



Statement on Behalf of Benon V. Sevan
on the Third Interim Report of the IIC

August 4, 2005

Since its appointment, the Independent Inquiry Committee headed by Paul Volcker (the "IIC" or "Committee") has sought to scapegoat Under-Secretary-General and former Oil-for-Food Programme Director Benon Sevan and deflect attention from other, more politically powerful targets. With its objectivity and respect for evidence under challenge by its own senior staff, the Volcker Committee again seeks to change the subject by issuing a report purportedly finding that Mr. Sevan received money from a contractor. The charge is categorically untrue, and no evidence has been adduced to substantiate it.

Mr. Sevan agreed over a year ago to stay beyond his retirement date on a \$1-per-year salary in order to participate constructively in the IIC's investigation. In doing so, Mr. Sevan assumed that the investigation would be impartial, evenhanded, and fair. That expectation unfortunately has been disappointed. Mr. Sevan has now reached a point in his dealings with the IIC where he questions the Committee's commitment to objective and evenhanded fact finding and doubts he can receive a fair hearing in this forum.

Mr. Sevan's Service and the IIC's False Accusations

Benon Sevan has served the UN for forty years in some of the most difficult assignments in the world—including Afghanistan and Iraq as well as Angola, Burundi, Kosovo, Rwanda, Somalia, and South Lebanon, visiting prison camps during the Iran/Iraq war in 1985, as well as seeking the whereabouts and return of missing persons in the Middle East and the recovery of bodies in the Bekaa Valley. Suicide bombers tried to kill him—in fact they announced that they had killed him—blowing up the UN office in Baghdad on August 19, 2003 and killing many of his dear friends and colleagues.

Mr. Sevan served as the Executive Director of the largest humanitarian program in UN history, comprising, in the words of the Secretary-General, the "most complex and most unusual tasks [the Security Council] has ever entrusted to the Secretariat." In paying tribute to the Programme staff for their "competence, loyalty, and devotion," the Secretary-General stated that Mr. Sevan had "served the Organization in this, as in many previous capacities, far beyond

the call of duty.” The difficulties with running a program of this magnitude and sensitivity under a severe sanctions regime were all identified by Mr. Sevan throughout the life of the Programme. Mr. Sevan confronted both the Iraqi Government officials and members of the Security Council without fear or favor.

Apparently, however, the IIC has concluded, based on undisclosed statements by officials of the former Saddam Hussein regime (some unidentified and most incarcerated in circumstances strongly suggestive of coercion and mistreatment), that Mr. Sevan “cited” or “mentioned” a company to Iraqi officials, one of thousands of companies that received contracts for oil and humanitarian supplies. Mr. Sevan had no interest in that company or in any of the other companies associated with the program. Mr. Sevan’s goal throughout the life of the Programme was to expedite the pumping of oil in order to pay for urgently needed humanitarian supplies in full compliance with the mandate established by the Security Council.

The small subset of the IIC’s evidence that Mr. Sevan has been permitted to review proves nothing. The IIC has produced a series of documents suggesting that the Iraqi oil bureaucracy associated the contractor AMEP with Mr. Sevan’s name, but the chain of documents traces back to a single source: a document reflecting a discussion in which Mr. Sevan is said to have “mentioned” or “cited” the company. Mr. Sevan has long acknowledged mentioning AMEP to Iraqi oil officials as a company interested in doing additional business with Iraq under the Programme. Doing this was neither unusual nor inappropriate. What Mr. Sevan did not do is recommend the company or seek preferential treatment on its behalf.

According to Dr. Saeed Hasan, Deputy Permanent Representative and Permanent Representative to the United Nations during the 1998-2000 period, Iraq was isolated at the time and vigorously seeking to forge commercial ties to the outside world and regain oil market share lost during six years of sanctions. Ambassador Hasan recalls many discussions during this period in which UN officials and others would encourage the Iraqi government to expand its base of contractors, and he and other Iraqi officials would advert to the difficulties of doing so in view of the reluctance of contractors to do business with Iraq under the Programme. In this context, it would be entirely reasonable to assume that the mention of a company not previously involved with the Programme and interested in doing business with Iraq would be viewed not as a solicitation of a favor for the company, but rather

simply as an effort to help the Programme succeed. Ambassador Hasan confirms that this was his reaction to the mention of companies. There was, of course, no prohibition, expressed or implied, on the OIP's discussing contracts or contractors with Iraqi government officials; contracting between Iraq and outside companies was the very business of the Programme. Yet, this is the essence of the finding against Mr. Sevan: because he mentioned a company, the IIC infers that his intentions were improper, without any proof of an interest in the company or any motive other than advancing the goals of the Programme.

