

**THE UNITED NATIONS OIL-FOR-FOOD PROGRAM:
THE COTECNA AND SAYBOLT INSPECTION FIRMS**

HEARING
BEFORE THE
SUBCOMMITTEE ON OVERSIGHT AND
INVESTIGATIONS
OF THE
COMMITTEE ON
INTERNATIONAL RELATIONS
HOUSE OF REPRESENTATIVES
ONE HUNDRED NINTH CONGRESS

FIRST SESSION

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THURSDAY, MARCH 17, 2005

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON OVERSIGHT AND INVESTIGATIONS,
COMMITTEE ON INTERNATIONAL RELATIONS,
Washington, DC.

The Subcommittee met, pursuant to call, at 1:58 p.m. in room 2172, Rayburn House Office Building, Hon. Dana Rohrabacher (Chairman of the Subcommittee) presiding.

Mr. ROHRABACHER. Good morning. The hearing is called to order. This is a hearing of the Subcommittee on Oversight and Investigations, and today's hearing is on the U.N. Oil-for-Food Program: The Cotecna and Saybolt Inspection Firms. This is March 17, 2005, St. Patrick's Day. Thank you very much.

Today as part of our ongoing investigation in the U.N.'s Oil-for-Food Program we will discuss the inspection firms that contracted with the United Nations to examine both the oil shipments from Iraq and the humanitarian goods that came into the country.

Additionally, we will talk about a former official, and we will talk with that former official, who worked for the United Nations Office of Humanitarian Coordination for Iraq. That is UNOHCI. He was in Baghdad working for UNOHCI, and he is with us today.

Dr. Rehan Mullick repeatedly warned of the shortcomings of the United Nations system for monitoring the delivery of the humanitarian supplies in the Oil-for-Food Program and reported that Saddam Hussein was diverting these goods for other uses. For his diligence, Dr. Mullick was isolated, demoted, and then let go by the United Nations.

The inspection firms we are looking at today, Cotecna and Saybolt, were central players in the Oil-for-Food Program. These firms provided the gatekeepers for the transactions within the program.

In Cotecna's case, they were tasked with verifying that the contracted shipments of food, medicine, and other humanitarian supplies actually arrived in Iraq and if they were suitable for consumption.

In Saybolt's case, they were tasked to verify that the contracted amounts of oil were actually delivered, and, in both cases, there were discrepancies found that complicated, confused, and corrupted the system.

Alarmingly, though, it is what Dr. Mullick has to tell us about what happened to these supplies once they arrived in Iraq that is of immediate concern. The disclosures are revealing and deserve further investigation, which is what we are launching today.

Witnesses interviewed by the Committee staff over the last year told of two avenues on which goods entered Iraq during this time period. One went through the Cotecna process, and the other avenue was an unobstructed pathway in which goods went uninspected and straight into the country.

How could the U.N. simply ignore this out-of-control situation when the full intent of the members of the United Nations was that we would control the situation in order to have the outcome that was aimed at by these programs?

Similarly, Committee staff have conducted interviews during the past year in the United States, in Europe, and in the Middle East with present-day Iraqi Government officials who also detailed stories of humanitarian aid diversions and undermanned or unobservant Cotecna inspection posts.

Alarmingly, several witnesses interviewed by the Committee staff made allegations of bribes taken by Cotecna inspectors. I hope Ms. Suarez, who is with us today, can address some of these points.

There are other equally alarming issues Saybolt needs to address. The Committee has received a great number of documents supplied by Saybolt which detail problems encountered by their inspectors. Early on, problems arose from the fact that Saybolt, in violation of U.N. rules, I might add, had the job of inspecting the oil shipments for the United Nations while at the same time being inspectors for the buyers of the oil. It seems like conflict of interest would be a mild way to categorize that situation.

Finally, I wanted to point out our third witness, Dr. Rehan Mullick. Dr. Mullick was in the eye of the storm right there in Baghdad. He witnessed firsthand the distribution of goods from the Oil-for-Food Program. Until now, this was a rarely discussed issue.

Today, however, Dr. Mullick will tell us how he had repeatedly warned his superiors in his office there in Baghdad that Saddam Hussein was manipulating the entire process of food distribution, and that food and other goods were being diverted. We want to hear about that today. According to Dr. Mullick, the only transparency in the program was for the Iraqis and not for the United Nations. The U.N. did nothing to act on his warnings and in the end essentially fired him for his honesty.

