

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

## **BRIEFING PAPER**

**October 21, 2004**

This briefing paper reviews the status of the investigation of the Independent Inquiry Committee (“the Committee”) into the United Nations Oil-for-Food Programme (“the Programme”).

### **1. PROGRESS OF THE INVESTIGATION**

The Committee has made substantial progress toward its ultimate goal of assessing the allegations of maladministration and corruption in relation to the Programme. The Committee’s staff of 65 has been organized into specific investigation teams. These teams are examining:

(a) how the Programme was designed, administered, and monitored, including:

- (i) the manner in which the United Nations initiated the Programme and in which the Programme was supervised by the Security Council and its Iraq sanctions committee;
- (ii) the manner in which the United Nations selected, retained, and monitored the activities of private contractors that provided inspection and banking services for the Programme, and the manner in which these contractors executed their contractual responsibilities;
- (iii) the manner in which United Nations personnel of the Department of Political Affairs and the Office of the Iraq Programme administered the Oil-for-Food Programme;
- (iv) the manner in which the United Nations and related agencies administered the distribution of humanitarian aid in the three northern governorates of Iraq;
- (v) as part of an accounting of all revenue and expenditures, the manner in which funds were spent for administrative purposes; and

(b) allegations and other information concerning potential corruption or other illegal payments to the former Government of Iraq or to other persons and entities in connection with any contracts or activities related to the Programme.

The Committee and its staff have conducted scores of witness interviews in Europe, the United States, Iraq, and elsewhere in the Middle East. Committee staff members have continued to review detailed United Nations records, which have been segregated and

sequestered. The Committee staff has obtained additional financial and transactional information in Iraq and continues to review and analyze transactions relating to the Programme.

## **2. DUE PROCESS CONSIDERATIONS**

Fairness and due process for individuals and entities that may be adversely affected by the Committee's findings is a primary consideration with respect to how we conduct our investigation and to when we release investigative findings to the public. In order to ensure fairness, the Committee will not report allegations or make adverse findings against any person or company without providing the person or company with the opportunity to present any additional information or written submissions for consideration by the Committee.

## **3. FACTS ABOUT OIL SALES AND THE PURCHASE OF HUMANITARIAN GOODS AND OIL SPARE PARTS**

The Committee has now compiled lists of the companies to which the Government of Iraq sold oil under the Programme and the companies from which it purchased humanitarian goods and oil spare parts. The Committee is publishing this data on its website (<http://www.iic-offp.org>) for informational purposes only. This publication does *not* constitute a finding or conclusion by the Committee of wrongdoing by the United Nations or by any of the companies or countries so identified. Information in possession of the Committee beyond the data provided today is part of the continuing investigation and therefore has not been published by the Committee.

For purposes of giving context to the numerical data that is disclosed today, the general nature of the Programme's contracting and approval process for the sale of oil and goods is briefly described below. The applicable procedures are complex and changed over time. The Committee's final report will describe fully the procedures governing the review of oil and goods contracts under the Programme.

### **A. Oil Sales**

From 1996 to 2003, Iraq sold oil to 248 companies under the Programme. These transactions involved approximately 3.4 billion barrels of oil and payments of approximately \$64.2 billion to the United Nations Iraq account at BNP Paribas.<sup>1</sup>

Oil sales under the Programme were subject to review by the Security Council's Iraq sanctions committee, known as "the 661 Committee," which was created in August 1990 by Security Council Resolution 661. Companies interested in purchasing oil from Iraq were required to register with the United Nations through a national government. The companies were selected by and contracted directly with Iraq's State Oil Marketing Organization. Security Council Resolution 986 (1995) required that each oil purchase

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<sup>1</sup>These amounts have been adjusted for payments in Euros beginning in late 2000.

contract reflect fair market value and be accompanied by a letter of credit payable from the oil purchaser's bank to the United Nations Iraq account. Each contract was subject to review by United Nations oil overseers<sup>2</sup> and, in some cases, by the 661 Committee. All contracts were required to use a pricing mechanism that was approved by the 661 Committee.