The balance of the Committee's "evidence," as discussed below, consists of alleged secret witness statements, from former members of Saddam's regime held captive by the U.S. military and intelligence agencies, that neither Mr. Sevan nor his counsel have been permitted to review or address. Given the recent history of US interrogation of suspects in Iraq and elsewhere, reliance on unidentified captive informants, without affording Mr. Sevan any opportunity to rebut their evidence or even to know what it is, is wholly unsatisfactory and brings discredit on both the IIC and the United Nations. Indeed, the lawyer representing the former Iraqi Oil Minister Amer Rashid, on whose alleged testimony the IIC heavily relies, has stated that former Iraqi officials interviewed by the IIC are subject to "pressure from the US captors, since the United States is an opponent to the world body in this matter." Al Sharq al Awsat (Feb. 28, 2005). Evidence elicited from such circumstances must be considered inherently suspect. Moreover, it is extremely disappointing that the United Nations would associate itself with such an enterprise.

The IIC makes the further baseless claim that Mr. Sevan's statements concerning income duly and properly reported on his financial disclosure forms years ago "are not adequately supported by the information reviewed by the Committee." This statement is based on the IIC's belief that Mr. Sevan's late aunt who raised him—a woman who worked her whole life, lived without rent in an apartment Mr. Sevan bought her in the 1960s, and was in her eighties—did not have sufficient wealth to give Mr. Sevan the \$160,000 he reported voluntarily on his UN financial disclosure forms years before the IIC was even created. But the IIC's principal witness to Mr. Sevan's aunt's purported lack of resources had not lived in Cyprus for 40 years, saw her perhaps once a year in passing during a visit, never discussed her finances with her, had no knowledge of her assets, and flatly denies making the statements the IIC attributed to him. See Declaration of Harry Kupelian (attached). The remaining "witnesses," two bank

employees, both claim to know nothing about Mr. Sevan's aunt's finances beyond the account statements the IIC put before them. The IIC mischaracterized this "evidence" in its first interim report concerning Mr. Sevan so grossly as to cast fundamental doubt on its credibility and impartiality.

The IIC now claims that Mr. Sevan received money from African Middle East Petroleum (AMEP) "in concert with" Fred Nadler, a friend of Mr. Sevan since 1992, and a friend and relative by marriage of Mr. Abdelnour, the principal of AMEP. This charge is flatly false. Mr. Sevan never took anything from anyone, including AMEP, Mr. Abdelnour, or Mr. Nadler. Both Mr. Sevan and Mr. Abdelnour deny that Mr. Sevan received money, and the Committee apparently has never interviewed Mr. Nadler. Nor has the Committee advanced any direct evidence to support this allegation. Instead, the Committee adduces seven dates over the course of six years on which Mr. Nadler appears to have spoken both to Mr. Sevan and to Mr. Abdelnour—separately—on the same day by telephone. From this alleged "pattern," the IIC leaps to the conclusion that there was some sort of conspiracy. The Committee acknowledges that Mr. Nadler spoke to his friend, Mr. Sevan, on a weekly basis from 1998 to 2004. See 1st IIC Rep. 158. Mr. Nadler apparently spoke with Mr. Abdelnour, who was his friend, relative, and business partner, on a frequent basis as well.¹ But in view of the general frequency of each of these sets of telephone calls, seven overlapping calls over the course of six years would be not only unsurprising, but indeed almost inevitable. The IIC's circumstantial "evidence" thus proves nothing. An evenhanded presentation of the evidence would certainly show the full universe of calls between Messrs. Nadler and Sevan, on the one hand, and the full universe of calls between Messrs. Nadler and Abdelnour on the other. The IIC, however, has refused Mr. Sevan's repeated demands for disclosure of the full telephone records in its possession, no doubt because it knows that full disclosure would reveal the coincident calls to be merely that.