We have heard about whistleblowers in the United States. It is endemic that bureaucracy protect itself, and we are never going to make anything better in this world unless we come to grips with that phenomena and try to deal with these situations, with those people, and take those people seriously who are courageous enough to stand up and offer constructive criticism in disclosing wrongdoing.

Dr. Mullick did the right thing, and he was treated as an outcast. This is wrong, and frankly, I think that recompense should be made to him for his treatment—or I should say mistreatment—for admirable acts and the courage that he showed.

The U.N., through willful blindness, chose to ignore the corruption that Dr. Mullick reported. Today, we wish to learn more about

the goods which were supposed to help the Iraqi people—and that is what this program of Oil-for-Food was all about, trying to get humanitarian goods to people. We heard about the dying children, but now we are going to hear details today about how some of these humanitarian goods were diverted and directed elsewhere, maybe even to Saddam Hussein's Army.

Moreover, we wish to understand why the United Nations sat back and seemingly allowed this to occur when they had an employee, and they had someone who was credible, telling them that there is a problem. The United Nations, I believe, has much to answer for. Nearly 10 years after the Oil-for-Food Program, we still have not heard all of the answers.

Today's witnesses, Evelyn Suarez, an attorney for Williams Mullen, Cotecna's representatives here in Washington, DC, and John Denson, a general counsel for Core Laboratories in Houston, the parent company of Saybolt, will be testifying, and finally we will hear from Dr. Mullick.

I look forward to your testimony, and again I thank the two companies involved and the two witnesses who are with us today for stepping forward in a controversial situation to make sure that the events that are going to be discussed will be looked at from all points of view. We need your input to make sure that we fully understand what is going on. Thank you very much for being here.

Our Ranking Member is not able to attend, Mr. Adam Schiff from California is recognized for that responsibility.

[The prepared statement of Mr. Rohrabacher follows:]

PREPARED STATEMENT OF THE HONORABLE DANA ROHRABACHER, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CALIFORNIA, AND CHAIRMAN, SUBCOMMITTEE ON OVERSIGHT AND INVESTIGATIONS

Today as part of our on-going investigation into the UN's Oil-for-Food program, we will discuss the inspection firms that contracted with the United Nations to examine both the oil shipments from Iraq and the humanitarian goods that came into the country. Additionally, we will talk to a former official who worked for the United Nations Office of the Humanitarian Coordinator for Iraqi in Baghdad. Dr. Rehan Mullick repeatedly warned of the shortcomings of the UN's system for monitoring the delivery of the humanitarian supplies in the Oil-for-Food program and reported that Saddam was diverting these goods to other uses. For his diligence, Dr. Mullick was isolated, demoted, and let go by the UN.

The inspection firms we are looking at today, Cotecna and Saybolt, were essential players in the Oil-for-Food program. These firms provided the gatekeepers for the transactions of the program. In Cotecna's case, they were tasked with verifying that the contracted shipments of food, medicine and other humanitarian supplies actually arrived in Iraq and if they were suitable for consumption.

In Saybolt's case, they were tasked to verify that the contracted amount of oil was in fact delivered. In both cases, there were disparities found that complicated, confused, and corrupted the program. Alarming though, it is what Dr. Mullick has to tell us about what happened to these supplies once they arrived in Iraq that is of immediate concern. His disclosures are revealing and deserve further investigation.

Witnesses interviewed by Committee staff over the last year, told of two avenues on which goods entered Iraq. One went through the Cotecna process, the other avenue was an unobstructed pathway in which goods went uninspected and straight into the country. How could the UN simply ignore this out-of-control situation?

Similarly, Committee staff have conducted interviews during the past year in the United States, Europe, and in the Middle East with present-day Iraqi government officials who also detailed stories of humanitarian aid diversions and under-manned or unobservant Cotecna inspection posts. Alarming, several witnesses interviewed by Committee staff made allegations of bribe taking by Cotecna inspectors. I hope Ms. Suarez can address some of these points.

There are other equally alarming issues Saybolt needs to address. The Committee is in receipt of a great number of documents supplied by Saybolt which detail problems encountered by their inspectors.

Early on, problems arose from the fact that Saybolt, in violation of UN rules, had the job of inspecting the oil shipments for the UN while at the same time being inspectors for the buyers of the oil. Conflict of interest is a mild way to put it.

