas Copco Compressor International N.V., a subsidiary of Atlas Copco Airpower N.V. |
| ACTEC | Council for Trade and Economic Cooperation with Middle East and North Africa Countries |
| AFI | Amitié Franco-Irakienne (French-Iraqi Friendship Association) |
| AFICE | Franco-Iraqi Economic Cooperation Association |
| African Petroleum | African Petroleum (pty) Limited |
| Al Wasel & Babel | Al Wasel & Babel General Trading LLC |
| Alcon | Alcon Petroleum Ltd. |
| Al-Hoda | Al-Hoda International Trading Co. |
| Alia | Alia for Transportation and General Trade |
| Al-Rowa'a | Al-Rowa'a General Trading Company LLC |
| ANC | African National Congress |
| Aredio | Aredio Petroleum SARL |
| Atlas | Atlas Copco Airpower N.V. |

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GLOSSARY

ORGANIZATIONS

| Term | Description |
|----------------------|--|
| AVM | A.V.M. Air |
| AWB | AWB Ltd.; formerly the Australian Wheat Board |
| Bayoil | Bayoil Supply & Trading Limited and Bayoil (USA) Inc. |
| Belhsa Group | Belhsa Group of Companies |
| Belhsa International | Belhsa International Company LLC |
| Belhsa Motors | Belhsa Motors Company LLC |
| BNP | BNP Paribas S.A. |
| Bukkehave | Bukkehave A/S |
| Bulf | Bulf Drilling and Oil Servicii, SRL |
| Caisor Services | Caisor Services Inc.; name of account at Union Bancaire Privée (UBP), Geneva, having Fred Nadler as beneficial owner |
| Candonly | Collective name given to various entities controlled by Marco de Petro |
| CBI | Central Bank of Iraq |
| Chaiyaporn | Chaiyaporn Rice Company Limited |
| CO.GE.P | Costieri Genovese Petrolferi |
| Command Council | Iraqi regime leaders who made decisions on allocations of oil; also referred to as the “Supreme Command Council” |
| Cotecna | Cotecna Inspection S.A. |

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ORGANIZATIONS

| Term | Description |
|-----------------|---|
| CPA | Coalition Provisional Authority |
| Dagon Timber | Dagon Timber Limited |
| Delta Petroleum | Delta Petroleum Products Trading Company |
| Devon Petroleum | Devon Petroleum Ltd. S.A. |
| DFA | Department of Foreign Affairs, South Africa |
| DFAT | Department of Foreign Affairs and Trade, Australia |
| E.O.T.C. | European Oil and Trading Company |
| EBK | Swiss Federal Banking Commission (Eidgenössischen Bankenkommission) |
| Fenar | Fenar Petroleum Ltd. |
| Fortum | Fortum Oil and Gas OY |
| Genmar | Genmar Resources GmbH, Switzerland |
| Ginza | Ginza Company for Construction and Real Estate Development |
| Glencore | Glencore International AG |
| Glencore France | Glencore France S.A. |
| Holding Company | Holding Company for Food Industries |
| IEG | M/S International Engineering Group |

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ORGANIZATIONS

| Term | Description |
|------------------------------------|--|
| IGB | Iraqi Grain Board |
| IGI | International Group for Investments |
| Imvume | Imvume Management (Pty) Ltd. |
| ISCWT | Iraq State Company for Water Transport |
| Italtech | Italtech SRL |
| Jawala | Jawala Corporation SDN. BHD. |
| KPRF | Communist Party of the Russian Federation |
| Land Transport | Iraq State Company for Land Transportation |
| LDPR | Liberal Democratic Party of the Russian Federation |
| Lloyd's | Lloyd's Register Inspection Ltd. |
| Lukoil Asia Pacific | Lukoil Asia Pacific PTE Ltd. |
| Maloney | Maloney Industries Inc., now known as Hanover Canada Corporation |
| Marc Rich + Co. | Marc Rich + Co. Investment AG |
| Mariam Appeal | United Kingdom-based organization established to provide medical aid to Iraq; George Galloway was its first chairman |
| Mastek | Mastek Sdn Bhd |
| Middle East Advanced Semiconductor | ASI Middle East Advanced Semiconductor Inc. |