The oil sales data released today by the Independent Inquiry Committee was assembled by its forensic accounting staff from a number of sources. The staff collected databases and spreadsheets from the United Nations that listed oil purchase contracts and contained a wide variety of contractual data. Information was combined into a single database and, to ensure accuracy and completeness, the information was cross-checked against other sources, including contract and letter of credit documents. For a sample of oil sales transactions, the staff traced contract amounts from the oil purchase database to bank account deposits at BNP Paribas.

## **B. Humanitarian Goods and Oil Spare Parts Purchases in Southern and Central Iraq**

The Government of Iraq was permitted to use a percentage of the monies deposited to the United Nations Iraq account from the sale of oil to purchase a broad variety of goods, including foodstuffs, medicine, and other supplies, for distribution through southern and central Iraq. Beginning in June 1998, the Government of Iraq was also authorized to use Programme funds for the purchase of necessary parts and equipment to maintain its oil production and transport capability.

In contrast to the sale of oil to 248 companies, 3,545 companies contracted with the Government of Iraq to provide various goods or services in southern and central Iraq. These transactions involved approximately \$32.6 billion in sales. By the final phases of the Programme,<sup>3</sup> goods and services were provided to broad sectors of Iraq's economy, from food and drugs, to education, recreation, electrical infrastructure, communications, transportation, and agriculture.

Each contract was subject to varying levels of review by the 661 Committee and/or the Office of the Iraq Programme, depending on the nature of the items identified in the contract and the phase of the Programme in which the transaction occurred. A major part of this review process was for avoiding the sale of "dual use" items to the Iraqi government. In addition, shipments of goods to Iraq were subject to authentication by United Nations contract inspectors. Once an inspection confirmation was issued and approved by the Office of the Iraq Programme and United Nations Treasury, payment was processed from the United Nations Iraq account.

The data released today by the Committee relating to vendors in southern and central Iraq has been compiled from a number of United Nations sources and checked using bank and

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<sup>2</sup>The rules of the 661 Committee (1996) required the selection of independent experts in international oil trade to assist in the review of contracts and pricing.

<sup>3</sup>The Programme was continued over thirteen phases, each of 180 days.

Iraqi sources. Detailed vendor, contract, shipment, and payment information was obtained from the United Nations Treasury database and from the Office of the Iraq Programme. To ensure accuracy and completeness, the Committee's accounting staff compared this data to actual contract and letter of credit documents and to financial records maintained by the United Nations and BNP Paribas.

### **C. Humanitarian Goods and Oil Spare Parts Purchases in Northern Iraq**

A separate administration and distribution system existed for goods furnished to the northern governorates of Arbil, Dihouk, and Suleimaniyeh. This system was administered in the name of the United Nations Inter-Agency Humanitarian Programme and involved the following United-Nations-related agencies: FAO, ITU, UNDP, UNESCO, UN-Habitat, UNHCR, UNICEF, UNOPS, WFP, and WHO. These agencies ordered goods, contracted for services, and delivered goods and services, all paid for by the Programme. Expenditures by the agencies totaled \$6.1 billion.

The list of vendors from which purchases were made by the agencies was drawn from the database maintained by the Office of the Iraq Programme. Committee staff members are currently meeting with each of the UN-related agencies and reviewing their records in order to compile a comprehensive vendor list for the northern Iraq transactions. To date, the Committee has identified 941 vendors, and they are listed in the data provided today.

## **4. PROGRAMME REVENUE AND EXPENDITURES**

A careful analysis of revenue and expenditures under the Programme is underway by the Committee. This section of the briefing paper provides details on revenue earned and expenses incurred throughout the Programme. The analysis is based on a review of audited Programme financial statements and the underlying accounting transactions recorded in the United Nations general ledger for the Programme. Because the financial administration of the Programme continues by the United Nations, the financial results described herein are through June 30, 2004.