Similarly specious is the IIC's contention that these telephone contacts with Mr. Nadler occurred during "significant periods" such as "just before and after" oil allocations, contract

¹ Our understanding is that, in addition to being friends, Mr. Nadler and Mr. Abdelnour had mutual real estate interests in Egypt, though Mr. Sevan did not have any role in or specific knowledge of their business dealings. In addition, it is our understanding that Mr. Nadler would from time to time use Mr. Abdelnour's telephone in Geneva to make calls. It is therefore not clear that calls to Mr. Sevan from Mr. Abdelnour's telephone number even involved Mr. Abdelnour.

negotiations, oil lifts, and so forth. See 1st IIC Rep. 158-59. The problem with this methodology is that the Oil-for-Food Programme was divided into six-month phases, each of which began with allocations, proceeded into negotiations and contracting, continued through an approval process, and resulted in oil lifts. During essentially any one of the six months, one of these activities was underway. By the Committee's methodology, any point in time during a particular phase is therefore "just before," during, or "just after" one of these events. Again, lacking any hard evidence, the IIC resorts to mere temporal juxtapositions in an attempt to build a circumstantial case through innuendo. And characteristically, it does so without any sense of fairness or balance, and without acknowledging or considering critical weaknesses in its "evidence."

Even employing fast-and-loose methodologies, the Committee's "evidence" appears to contradict key features of its theory of the case. The IIC has obviously gone to great lengths to ferret out even the most trivial contacts between Mr. Sevan and Mr. Abdelnour, but, tellingly, the Committee has failed to show any such contact prior to 1999. Similarly, the IIC has not shown "clusters" of telephone calls involving Mr. Nadler, Mr. Sevan, and Mr. Abdelnour prior to at least November 1998. The IIC's theory of the events, however, requires that Mr. Sevan was not only in contact with Mr. Abdelnour but sufficiently motivated to seek special favors for him as early as mid-1998. Further, the IIC's suggestion of illicit payments requires the reader to believe not only that Mr. Sevan would be willing to risk his entire career and reputation for \$160,000, but also that he would trust a person whom he had never met to carry through with the scheme, and blithely declare the proceeds on his UN financial disclosure forms. In any event, an intellectually honest accounting of the evidence would surely call the lack of evidence of pre-1999 contact to the reader's attention.² Unsurprisingly, however, the IIC's report does not do so.

No competent prosecutor would build a case on such shreds of unrelated and contradictory material. But of course, the IIC is not accountable to anyone and follows a policy of shielding its evidence from the adversary process. It is incumbent on all concerned, including the press, to sift through this tendentious piling of speculation upon speculation to get at the truth.

² We have learned that the IIC interviewed former New York Times journalist Youssef Ibrahim before issuing its first Interim Report and learned from him that he was present when Mr. Sevan met Mr. Abdelnour in March 1999 and that it indeed appeared to him that the two had not met before. The IIC suppressed this critical exculpatory evidence in its report.

Mr. Sevan's Extensive Cooperation with the IIC

The IIC will also make the accusation in its upcoming report that Mr. Sevan has failed to cooperate with the Committee's investigation. This charge is utterly baseless. Mr. Sevan cut short his retirement and remained in the United States on a \$1 per year salary in order to participate in the IIC's investigation. He has provided all Programme-related, financial, and other relevant documents requested by the Committee. He has met with the Committee on a number of occasions, once for a formal interview lasting several hours. He has executed authorizations in blank permitting the Committee to obtain whatever information it wishes from the banks he uses. He has, in short, made his professional and financial life an open book for the Committee. Indeed, Committee staff were in our offices as recently as May 2005 reviewing Mr. Sevan's original financial documents.

Since April 5, 2005, Mr. Sevan has offered on numerous occasions to respond to any written questions the Committee might wish to propound. See Sevan-IIC Correspondence (attached). The Committee has rejected this offer, insisting on additional live interviews. It is no secret that the IIC has for many months been funneling information from its investigation to criminal prosecutors in Manhattan who are also investigating Mr. Sevan. Secretary-General Annan has said he will remove the immunity of any UN official charged by U.S. prosecutors. In the circumstances, Mr. Sevan's offer to respond to written questions should have been viewed by the IIC as an extraordinarily constructive, reasonable, and cooperative offer. Written questions would allow the Committee to obtain the information it needs, consistent with protection of Mr. Sevan's interests, and information could be provided in an atmosphere free of concern that any small misstatement or memory lapse would be seized upon as evidence of deception as has unfortunately been our experience with the IIC to date—in notable contrast to the Committee's handling of similar lapses by other witnesses, including the Secretary-General. We remain puzzled that the Committee, which purports to be thoroughly investigating the Oil-for-Food Programme, would not wish to avail itself of this opportunity to obtain information about the Programme from the person who ran the OIP.