Finally, I want to talk about our third witness, Dr. Rehan Mullick. Dr. Mullick was in the eye of the storm in Baghdad. He witnessed first-hand the distribution of the goods from the oil-for-food program. Until now, this was a rarely discussed issue. Today, however, Dr. Mullick is going to tell us how he had repeatedly warned his superiors in his office that Saddam was manipulating the entire process of the food distribution and that other goods were being diverted. According to Dr. Mullick, the only transparency in the program was for the Iraqis, not the UN.

The UN did nothing to act on his warnings and in the end essentially fired him for his honesty. Dr. Mullick did the right thing and he was treated as an outcast. This was wrong and they should make recompense to him for his treatment. The UN, through willful blindness, chose to ignore the corruption that Dr. Mullick reported to them.

Today, we wish to learn more about how the goods, which were supposed to help the Iraqi people, were diverted and directed elsewhere. Moreover, we wish to understand why the UN sat back and seemingly allowed this to occur. The UN, I believe, has much to answer for. Nearly ten years after the Oil-for-Food program began, we still do not have all the answers.

Today's witnesses are Evelyn Suarez, an attorney for Williams Mullen, Cotecna's representatives here in Washington and John Denson, General Counsel for Core Laboratories in Houston, the parent company of Saybolt. Finally, we will hear from Dr. Mullick. I look forward to the testimony of all our witnesses.

Mr. SCHIFF. Mr. Chairman, again I want to thank you and commend you for holding a hearing that allows us to explore the operation of the Oil-for-Food Program administered by the United Nations and designed to implement the policies of the Security Council and the member states.

I hope our witnesses today will be able to shed light on several questions. The first: How did Saybolt and Cotecna succeed in winning the contracts to monitor the exports of Iraqi oil under the Oil-for-Food Program in Saybolt's case, and to monitor the import of approved humanitarian goods in Cotecna's case? Were improper influences brought to bear in the awarding of these contracts?

As the Chairman and other Members of the Subcommittee are well aware, the United Nations is in the midst of what I understand will be extensive management reforms to make the institution more accountable, transparent and efficient. Understanding what happened in the past is important as it will inform these reforms.

I would also note here, Mr. Chairman, that there have been considerable questions raised about the awarding of contracts by our own Government for work in Iraq, and I hope that we will consider this as a subject of investigation by the Subcommittee as well.

Second, how did Saybolt and Cotecna perform their duties under the terms of the contract? The U.N. is a community of nations, and I would like to know if the U.S. and the member states who are paying for their services through the U.N. dues got their monies worth.

Third, I would also like to know what the scope of the contracts were. Where do the duties of Saybolt and Cotecna begin, and where do they end? And in this connection, where do the obligations of the member states begin, and where do their obligations end?

Fourth, if the sanctions were evaded by smuggling oil out of Iraq and smuggling goods into the country as we know they were, who

should bear responsibility? Who crafted such a poor framework that begged for evasion and corruption, and who allowed that evasion and corruption to continue?

Everything I have heard thus far through the course of the hearings by this Subcommittee and other Committees, as well as in the Dulfer and Volcker reports, point to a system that was designed to fail. The decision by the Security Council to allow Iraq to decide who could buy its oil and from whom it would purchase the humanitarian goods allowed under OFFP virtually guaranteed that there would be corruption.

No contractor can be held liable for that systemic failure. For that we must hold members of the Security Council, including ourselves, to account.

I would also like to remind my colleagues that the overwhelming majority of revenue gained from illicit oil shipments—73 percent—resulted from trade protocols Iraq had with Jordan, Turkey, Egypt and Syria, oil shipments the United States Government knew about and countenanced. Another 11 percent came from the smuggling of oil to neighboring Gulf States.

One flagrant example of this broader failure was the recent investigation that found, in February 2003, a massive oil smuggling operation began at the Iraqi port on the Persian Gulf. Fourteen supertankers loaded nearly seven million barrels of oil over several days.

Stopping these ships once they left the port was the responsibility of a multinational force led by our Navy. For several years it had been successfully interdicting oil smuggling by small fishing boats. Stopping a supertanker should not have been a problem. This operation was not a secret. Companies that had legally bought oil under Oil-for-Food began to complain because their oil was being diverted to fill the supertankers.

A U.N. overseer notified American and British Missions to the United Nations so they could alert the Naval force, and on February 17, 2003, Saybolt sent an email to the headquarters of the Naval force about the smuggling. It even named one of the ships involved, and Saybolt received a reply acknowledging their report.