### **A. Allocation of Oil Revenue**

The Security Council mandated that revenue from the sale of Iraqi oil be divided into six funds at set allocation percentages. The allocation percentages were revised in 2000 pursuant to Security Council Resolution 1330. The table below provides a description of these six funds as well as their original and amended percentage allocations:

***Allocation of Programme Funds (rounded to nearest one-tenth %)***

<b>Description</b>	<b>Fund Name<sup>4</sup></b>	<b>Original Allocation</b>	<b>Amended Allocation</b>
Funds to be used for goods in southern/central Iraq	ESB	53%	59%
Funds to be used by the United Nations Inter-Agency Humanitarian Programme for goods in northern Iraq	ESC	13%	13%
Funds to be used for operational and administrative costs of the United Nations in connection with the Programme	ESD	2.2%	2.2%
Funds to be used for weapons review by UNSCOM/UNMOVIC <sup>5</sup>	ESE	0.8%	0.8%
Funds to be used by the United Nations Compensation Fund established by Resolution 687 (1991) to compensate victims of Iraq's invasion and occupation of Kuwait	CWA	30%	25%
Funds to be used for reimbursement of frozen assets pursuant to Security Council Resolution 778 (1992)	RWA	1%	\$10 million per 90 days

<sup>4</sup>The fund names included in this chart are the official terminology used by the United Nations and are not acronyms.

<sup>5</sup>UNSCOM is the United Nations Special Commission. UNMOVIC is the United Nations Monitoring, Verification and Inspection Commission.

