



## **Corruption Update: the UN's Oil-for-Food Program**

Anne Hoiberg, UNASD Past President

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The Oil-for-food Program (OFFP) was created in 1996 to help Iraqis cope with United Nations sanctions that were imposed after Iraq invaded Kuwait in 1990. The program allowed Saddam Hussein's regime to sell oil, and in turn, purchase humanitarian goods with the revenue. Dating back to the end of the OFFP in November 2003, allegations of improprieties in its management and administration began to fly, with accusations directed most vociferously at UN Secretary-General Kofi Annan. Editorials, op-ed pieces, talk-show hosts, and a few members of the U.S. Congress called for his resignation.

To address these and other accusations, the UN Security Council passed a resolution in April 2004 to investigate the OFFP; Paul Volcker, Richard Goldstone, and Mark Pieth comprised the principals of the Independent Inquiry Committee (IIC) with 90 investigators, forensic experts, and computer programmers who plowed through 12 million pages of documentation in 18 months of the investigation. The IIC had complete access to all UN records and materials that were needed for its OFFP investigation; information was compiled on UN employees, companies that monitored shipments of oil and humanitarian goods, and companies that purchased oil or supplied food and medicines. Three interim and two final reports were released by the IIC from 2 February 2005 to October 2005. The cost of the inquiry was approximately \$34 million, with funds paid for by monies left from the UN's OFFP administration.

### **Findings of UN Corruption**

The key IIC investigations of UN personnel centered on Secretary-General Kofi Annan; Executive Director of the Office of the Iraq Program, Benon Sevan; Joseph Stephanides, Chief, UN Sanctions Branch and Deputy Director of Security Council Affairs; and UN Procurement Office Alexander Yakovlev. While the IIC found no evidence of suspicious or improper payments or transactions after examining Kofi Annan's financial records, the other three UN employees fared less well.

- Benon Sevan was accused of being guilty of grievous conflict of interest by participating in the selection of purchasers of oil, specifically the Africa Middle East Petroleum Co. (AMEP), a Panamanian-registered company controlled by Fakhry Abdelnour, former UN Secretary-General Boutros Boutros-Ghali's cousin. AMEP bought 7.3 million barrels of Iraqi oil from 1998 to 2001 and sold them for more than \$1.5 million in profit. Sevan is suspected of accepting \$160,000 from Abdelnour and Boutros-Ghali's brother-in-law, Efraim Nadler, an officer of the company. Sevan was believed to have received about \$1 million worth of lucrative oil vouchers.



On January 16, 2007, Sevan was indicted by Manhattan federal prosecutor Michael J. Garcia, who issued a warrant through Interpol for Sevan's arrest at his Cyprus home, as well as a warrant for Nadler, who was indicted on charges of channeling the illegal payments to Sevan. If convicted, Sevan would face a maximum sentence of 50 years' imprisonment, and Nadler's maximum sentence could be 112 years' imprisonment. The extradition treaty between Cyprus and the U.S. does not cover financial crimes, so it is unclear as to what impact the charges would have on Sevan. Nadler's whereabouts are unknown.

- Joseph Stephanides, chief of the UN Sanctions Branch and deputy director of Security Council Affairs, was fired by Kofi Annan after being accused of helping Lloyd's Register Inspection Ltd win a contract to inspect and monitor humanitarian goods entering Iraq even though there was a lower bidder. He "tainted" the competitive bidding process by selecting Lloyd's Register, which subsequently overcharged the UN
- UN Procurement Officer Alexander Yakovlev was arrested in Manhattan for providing privileged bidding information in 1996 to a company pursuing business through the OFFP and for soliciting a bribe. His most serious charge was accepting payments totaling \$950,000., most of which were not garnered from the OFFP. Yakovlev also was charged with creating a front company, Moxycyco Ltd., "to facilitate the illicit and secret payment of money to him by foreign companies" trying to do business with the UN. He pleaded guilty and could be sent to prison for 60 years.

The IIC also investigated the possible involvement in the UN's contract selection process of Kofi Annan's son, Kojo, who received payments from Cotecna Inspection S.A., the company that replaced Lloyd's as the inspecting and monitoring company of humanitarian goods shipped into Iraq. Although Kojo claimed he had resigned from Cotecna by the end of 1998, he continued to receive monthly payments from the company until February 2004. The total amount paid to Kojo was \$195,894., although there was an additional \$306,305 in "possible" but unexplained payments.

Kojo Annan's purchase of a Mercedes Benz for \$39,056, using his father's UN employee discount, also was suspicious, as was his exception from paying import duties in Ghana of more than \$14,000 on the car. Kojo Annan admitted that he used his father's name to purchase the car. Although Kojo Annan denied all accusations of wrongdoing, on 19 January 2006, he requested Ghana's customs office to provide him with a statement for the amount that he owed for import duties, which he then paid.

In November 2005, Kojo was awarded \$435,000 for damages against the Murdoch-owned London *Sunday Times*, which had to admit that its story connecting Kojo to OFFP contracts had no substance.