When the tankers left the port, nothing happened. The Naval force under our command did not stop it. Even the staff of the United States and British missions at the United Nations were puzzled. The oil was sold for \$150 million in illegal profit. Fifty million dollars went to the Iraqi regime just before the war began.

What was that money used for? Was it used to line Saddam's pockets, or was it used to buy the weapons that have killed and wounded thousands of Americans and Iraqis and coalition partners? Why did the U.S. Government and our Security Council partners allow this to happen? The answer, Mr. Chairman, I believe, is the oil was destined for a friend, Jordan. We did not want to deprive Jordan of oil before the outbreak of war.

Why is this known and massive evasion of sanctions relevant, a massive evasion of sanctions that may be larger than any corruption alleged against Saybolt or Cotecna? It is relevant because it demonstrates in large part why the sanctions failed and how any further sanctions regime must be designed.

First, of course, there can be no input from the government that is being sanctioned. That I think was a cardinal failure of the sanctions regime against Iraq. Second, there can be no acquiescence and cheating by the Security Council or its members.

The irony of the sanction regime of course, the great irony in all of this, is that the sanctions somehow kept Iraq from getting weapons of mass destruction. Perhaps the biggest question of all, and one we may never adequately answer, is how could a sanctions regime that was built to fail—and in fact did fail—somehow succeed?

Mr. Chairman, I yield back.

Mr. ROHRBACHER. Thank you very much. Let me note that many of the issues that the Minority has raised and some of which you raised with us today are very valid points.

This Chairman does intend to hold hearings, number one, on the contracting irregularities and the total chaos of spending procedures that were part of the whole Iraqi liberation for far too long and may be perhaps still going on. We will find out. This Chairman does intend to hold hearings on that.

In terms of the shipments of oil to Turkey and to Jordan which evaded, basically, the whole embargo that had been placed on Saddam Hussein, this Chairman does intend to call witnesses about that. We will especially call witnesses for those Government officials in the United States who initiated the policy.

I would hope that Madeleine Albright and the other high officials during the Clinton Administration that initiated this policy will come here and explain to us exactly why this policy was decided, but let me note these hearings are not about sanctions. This is not what our hearings are about. Our hearings are about corruption within the U.N. The validity of sanctions is another issue.

The fact is that the United States obviously had a policy of permitting Turkey and Jordan, for whatever reason, to receive oil that was contradictory to the sanctions that had been laid down in the embargo. Perhaps that policy decision was made because when everything balanced out, Turkey and Jordan would have been in a closer position to the effort against Saddam Hussein.

I am not sure what it is, but I am going to be very happy to ask Madeleine Albright why that decision was made. We will ask some people from high up in the Administration to find out why that policy was initiated, and we might even have somebody in this Administration tell us why that policy was not changed when President Bush became President.

But, this set of hearings and our focus right now today—and we will follow up on those other things; we will have witnesses to those other areas—is focused on the United Nations. There are a lot of people who believe the United Nations should be endowed with further responsibilities for maintaining the peace of the world.

There are many people who believe the United Nations is an organization, an admirable organization, that has earned more authority in solving world affairs and in taking over issues that are important to the national security of the United States of America and relying on the United Nations for keeping the peace and protecting the interests of the free world. If that is the case, the United Nations has to be demonstrating that it is adhering to a

level of integrity that will certainly justify the trust that we are putting in the United Nations.

What we are discussing today in this set of hearings goes right to the integrity issue of the United Nations, and that is why we are holding hearings today. I think it is very important for the American people to understand both the strength and the weaknesses of the United Nations.

Now, today we welcome our witnesses to this hearing.

Mr. SCHIFF. Mr. Chairman, before you go on, because the Chairman's comments were designed in part to rebut my own statement—

Mr. ROHRABACHER. To be totally fair, as the Chairman tries to be, I will be very happy to yield you a couple minutes to have your say, and then we will go on to witnesses.

Mr. SCHIFF. Thank you, Mr. Chairman. I appreciate that you have been very generous and evenhanded that way.

A couple of very brief points. I am delighted, Mr. Chairman, that you intend to call for hearings of witnesses to look at some of the contract-awarding processes and some of the issues that have been raised about whether we can account for the funds that have been expended in Iraq. I think it is enormously important.

I also appreciate your willingness, and I think it would be very edifying for the Committee to hear the witnesses from the Clinton Administration about why these trade protocols were allowed, why these policies were put into place. But I was even more delighted to hear that you would not stop there.