The Oil-for-Food "Scandal"

Much ink has been spilled on the subject of the Oil-for-Food "scandal," but it remains unclear what the "scandal" really is. In Mr. Sevan's view, there are a number of "scandals" here. The first

“scandal” is the failure to acknowledge that the Oil-for-Food Programme was the largest and one of the most successful humanitarian efforts in UN history. No one has substantiated any claim that Programme funds were misspent, that any OIP officer engaged in favoritism or otherwise deviated from his duties, or that the goals of the Programme were not met to an extraordinary degree given the nearly impossible political environment in which it had to operate. On the contrary, the Programme nearly doubled caloric intake amongst the entire Iraqi population, from 1200 to 2400 kilocalories per person per day, cut acute child malnutrition in half, eliminated polio, reduced other communicable diseases, and restored critical water, sanitation, electric, and communications infrastructure. See generally Prof. Joy Gordon, Testimony Before House Comm. on Gov’t Reform, Subcom. on Nat. Sec. 2 (Apr. 12, 2005) (“We should be particularly conscious of the significance of [the Programme’s] accomplishments as we see how difficult it has been in the last two years for the US occupation authority and the interim Iraqi government to achieve similar standards.”) (noting, inter alia, that child malnutrition has doubled in the past two years).

Mr. Sevan is proud of the thousands of UN colleagues, both international and Iraqi nationals, who implemented and administered the Programme within a very rigorous sanctions regime and endured extremely difficult and dangerous conditions in order to improve the dire humanitarian conditions of the Iraqi people. Mr. Sevan also pays special tribute to the memory of friends and colleagues who made the ultimate sacrifice in the line of duty. There can be no doubt that the Programme made a real difference in the daily lives of millions of Iraqi people.

Even applying the audit standards of a public company to a mammoth humanitarian program in the Third World administered under the supervision of the members of the Security Council, with its diverse national interests, and with the principal contracting party being the then-Government of Iraq, the Oil-for-Food Programme has accounted for its receipts and expenditures in a manner that even its detractors have had to admit was satisfactory. The United Nations terminated its administration of the Programme in Iraq on November 21, 2003, and since then has transferred nearly \$10 billion to the Development Fund for Iraq. Mr. Sevan would certainly invite any fair-minded comparison of the management, contracting process, and accounting practices of the Oil-for-Food Programme with those of the Coalition Provisional Authority, with its vanished billions of dollars, massive overcharging, unbridled awarding of no-bid contracts, and millions in cash simply walking out the door of the CPA offices in Baghdad. The “scandal” is in the distortion and

misrepresentation of the accomplishments and record of the Programme, particularly as contrasted with the mismanagement, politicization, and staggering waste of funds that occurred on the CPA's watch.

A further Oil-for-Food "scandal" is in the allocation of responsibility for Saddam's self-enrichment during the course of the Programme. The Programme's detractors have attempted to blame the Programme for the illicit flow of money to Saddam. Yet, the real responsibility lies with those who designed the Programme, those who failed to investigate pricing irregularities in Iraqi contracts reported by OIP, and those who condoned massive smuggling of oil outside the Programme for political expediency. It was the Security Council members that agreed to allow Saddam to choose his own contractors to sell oil and buy food. Is it surprising that Saddam would choose his contractors based on his own political interests? When the OIP reported possible pricing irregularities in contracts to the Security Council on dozens of occasions, the Council took no action. When the OIP reported apparent smuggling of oil to Jordan, Turkey, and Syria to the Security Council and its 661 Committee, some members looked the other way, and the Committee did not act. The vast majority of Saddam's financial gains are attributable to smuggling and kickbacks. It is a scandal that the OIP and the nine United Nations programmes and agencies more generally, while receiving the lion's share of the criticism, may be the only participants in the events that properly discharged their responsibilities under the Programme (which responsibilities did not include redressing sanctions violations or interdicting oil smuggling), in full compliance with the mandate and procedures established by the Council.³

But perhaps the greatest scandal is the IIC's conduct of this matter, which belies any pretense of evenhandedness, objectivity, or respect for due process. Notwithstanding Mr. Sevan's openness and cooperation with the IIC, the Committee set out from the beginning of its politically charged investigation to scapegoat him and spare others to whom he reported. The Committee's methods reflect that intent. Rather than presenting the bases for the Committee's suspicions forthrightly to Mr. Sevan for his response, the IIC has sought at every turn to conceal its evidence and engage in ambush tactics. They denied him access to his records. They asked him to recall minute details of insignificant events six years

³ It was the task of the Multinational Interception Force (MIF), which was led by and predominantly made up of the Fifth Fleet of the United States Navy, to police and prevent oil smuggling.

ago and questioned his integrity when he did not recall telephone calls years ago lasting as little as one minute (assuming those calls even went through to him). This treatment is more than merely shabby; it reflects a concerted and directed agenda on the part of the IIC to reach a specific result, no matter how little credible evidence might exist to support that result.