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GLOSSARY

ORGANIZATIONS

| Term | Description |
|----------------------------|---|
| Ministry of Energy | Ministry of Industry and Energy, formerly Ministry of Fuel and Energy, Russia |
| Ministry of Transportation | Ministry of Transportation and Communication, Iraq |
| Montega Trading | Montega Trading (Pty) Limited |
| Mukhabarat | Iraqi Intelligence Services |
| OPEC | Organization of Petroleum Exporting Countries |
| Osram-Middle East | Osram Middle East FZE |
| Petroline | Petroline FZC |
| Petroplus | Petroplus International Ltd. |
| Phoenix | Phoenix Investment International |
| Plasco | Plasco Shipping Co. Ltd. |
| PPU | Party of Peace and Unity, Russia |
| Presidential Diwan | Administrative bureau of the Presidential Office created to research specific issues requested by former Iraqi President Saddam Hussein or his Council of Ministers |
| PTSC | Petroleum Technical Services Co. |
| REC | Russian Engineering Company |
| SABCETT | South African Business Council for Economic Transformation |
| SAIFA | South Africa-Iraq Friendship Association |

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ORGANIZATIONS

| Term | Description |
|----------------|---|
| Saybolt | Saybolt Eastern Hemisphere BV |
| Scandinavian | Scandinavian T. Limited |
| SECO | State Secretariat for Economic Affairs, Switzerland |
| SES | SES International Corp., Syria |
| Siemens-France | Siemens S.A.S. |
| Siemens-Turkey | Siemens Sanaye ve Ticaret A.S., also known as Simko Ticaret ve Sanayi Yakacik |
| Sinochem | Sinochem Corporation; formerly China Import Company |
| SOMO | Iraq's State Oil Marketing Organization |
| SWIFT | Standardized messaging service for financial institutions provided by the Society for Worldwide Interbank Financial Telecommunication |
| Taurus | Taurus Petroleum Ltd. |
| Texaco | Texaco, Inc. |
| The Committee | Independent Inquiry Committee into the United Nations Oil-for-Food Programme |
| TNK | TNK-BP, formerly Tyumen Oil Company |
| Total | TOTSA Total Oil Trading SA |
| UAE | United Arab Emirates |
| UES | Unified Energy Systems of Russia |

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ORGANIZATIONS

| Term | Description |
|---------------|---|
| Union Trading | Union Trading Company LLC |
| Vinafood | Vietnam Northern Food Corporation |
| Vinamilk | Vietnam Dairy Joint Stock Company |
| Volvo CE | Volvo Construction Equipment |
| Weir | Weir Group PLC |
| WEMCO | Envirotech Pump Systems (France), a subsidiary of Weir Group PLC |
| WESCO | Weir Engineering Services Co. (UAE), a subsidiary of Weir Group PLC |

UNITED NATIONS ABBREVIATIONS

| Term | Description |
|---------------|--|
| 661 Committee | A sanctions oversight committee created under Security Council Resolution 661 (1990), composed of representatives from each of the fifteen members of the Security Council |
| OIOS | United Nations Office of Internal Oversight Services |
| OIP | United Nations Office of the Iraq Programme, established October 15, 1997 to administer the Oil-for-Food Programme |
| OLA | United Nations Office of Legal Affairs |
| Secretariat | One of the six principal organs of the United Nations, comprising the Secretary-General and such staff as the Organization may require |

REPORT ON PROGRAMME MANIPULATION

APPENDIX E

GLOSSARY

UNITED NATIONS ABBREVIATIONS

| Term | Description |
|--------------------------------------|---|
| Security Council | United Nations Security Council, composed of representatives of fifteen Member States, of which five have permanent seats; primary responsibility for maintenance of international peace and security |
| The Programme | United Nations Oil-for-Food Programme |
| Treasury | United Nations Treasury |
| UNCC | United Nations Compensation Commission, established by Security Council Resolution 687 (1991), to compensate victims of Iraq's invasion of Kuwait |
| UNMOVIC | United Nations Monitoring, Verification and Inspection Commission |
| UNOHC | United Nations Office of the Humanitarian Coordinator for Iraq |
| UN-related Agencies, or the Agencies | These nine agencies had significant roles in the Programme on the ground in Iraq, especially in the largely Kurdish northern region: Food and Agriculture Organization of the United Nations ("FAO"), International Telecommunication Union ("ITU"), United Nations Development Programme ("UNDP"), United Nations Educational, Scientific and Cultural Organization ("UNESCO"), United Nations Human Settlements Programme ("UN-Habitat"), United Nations Children's Fund ("UNICEF"), United Nations Office for Project Services ("UNOPS"), World Food Programme ("WFP"), and World Health Organization ("WHO"). For ease of reference, this Report refers to this group of agencies as "UN-related Agencies" in recognition that they have varying legal relationships to the United Nations. |
| WIPO | World Intellectual Property Organization |

SECURITY COUNCIL RESOLUTIONS

| Resolution | Description |
|------------|-------------|
|------------|-------------|

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GLOSSARY

SECURITY COUNCIL RESOLUTIONS

| Resolution | Description |
|-----------------------|---|
| Resolution 661 (1990) | Following invasion of Kuwait by Iraq in 1990, this resolution prohibited most forms of trade and financial transactions with Iraq |
| Resolution 986 (1995) | This resolution ultimately established the Oil-for-Food Programme |