Obviously, this Committee is about more than overseeing the prior Administration. It is probably more relevant to oversee the current Administration. Since the current Administration did continue those policies of allowing the evasion of the sanctions, we should ask why.

Those questions may come rebounding back to us since we in Congress were aware as well, and we have some that are called upon from us also. I appreciate your willingness to look into all of those things.

The main thing I would take issue with is that while I understand that the narrow focus of this hearing, and the series of hearings we are in, is on the United Nations, to say that the issue is not about the sanctions, I think, ignores a very large, important issue for this Subcommittee, which is: Why did the sanctions regime fail to accomplish keeping illicit oil from being taken out of the country, from manipulation of the program within the country? And, ultimately, how do we design a sanctions regime in the future that is not so easily corrupted and evaded? Because I think going forward, that is an enormously important question.

That is a separate question from what management reforms, what structural reforms should take place in the United Nations. I think that is a vital question, too, but I think both of those are well within the jurisdiction of our Subcommittee, and I hope that we would explore the second question of why the sanctions failed overall at a subsequent investigation of the Committee.

Thank you, Mr. Chairman.

Mr. ROHRABACHER. With that, we will call our first witness.

Our first witness is John Denson, General Counsel for Saybolt Group of Companies, which specializes in petroleum and petrochemical inspections. He has been Saybolt's General Counsel since 1997.

Mr. Denson's prior professional practice focused on international legal and business matters, including the Singapore and New York City law offices of Coudert, and as Asian regional counsel at the Michelin Tire Company. I am sure you left on—no, I will not say any puns about leaving your trademarks behind you. We will just move on from that.

Our second witness is Evelyn Suarez, who is a partner in the International Section of Williams Mullen. Ms. Suarez is here representing and testifying for Cotecna Inspections, headquartered in Switzerland. She has approximately 25 years of experience in both government and private practice in international trade law with special focus on import and export compliance and regulation.

We are very, very happy to have you both, and then you will be followed by Dr. Mullick.

Mr. Denson, you may proceed. If you could summarize your testimony for about 5 minutes and then, Ms. Suarez, about 5 minutes, and then we will ask some questions, and hopefully that will get right to the heart of the matter.

Mr. Denson?

**STATEMENT OF JOHN DENSON, ESQUIRE, GENERAL COUNSEL,
SAYBOLT GROUP**

Mr. DENSON. Chairman Rohrabacher, distinguished Members of the Subcommittee, thank you for the opportunity to testify today. On a personal note, we wish you all a very happy St. Patrick's Day.

My name is John Denson. I am General Counsel of Saybolt. You have asked me to speak to you today about the activities of Saybolt as the U.N. inspector of oil exported under the Oil-for-Food Program.

I have already submitted a detailed written statement, so I will try to keep my oral comments as brief as possible, focusing only on a few key points, which I hope will help the Subcommittee evaluate all the information it has received regarding Saybolt, including almost 300,000 pages of documents we have given the Subcommittee.

I would like to take a moment to put our performance in our oil inspection duties as a U.N. contractor in Iraq into context. Over the 7 years of the Oil-for-Food Program, Saybolt inspected some 2,700 tanker loadings at two inspection points designated by the United Nations at the Ceyhan, Turkey, and Mina Al-Bakr loading terminals. Saybolt also monitored the flow of oil through the pipeline connecting Iraq to the Ceyhan port.

At Saybolt we are proud of our performance under this contract. Although living and working conditions in Iraq were extremely rough and Iraqi infrastructure also found wanting in very critical ways, Saybolt inspectors carried out their duties with a very high level of dedication and professionalism. Saybolt always worked in close coordination with the United Nations and always responded promptly to difficulties it encountered in the field.

I will not take up the Subcommittee's time with an exhaustive list of the challenges faced in Iraq. Suffice it to say, however, that

Iraq, under the Hussein regime, was not very welcoming to foreign contractors. At the Government-controlled export points our inspectors had to rely upon Iraq to provide some of the basic amenities for living, and these conditions were spartan to say the best.

One operational challenge, however, does merit special mention because it has been periodically discussed from time to time in connection with the program, and that is a lack of functioning meters at the Mina Al-Bakr loading facility. Although Saybolt alerted the United Nations to this problem from the outset of the program and in fact even before the program started, Iraq never did undertake to put into place functioning meters at Mina Al-Bakr.

As a result, Saybolt could not measure the flow of oil into individual tankers. Instead, Saybolt had to utilize an alternative method of measurement. This method, while compliant with international commercial standards, was not as foolproof as a meter nor as accurate as a meter would be.