Indeed, even before Mr. Sevan was interviewed for the first time on January 21, 2005, the IIC had prejudged the allegations in a most public and inappropriate way. On January 7, 2005, Mr. Volcker gave an interview to the New York Times, making clear that the IIC had already reached conclusions about allegations against Mr. Sevan. He told the interviewer with regard to Mr. Sevan that “there is enough smoke there that we know there was some monkey business.” It is remarkable that the Chairman of a fact-finding panel would make such prejudicial statements in the middle of an investigation before an interview had even been conducted. Mr. Volcker’s statements to the press make it clear that he had an early and committed agenda of condemning Mr. Sevan, irrespective of any contrary evidence Mr. Sevan might adduce.

The IIC’s treatment of Mr. Sevan should be contrasted with its treatment of the Secretary-General, whose initial failure to recall two meetings with the Chairman of Cotecna, his son’s employer, was accepted as a busy official’s genuine lack of recollection. Like the Secretary-General, Mr. Sevan had no advance warning that he would be questioned regarding the contacts, the contacts were years ago (roughly the same number of years in both cases), Mr. Sevan was not initially able to consult records to refresh his recollection, and he volunteered the fact of a later contact upon review of his own records and recollection of the contact. Moreover, Mr. Sevan’s chance encounter with a Programme contractor in a restaurant is even less significant and memorable than Mr. Annan’s meetings with the Chairman of Cotecna, his son’s employer.

The IIC’s double standard is palpable and makes inescapably clear the agenda of the IIC to scapegoat Mr. Sevan and spare others. Any doubt about that agenda was dispelled by the departure of Robert Parton and his colleague Miranda Duncan from the IIC in the spring in protest. How often does a senior lawyer resign in the middle of an investigation (the IIC falsely spun the departure as occurring because Mr. Parton had simply finished his work—an allegation Mr. Parton quickly refuted) and retain six boxes of confidential documents to defend himself because he

does not trust his employer to characterize their contents accurately?

The IIC has also maintained a concerted policy of hindering Mr. Sevan's access to materials and resources needed to defend himself. The IIC removed all of his files from his office, promising to return them within one week, and has withheld them from him for more than a year, except in a form that requires him to review tens of thousands of pages one at a time on a computer screen. Copying of other records has been prohibited. As noted, the IIC has relied heavily on certain telephone records to show alleged "patterns" of calls, but has denied access to those records, knowing that the patterns would cease to appear as such if the full records were disclosed. The IIC has relied centrally on Iraqi documents in propounding damaging findings against Mr. Sevan, but has refused to allow the documents (including the Arabic versions, whose translation is in issue) to be copied. The IIC has placed similar restrictions on other documents central to its "findings." While the IIC has deliberately driven up the costs of Mr. Sevan's participation in the investigation, the United Nations has broken the binding promise it repeatedly gave—through two Chefs de Cabinet and Secretary-General Annan himself, personally—to pay for Mr. Sevan's legal expenses.

Perhaps most shocking for a body under the aegis of an institution committed to the rule of law, the IIC has premised its derogatory findings against Mr. Sevan almost entirely on secret evidence derived from highly questionable circumstances that has been withheld from Mr. Sevan and his counsel. A U.S. court would not permit the use of secret evidence in this manner even in the prosecution of a common criminal. Indeed, the issue of secret evidence in terrorism cases based on purported security concerns is the proper subject of outrage and challenge by the human rights community and has been rejected by national courts throughout the world. Moreover, our investigation of the "facts" adduced in the IIC's previous reports has again and again revealed inaccuracies and outright mischaracterizations of statements and evidence, casting serious doubt on the Committee's work in respect of secret evidence that it apparently plans to withhold from Mr. Sevan's scrutiny indefinitely.

Mr. Sevan ran the Office of the Iraq Programme for its entire six years, from its inception in October 1997 to its termination in November 2003, and therefore knows the Programme from top to bottom. Yet, until a few weeks ago, the IIC had never sought to interview Mr. Sevan on the management of the Programme it

purports to be thoroughly and objectively investigating. This fact would be astonishing if it were not entirely in character. The IIC is not interested in the Programme. It needs a cartoon villain to placate the critics. And from the beginning, the Committee has fixed on Mr. Sevan, irrespective of the truth of the matter.

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