## Findings of Corporate Corruption

Of all IIC's findings, the most damaging illegal activities included kickbacks on purchases of oil, surcharges on oil, overpricing of food and medicines, and smuggling of oil. The IIC's reports identified a staggering total of 2,200 of 4,000 companies from 66 countries that paid \$1.6 billion in kickbacks to Hussein's regime to win supply deals. In addition to the corrupting of the OFFP by these companies, the smuggling of oil through Jordan, Syria, Iran, and Turkey yielded \$9.2 billion in illicit revenue to Hussein's coffers. The following summarizes cases that have been brought to court or are being investigated:

- Of the individuals arrested for these illegal activities, the case of Oscar Wyatt, Jr. received the most coverage in the media; *Newsweek* labeled Wyatt an "oil mogul" and *Texas Monthly* once called him "the most hated oilman in Texas." Dating back to the 1980s, Wyatt purchased oil from Iraq through his business, Coastal Corporation, and individually after the sale of Coastal to El Paso Corporation in 2001. In October 2005, Wyatt was indicted in New York federal court on charges that he paid at least \$8 million in kickbacks to Saddam Hussein's regime to sell Iraqi oil under the OFFP. Payment of any surcharges, from 10 – 50 cents per barrel, was a violation of both the UN rules governing the OFFP and U.S. law. Wyatt also conspired to persuade UN officials to set the official selling price for Iraqi oil at an artificially low level, allegedly to cover the surcharges while still making a profit. In addition, the government's case against Wyatt stated that he tried to get El Paso to reimburse him for what prosecutors described as an illegal \$200,000 payment he allegedly made to get the Iraqis to follow through on that contract. In November 2007, Wyatt tearfully agreed to forfeit \$11 million and was sentenced to one year and one day in prison.
- In March 2008, Wyatt co-defendant David Chalmers, who had pleaded guilty to one count of conspiracy in 2007, was sentenced to two years in prison for illegal payments made by his BayOil Companies and was ordered to pay \$9 million in fines, an amount equal to the kickbacks demanded by the Iraqi government to ensure delivery of the oil. On December 13, 2007, Chalmers' associate, Ludmil Dionissiev, was fined \$5000 and given a two-year term of probation for his role in facilitating the transportation and sale of Iraqi oil in 2001.
- On January 6, 2006, South Korean businessman Tongsun Park was arrested by the FBI in Houston after he was indicted for illegally accepting \$2.5 million from Iraq in connection with the OFFP and conspiring to violate U.S. law by working secretly for Iraq. In July 2006, he was found guilty of serving as an unregistered agent of the Hussein's regime in the U.S. and was sentenced to five years in prison, fined \$150,000, and forced to forfeit \$1.2 million. Earlier this year, his sentence was reduced to three years and one month because of an agreement to work with the government and also because of a serious medical condition.



- During his trial that ended in April 2008, Samir Vincent, a former oil consultant turned government witness, testified against Park and also Wyatt, stating that he traveled to Iraq with Wyatt when the country was subject to international economic sanctions. Vincent, an Iraqi-American businessman, pleaded guilty to, among other things, conspiring to serve in the United States as an unregistered agent of the Hussein regime. He received \$310,000 under the OFFP, and his company, Phoenix International LLC, made \$1.9 million in profit. He was sentenced to probation and fined \$300,000.
- In March 2008, Swedish truck manufacturer AB Volvo agreed to pay a total of \$19.6 million in penalties to the U.S. Securities and Exchange Commission (SEC) and Justice Department in connection with corruption related to the OFFP. As part of the deal, Volvo neither confirmed nor denied the allegations. The government accused two of Volvo's subsidiaries of making illegal payments to Hussein's government. One subsidiary, Renault Trucks SAS, was alleged to have paid \$5 million in kickbacks to Iraqi officials in exchange for receiving contracts, while another division, Volvo Construction Equipment International, had reportedly paid at least \$1.3 million in kickbacks. Under the deal made with the U.S. Government, Volvo agreed to pay the SEC a \$4 million penalty and return \$8.6 million in scandal-linked profits. It also agreed to pay a \$7 million fine to the Justice Department and to cooperate with ongoing investigations in exchange for a promise that prosecution of its subsidiaries would be delayed for at least three years.
- Other IIC findings identified the Australian Wheat Board, later AWB Limited, as the largest single source of kickbacks. In exchange for trouble-free disembarkation of wheat purchased under the OFFP, the AWB paid "trucking charges" totaling hundreds of millions of dollars to Alia. Although Alia is a real Jordanian trucking company, it had no role in the distribution of Australian wheat in Iraq. Alia kept a small percentage of "charges," and passed the remainder to Saddam's government. The AWB was fully compensated for the charges by increases in the price paid; the payments were approved by the Australian Department of Foreign Affairs and Trade. The Australian Government commissioned Judge Terence Cole to investigate whether Australian companies had indeed paid kickbacks to the Saddam regime. The Cole Inquiry commenced in December 2005 and handed down its findings in late 2006 after receiving testimony from senior Australian Government officials, including Prime Minister John Howard, all of whom were cleared of any wrongdoing. The inquiry found the AWB paid more than \$220 million in kickbacks to Saddam's regime for wheat sales.