This lack of proper metering equipment was a contributing factor in the two topping-off incidents in 2001 involving the tanker *Essex*. As noted in my written testimony, upon learning of these incidents, Saybolt immediately investigated what happened and why it happened. Our investigation found no evidence to suggest that the company knew of the topping-off incidents.

The evidence indicated that the *Essex* loaded additional oil, approximately 230,000 barrels of oil each of the two times, after the Saybolt inspectors had already certified the loading amount correctly and had left the vessel to return to their living quarters.

To prevent any recurrence, however, Saybolt immediately instituted several additional safeguards. Under the new procedures, our inspectors stayed on board ships until their departure. If departure was delayed, we placed numbered sealed caps on the vessel loading valves, which we again inspected prior to departure to make sure they had not been removed. These additional measures were effective, and we are aware of no further incidents of topping off.

Further, the Saybolt briefing report we provided to the United Nations 661 Committee analyzed the likelihood that there were other incidents of topping off and concluded that it was extremely unlikely that there were any other incidents.

As you may know, documents obtained from Iraq last year led to an allegation that Iraq tried to bribe one of Saybolt's inspectors on the platform in connection with these two *Essex* loadings. I have personally overseen our recent investigation into this new allegation. Saybolt does not take lightly any allegation that one of its employees accepted a bribe.

We sought to gather evidence on a global scale, and after we reviewed the documents released by Congress last month that tended to corroborate the allegation, we suspended the inspector in accordance with Portuguese law pending further investigation. Before we had the opportunity to confront the inspector, however, regarding that information, he resigned from his position.

While this incident was unfortunate, I believe that the way Saybolt handled the investigation into the *Essex* incidents and the way it handled the allegation against its inspector is consistent with our reputation, our integrity and impartiality.

Indeed, as noted in my written testimony, this reputation was a strong factor in favor of the selection of Saybolt to be a U.N. contractor in a politically-charged program. Even the Iraqis grudgingly admitted to one another that we had lived up to that reputation.

One of the Iraqi documents released by Congress last month states that the two *Essex* loadings in 2001 were the only occasions in which Iraq was able to penetrate the tight controls of Saybolt.

Another point of clarification that should be made relates to the scope of our duties as a U.N. contractor. As I mentioned, our inspectors worked at two locations. We were not tasked with monitoring exports of oil by Iraq from locations other than those two locations. Thus, Saybolt's mandate was not to inspect all of Iraq, nor was it to act as a police force. Nonetheless, when we became aware of incidences of exports outside the Oil-for-Food Program we alerted authorities. This is also detailed in my written testimony.

Also with regard to the scope of our duties, I would like to make one other point of clarification. While I have come here today to address the subjects cited in your invitation to testify, our role in monitoring oil exports under the program, we did perform other duties in Iraq under United Nations contracts.

This included coordinating a series of export reports to the United Nations on the state of the Iraqi oil industry and monitoring the import of oil equipment, spare parts and equipment for use in the oil industry, which we began to do in 1998.

As with the oil export inspection contract, we encountered and confronted challenges in these areas as well. For example, after the United Nations initially permitted us to assign only one inspector to monitor spare parts and equipment imports, we repeatedly pressed the United Nations to increase the number of inspectors assigned to this function.

As the United Nations gradually increased the number to eight over the ensuing years of the program, we did the best we could to prioritize our tasks so that these few inspectors could accomplish as much as possible. As for the other work we did under the oil inspection contract, we did the best we could with the restrictions and difficulties we faced, and we overcame these challenges as much as possible with a professional and non-political focus.

Let me close by saying that Saybolt has been in close contact with all of the congressional bodies investigating the program. We have worked hard to be responsive to all requests by these bodies, and we will continue to do so.

I hope the Subcommittee has found the information Saybolt has provided useful, and again I thank you for the opportunity to testify. I would be happy to respond to any questions you may have.

[The prepared statement of Mr. Denson follows:]

PREPARED STATEMENT OF JOHN DENSON, ESQUIRE, GENERAL COUNSEL, SAYBOLT GROUP

Mr. Chairman, distinguished members of the Subcommittee,

Thank you for inviting me to speak before the Subcommittee today on the role of Saybolt Eastern Hemisphere B.V. and its affiliates and subsidiaries ("Saybolt") in the administration of the United Nations Oil-for-Food Program (the "Program"). As the general counsel to Saybolt, I am familiar with our role in the Program, which included monitoring the export of oil from specified locations in Iraq and, to a lesser extent, monitoring spare parts and equipment imported into Iraq for use in the oil

industry and coordinating studies that oil industry experts conducted on Iraqi oil production and infrastructure.