OTHER TERMS

| Term | Description |
|--|--|
| After-Sales-Service Fee or Commission (“ASSF”) | Term used to disguise the humanitarian contract kickback paid on Programme contracts as required by the Iraqi regime |
| Banking Agreement | Agreement for Banking Services Pursuant to Security Council Resolution 986 (1995), between the United Nations and BNP |
| Chron Files | Chronological Files |
| CIF | Combination of cost, insurance, and freight fees |
| Demurrage | Costs incurred by a cargo ship for delay beyond its contractually agreed time of departure |
| DM | German Deutsche Mark |
| Escrow Account | Usually, the ESB Account, held at Banque Nationale de Paris (BNP) |
| Humanitarian Kickbacks | Scheme related to humanitarian goods contracts in which suppliers of goods were required to pay a certain amount, usually ten percent, to the relevant ministry after a contract was executed |
| Inland Transportation Fee | Scheme related to humanitarian goods contracts in which the Iraqi regime required payment of transportation fees in order to deliver goods internally within Iraq; also known as “internal transportation fee” |

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OTHER TERMS

| Term | Description |
|-----------------------------|---|
| Iraq-UN MOU | Memorandum of Understanding between the Secretariat of the United Nations and the Government of Iraq on the implementation of Security Council Resolution 986 (1995), S/1996/356 (May 20, 1996) |
| L/C | Letter of Credit |
| MLA | Money Laundering Act of 1997, Switzerland |
| NAM | Non-Aligned Movement |
| No Objection Procedure | Procedure by which a humanitarian goods contract is deemed approved if no member of the 661 Committee lodged an objection within a prescribed time period |
| Oil Spare Parts | Parts and equipment for the maintenance and repair of Iraq's oil production infrastructure |
| Oil Surcharges | Scheme relating to oil lifting contracts, in which buyers of Iraqi oil agreed to pay back to the Iraqi regime a certain amount per barrel, outside of the Programme payments |
| PMT | Per metric ton |
| Port Fees | Fees charged on vessels at the port of loading, also called "port charges" |
| Programme Management Report | Report on the Management of the United Nations Oil-for-Food Programme, issued by the Independent Inquiry Committee on September 7, 2005 |
| Report | Report on Programme Manipulation, issued by the Independent Inquiry Committee on October 27, 2005 |
| SOE | State Owned Enterprise (Iraq) |

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OTHER TERMS

| Term | Description |
|-----------------------|---|
| TaR | Transactions and Relationships System, an analytical database maintained by the Independent Inquiry Committee that contains information gathered in the course of its investigation |
| Third Interim Report | Report issued by the Independent Inquiry Committee on August 8, 2005 |
| Third-Party Purchaser | Company that financed a purchase of oil by the contracting party, and ultimately received the oil from the original purchaser |
| USD | United States dollar |

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GLOSSARY

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APPENDIX F

STAFF LIST

The Committee

| | |
|----------------------|----------|
| Paul A. Volcker | Chairman |
| Richard J. Goldstone | Member |
| Mark Pieth | Member |

Senior Management

| | |
|-----------------------|-----------------------------|
| Reid Morden | Executive Director |
| Mark G. Califano | Chief Legal Counsel |
| Michael T. Cornacchia | Chief Investigative Counsel |
| Frank E. Hydoski | Chief of Forensics |
| Susan M. Ringler | Counsel to the Committee |

Staff

| | |
|-------------------------|--|
| Pauline Agumba | Administrative Assistant |
| Gemma Aiolfi | Special Assistant to Mark Pieth |
| Robert M. Allyn | Administrative Assistant |
| Robert M. Appleton | Special Counsel |
| Zainab Aziz | Research Assistant |
| Hagop A. Baboujian | Investigator/Analyst |
| Maria A. Barton | Senior Counsel |
| Manisha Bharti | Senior Investigator |
| Philip A. Binder | Administrative Assistant |
| Emily S. Bolton | Investigator/Analyst |
| Nada Teresa Bouari | Investigator/Analyst |
| Bwalya Chilufya | Finance Associate |
| Carla J. Clark | Special Counsel |
| Kevin Curtis | Team Leader |
| John J. Durham | Deputy Counsel |
| Chris Eaton | Senior Investigator |
| Mary E. Eaton | Data Management Coordinator |
| Janet L. Engel | Senior Investigator |
| Jocelene D. Fouassier | Administrative Assistant, Paris Office |
| Harald Friedl | Analyst |
| John K. Gauthier | Senior Investigator |
| Beth I. Goldman | Research Analyst |
| Alistair Graham | Senior Investigator |
| Jeremy Griffiths | Forensic Accountant |
| Daniel E. Guerrini | Senior Investigator |
| Peter D. Hackshaw | Senior Investigator |
| Philippe Heinrichs | IT Manager |
| Barry A. Hogan | Senior Investigator |
| Nadim Houry | Deputy Counsel |
| Larry D. Kaiser | Senior Investigator |
| Andrew G. Kalashnik | Investigator/Analyst |
| Laurent Kasper-Ansermet | Head of Paris Office |
| Patrick J. Kelkar | Senior Analyst |
| W. Michael Kramer | Senior Investigator |