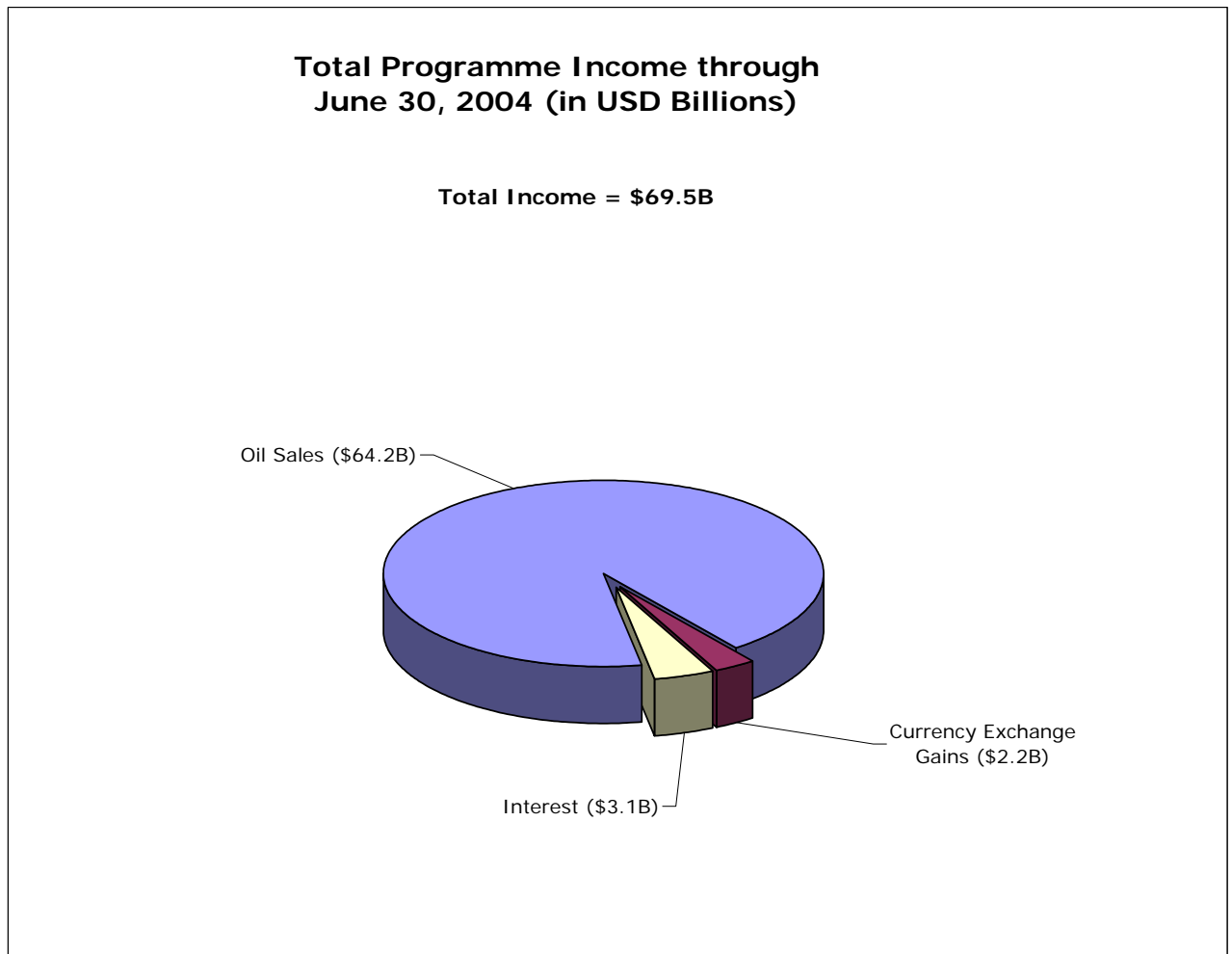
## **B. Revenue Earned**

The Programme generated \$64.2 billion in revenue from the sale of Iraqi oil. Proceeds from these sales were placed in interest bearing accounts at various financial institutions, including BNP Paribas, JP Morgan Chase, Deutsche Bank, Banco Bilbao Vizcaya, Credit Agricole Indosuez, Credit Suisse, and HypoVereinsbank. During the Programme, interest earned on deposited funds totaled \$3.1 billion.

On October 31, 2000, the 661 Committee authorized oil sales to be transacted in Euros instead of United States dollars. Due to the general strengthening of the Euro during this time frame, the Programme benefited from an additional \$2.2 billion in currency exchange gains.

These three components -- revenue from oil sales, interest on unspent oil proceeds, and currency exchange -- total the \$69.5 billion earned during the Programme.

### ***Total Programme Income***



### **C. Programme Expenditures**

Based on the percentages described above, cash from oil sale transactions was allocated to the various funds. Once transferred, monies were available for use in accordance with the guidelines set forth in Security Council Resolution 986 and later resolutions.

The Programme spent substantially less money than it accumulated from the sale of oil. For example, 13% of oil sale proceeds were allocated for the purchase of goods and services to benefit northern Iraq, but only 8.8% of oil sale proceeds were actually expended for this purpose. Similarly, between 53% to 59% of oil sales proceeds were allocated for the purchase of goods and services to benefit southern and central Iraq, but only 47.3% of oil sales proceeds were actually expended for this purpose. At least two reasons explain this expenditure shortfall. First, with the passage of Security Council Resolution 1284 in December 1999, which lifted the ceiling on the amount of oil that could be sold by Iraq, the proceeds from oil sales increased during the year 2000 to \$17.5 billion (as compared to \$11.5 billion during the year before). Expenditures and contract approvals did not correspondingly increase, and there was an excess fund balance of \$8.3 billion at the end of 2000. Second, the advent of war in 2003 and the closing of the Office of the Iraq Programme resulted in the cancellation of goods and services contracts worth more than \$3.2 billion. Consequently, in 2003, the United Nations Iraq account held more than \$10 billion in unencumbered Programme funds.

In 2003 and 2004, the United Nations transferred a total of \$8.6 billion to the Development Fund for Iraq (“DFI”). Of this amount, \$4.8 billion was transferred from the fund for southern and central Iraq, \$3.7 billion from the fund for northern Iraq, and \$0.1 billion from the United Nations administrative fund.

Allocations to the United Nations administrative fund during the Programme totaled \$1.4 billion. Of this amount, a total of \$0.9 billion was used to cover the administrative costs of the Programme. Pursuant to Security Council Resolution 1360, \$0.2 billion in excess administrative funds were transferred to the fund for southern and central Iraq in 2001. As stated above, an additional \$0.1 billion was transferred to the DFI in 2004.

As of June 30, 2004, there remained \$1.1 billion in unencumbered Programme funds. This amount is comprised of balances in three funds: \$0.5 billion in the humanitarian purchase fund, \$0.2 billion in the administrative fund, and \$0.4 billion in the arms inspection fund. The Committee is continuing its detailed review of administrative expenditures.

The following chart displays actual Programme expenditures:

***Use of Programme Funds***