I will focus my remarks on the subject you asked me to address: the role of Saybolt in inspecting the exports of oil from Iraq during the Program, including the manner in which Saybolt interacted with the Government of Iraq and individual purchasers of oil under the Program. To address this subject, I will provide a chronological overview of the role of Saybolt in the Program. First, though, I must say that Saybolt is proud of the role it played in the Program, having monitored more than 2,700 loadings of oil at three authorized export locations over a period of almost 80 months. Saybolt's work was performed by dozens of oil inspectors who were rotated through remote locations and required to work under circumstances that were frequently difficult.

I. SELECTION OF SAYBOLT AS THE INSPECTOR OF IRAQI OIL EXPORTS UNDER THE OIL-FOR-FOOD PROGRAM

To understand our role in the Program, it is important to understand how we were selected to participate in the Program. The United Nations used a competitive bid process to select Saybolt as its independent oil inspection agent for oil exports under the Program. The sixth paragraph of U.N. Security Council Resolution 986 (1995) directed the U.N. Secretary General to appoint agents to assist the Committee established by U.N. Security Council Resolution 661 (the "661 Committee") with the task of monitoring the quantity and quality of exports of Iraqi oil under the U.N. Oil-for-Food Program. Pursuant to that authority, on June 11, 1996, the Commodity Procurement Section of the U.N. Procurement and Transportation Division issued a request-for-proposal ("RFP"), which included a request for provision of independent oil inspection agents.

Saybolt viewed the U.N. RFP as a good business opportunity to apply our almost 100 years of experience in the inspection and analytical testing of petroleum products to a prestigious international project. We were also pleased that we would be contributing our know-how to a major program designed to serve the urgent humanitarian needs of the Iraqi people. Accordingly, on June 17, 1996, we submitted our Proposal to provide oil inspection services.

As you doubtless know, the U.N. Independent Inquiry Committee's Interim Report, issued on February 3, 2005, sets forth allegations that one or more individuals within the United Nations may have violated U.N. procurement policies during the negotiation process. What you may not know is that no procurement policies of the U.N. were ever provided to Saybolt, and none were made publicly available insofar as we are aware. Indeed, the only procurement "policy" of which we were aware at the time was the one contained in the RFP, in which the "UN reserve[d] the right . . . to negotiate with any of the proposers or other firms in any manner deemed to be in the best interest of the UN."

While it is unfortunate that, according to the Independent Inquiry Committee, one or more U.N. officials may not have followed internal U.N. policies during the procurement process, I can say with certainty that we did not engage in irregular conduct. Saybolt fully complied with the bidding instructions communicated to it by the United Nations. Saybolt has always understood that it was the most qualified bidder to handle the job. In particular, the specialized skills and integrity of Saybolt were a decisive advantage. Unlike our principal competitor in the bidding process, we have over a century of specialized experience in the area of *oil* inspections, rather than all types of inspections. Saybolt also has a strong reputation for integrity and impartiality in its inspection and testing services. Hiring an inspection firm with that reputation was important to accomplishing the task of monitoring exports under this politically-charged Program. In that regard, we offered inspectors with no connections to the Middle East region, which was desirable to the United Nations. In addition, during the bid process, the United Nations pressed Saybolt for a lower price, which is not uncommon in our industry when negotiating for a contract. Saybolt did lower its bid based in part on clarifications to the contract requirements that the U.N. provided.

Accordingly, the United Nations selected Saybolt and, on August 16, 1996, Saybolt and the United Nations entered into an oil inspection contract (the "First Contract") with an initial term of six months, subject to extensions of six-months each, at the sole discretion of the United Nations. After the First Contract was extended for a total of slightly more than three years, another RFP process was initiated. In that process, Saybolt submitted a Proposal on February 11, 2000, and on May 29, 2000, the United Nations formally accepted that proposal and entered into a new contract

with Saybolt that governed Phases VII through XIII of the Program (the "Second Contract").¹

II. SAYBOLT'S PERFORMANCE OF THE OIL INSPECTION CONTRACT

You have asked us to comment on the role of Saybolt in monitoring the exports of oil from Iraq. Our oil export monitoring role applied only to exports of crude oil from two export points authorized under the Program. Saybolt was responsible for monitoring the quantity of Iraqi crude oil loaded onto vessels from the Mina Al-Bakr offshore terminal in southern Iraq and from the port of Ceyhan in Turkey. These two locations were the only locations where we were asked to monitor the export of Iraqi oil, and they were the only authorized ports for export of oil under the Program. Saybolt was also responsible for monitoring the flow of oil near Zakho, along the Iraq-Turkey pipeline by which Iraqi oil was delivered to the Ceyhan port. We began monitoring in 1996, after receiving a Request to Commence Mobilization from the United Nations dated November 29, 1996.