On 11 July 2006, North American farmers filed a claim in Washington, D.C. seeking \$1 billion in damages from AWB, alleging the Australian wheat exporter used bribery and other corrupt activities to corner grain markets and to secure grain sales throughout Asia and the Middle East.



On 9 January 2007, U.S. Senator Norman Coleman introduced the, "Australian Wheat Board Accountability Act of 2007," which stipulates that an investigation of the AWB should be initiated to determine if its abuse of the OFFP justifies taking action against the AWB seeking economic damages suffered by U.S. wheat farmers.

## **Iraqi Restitution**

On July 1, 2008, the Iraqi government filed a civil lawsuit in U.S. federal court in Manhattan, alleging corporate kickbacks were paid to Saddam Hussein's regime under the OFFP. The action seeks to recover damages of more than \$10 billion from companies investigated by the IIC, claiming they cheated the Iraqi people out of benefits from the \$67 billion program. The lawsuit states that billions of dollars were lost, "all of which were directly translatable into food, medicine, and other humanitarian goods that were supposed to reach the Iraqi people." The Iraqi lawsuit, which follows the U.S. criminal investigations into the OFFP, said the defendants had violated U.S. racketeering laws, including mail and wire fraud and money laundering.

Among individuals named in the lawsuit are Texas oilmen Oscar Wyatt and David Chalmers, both now incarcerated prisoners who were fined millions of dollars after admitting they paid millions in kickbacks to Saddam's regime.

Corporations being sued by Iraq include American oil giant Chevron Corporation, which agreed to pay \$30 million to resolve U.S. criminal and civil liabilities. Earlier this year, El Paso Corporation, without admitting or denying guilt, agreed to pay more than \$7.7 million to settle civil claims that it helped the former Iraqi regime receive kickbacks. Other companies named in the lawsuit include the Swiss oil trading firm Vitol, European bank BNP Paribas, AWB, drug makers GlaxoSmithKline and Roche Holding, and units of drug company Schering-Plough as well as several units of Switzerland's engineering company ABB Group.

Money remitted to the U.S. Government from Oscar Wyatt, Chevron Corporation, and El Paso Corporation has been transferred by the U.S. Government to the Development Fund of Iraq (established on May 21, 2003, by United Nations Security Council Resolution 1483), as restitution for the benefit of the people of Iraq, who were among the victims of the Hussein regime's solicitation of illegal kickback payments on Iraqi oil. The U.S. Government will also seek to transfer to the Development Fund of Iraq the restitution that David Chalmers and the BayOil Companies were ordered to pay.

At the conclusion of the OFFP in November 2003, the UN transferred the remaining funds of \$8.6 billion to the Development Fund of Iraq, monitored by Ambassador Jerry Bremmer; there has been no accounting of how these funds were used.



## **IIC Conclusions**

The IIC reports emphasized a crucial need for reform in the management, accounting, auditing, and oversight areas of the UN. It also concluded that Secretary-General Kofi Annan and Deputy Secretary-General Louise Frechette were responsible for some of the mismanagement of the OFFP. The Security Council also has to bear responsibility for ignoring the oil smuggling, kickbacks, and corruption that were going on, illegal activities that were reported in the media for all the world to know. The U.S. and the U.K., in particular, were more concerned with ensuring that OFFP revenue was not funneled into purchasing dual-use goods that Saddam Hussein could use for building weapons of mass destruction. Harvard University Professor John G. Ruggie concluded that the Security Council and its 661 Committee had oversight of the OFFP and approved thousands of contracts over the life span of the program. Every member had the right to hold up contracts if they detected irregularities, and the U.S. and U.K. were by far the most vigilant. Not one contract was held back because of overpricing, but hundreds were held up because of dual-use technology concerns, according to Professor Ruggie.

One of IIC's conclusions was that administering the OFFP was beyond the capability of the UN's Office of the Iraq Program, UN Security Council, and its 661 Committee. Each UN member state, especially the U.S., should have acted responsibly by directing the Security Council to oversee more effectively the OFFP and for ensuring the enforcement of sanctions on Iraq.

The IIC reports, on the other hand, concluded that the OFFP was successful in reducing malnutrition rates among Iraqi children from 11% in 1996 to 7.8% in 2000 and 4% in 2003 as well as an increase in calories per capita per day from 1,800 in 1995 to 2,800 in 2000. Throughout the OFFP years, enough food was imported to feed all 27 million Iraqis; such supplies are no longer provided for the Iraqis. Health services and agricultural production improved during the OFFP years. Another important result of this investigation is the conclusion that throughout the OFFP, UN weapons inspectors continued to destroy Saddam Hussein's weapons; funding for this work was provided by the OFFP. To summarize, the IIC's reports painstakingly analyzed the weaknesses in the OFFP and highlighted the beneficial impact of the OFFP on the Iraqi people. Those benefits could have been substantially greater had the sale of the Iraqi people's oil been strictly monitored and all funds returned back to the people in the form of goods solely for their consumption. Of the 2,200 companies identified as having engaged in illegal activities, how many of those not listed above will forfeit their economic gains for the betterment of the Iraqi people?