REPORT ON PROGRAMME MANIPULATION

APPENDIX F

STAFF LIST

| <u>Staff</u> | <u>continued</u> |
|-------------------------------------|-------------------------------------|
| Gabriele Lechenauer | Investigator/Analyst |
| Zora Ledergerber | Special Assistant to Mark Pieth |
| Andrew M. Levine | Deputy Counsel |
| Alasdair Macleod | Analyst |
| Marc Maisto | Senior Investigator |
| M. Shervin Majlessi | Deputy Counsel |
| Dean P. Manning | Senior Investigator |
| Bernard C. Marino | Senior Investigator |
| Michelle R. Meredith | Research Assistant |
| Jeffrey A. Meyer | Senior Counsel |
| Brian J. Mich | Senior Counsel |
| Richard P. Mika | Senior Investigator |
| Tshikaji Muleba-Sabwa | Finance Associate |
| Karen H. Naimer | Deputy Counsel |
| Eugenia Nalbatian | Senior Analyst |
| Momar Lissa Ndiaye | Senior Analyst |
| Genevieve Noundja-Noubissi | Controller |
| Hellen M. Nyabera | Data Management Officer |
| Bernard P. O'Donnell | Senior Investigator |
| Simeon Obidairo | Senior Analyst |
| Nadine Okla | Administrative Assistant |
| Monika Ora | Investigator/Analyst |
| Leanard Philip | Data Management Associate |
| Sandra A. Rutkowski | Executive Assistant to the Chairman |
| Shirin Sabri | Investigator/Analyst |
| Debbie L. Santaesa | Senior Analyst |
| Bridget M. Santiago | Administrative Assistant |
| Alan C. Schick | Senior Investigator |
| Wolf-Dieter Schlechthaupt | Senior Banking Expert, Europe |
| Gerard Sexton | Senior Investigator |
| Alan C. Schick | Senior Investigator |
| Aleksandr N. Shapovalov | Deputy Counsel |
| Gregory A. Shultz | Investigator/Analyst |
| Brett G. Simpson | Team Leader |
| Brian E. Spears | Special Counsel |
| Thomas H. Steenvoorden | Senior Investigator |
| Jonathan M. Struggles | Deputy Counsel |
| Trevor C. Sutton | Investigator/Analyst |
| Philip Trewhitt | Head of Baghdad Office |
| Todd Trivett | Team Leader |
| Lodewijk A.P. Gualtherie van Weezel | Investigator/Analyst |
| Stephen S. Zimmermann | Interim Chief-of-Staff |

United Nations Staff on Loan

| | |
|------------------|-----------------------------------|
| Dara Lysaght | Administrative Management Officer |
| Constance Samuel | Associate Administrative Officer |
| Kagure Karanu | Administrative Assistant |

REPORT ON PROGRAMME MANIPULATION

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STAFF LIST

Advisors to Committee

| | |
|-------------------|-----------------|
| John M. Hennessey | Special Advisor |
| Walter McCormack | Special Advisor |
| Richard W. Murphy | Special Advisor |

Secondment from the Federal Reserve Bank of NY

| | |
|------------------|------------------------------|
| Sean M. O'Malley | Senior Investigative Officer |
|------------------|------------------------------|

Interns

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| Patrick J. Dooley |
| Jane Okpala |
| Ari Simon |
| Alisa Valderama |

Consultants

Deloitte Financial Advisory Services LLP

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| Samir Hans | Senior Manager |
| Anthony DeSantis | Manager |
| Michael Wudke | Manager |
| Eric Baca | Manager |
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| Todd Swint | Senior Consultant |
| Bob Dillen | Senior Consultant |
| Tae S. Choe | Senior Consultant |
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| Mahdi Bseiso | Associate Consultant |

Dispute Analytics LLC

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| Todd Nelson | Senior Manager |
| Natalie Taplin-Hall | Manager |
| Emily Kim | Senior Associate |
| Marni Wills | Associate |

Glasgow Forensic Group LLC

| | |
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| David Wolfe | Managing Director |
| Deidra DenDanto | Director |
| Meena Marwaha | Senior Consultant |
| Viren Patel | Senior Consultant |