Method of Measuring Amount of Oil Loaded Onto Vessels

At the designated export monitoring points, Saybolt inspectors calculated the quantity of oil loaded on board vessels that had been authorized by the United Nations to load oil under the Program. The United Nations informed Saybolt of which oil purchasers were authorized to load a specific quantity of oil using a particular vessel during a set time period, and Saybolt informed the United Nations of how much oil the vessel actually loaded.

Normally, the measurement of the amount of oil loaded is accomplished by accurate metering at various points in the transmission chain, but this was not possible in Iraq due to the absence of functional metering equipment and general poor condition of the petroleum transmission infrastructure in Iraq. For this reason, Saybolt used alternative methods accepted in the inspection industry for situations in which reliable metering equipment is not available. The method used by Saybolt was specified in the U.N. contract.

In order to determine the quantity of oil that purchasers loaded upon vessels, Saybolt had to obtain data about each vessel. Saybolt used the data gathered in its inspection, along with the capacity and calibration charts of the vessel, in order to determine how much oil was loaded. Under this method, a Saybolt inspector would measure the on-board quantity ("OBQ") of the vessel prior to loading. Then, after loading, an inspector would measure the ullage (the amount by which the vessel tank falls short of being full) and the temperature of the oil. Our inspectors analyzed this data using the calibration charts to determine how much oil had been loaded onto the vessel.

Saybolt also used a standard methodology to identify and correct any imprecision in the vessel calibration charts. Each vessel keeps a record of the variances from its calibration charts, when compared with the volume measured when the oil was offloaded. This record becomes the "vessel experience factor" ("VEF"). The VEF for a vessel is based on the average comparison between ship measurement and shore measurement for the last 10 voyages. The use of a vessel calibration chart and the VEF is an internationally recognized method for determining the quantity of oil loaded onto a vessel in the absence of calibrated shore tanks and/or meters. This method adhered to the procedures set forth by the American Petroleum Institute and the Institute of Petroleum.

In January 1999, following discussion with the United Nations, Saybolt also instituted a procedure to attempt to address potential inaccuracies in the VEF-based measurement system. Under this procedure, the master of each vessel was required to sign a statement certifying the accuracy of the records provided to Saybolt. The United Nations was informed of this procedure and supported its implementation.

Finally, at the Ceyhan port, Saybolt compared amounts loaded on ships to shore tank measurements as an additional check. This additional check was not possible at the Mina Al-Bakr terminal because the shore tanks measurement system had been badly damaged in the Iran-Iraq war and the Gulf War.

¹ Saybolt also took on additional responsibilities over the course of the Program that did not involve the monitoring of oil exports. Almost a year-and-a-half after we began monitoring oil exports from the two designated ports, the United Nations awarded Saybolt a contract for additional inspection work related to the Program. We were asked to submit a proposal to monitor the storage, delivery, and utilization of spare parts that Iraq began to import for the purpose of maintaining and developing the Iraqi oil industry. Our proposal was accepted in a June 1998 amendment to the First Contract. Pursuant to contracts, we also coordinated three studies of the Iraqi oil industry by a group of experts called for under resolutions of the U.N. Security Council.

Work Environment for Saybolt Inspectors

To perform its oil monitoring responsibilities, Saybolt had inspection teams continuously resident at the oil export points in Iraq. In-country oil inspectors, typically between nine or ten individuals, generally were rotated into Iraq for two months and rotated out for one month. It was difficult for these Saybolt inspectors to obtain these necessities.

These inspectors faced difficult living conditions. On some occasions, our inspectors at Mina Al-Bakr were stranded at the terminal without electricity and without water. Mina Al-Bakr also had frequent air conditioning outages, leaving inspectors exposed to heat that sometimes reached 130 degrees for long periods at a time. Telecommunications equipment was primitive. Because of the high cost of placing telephone calls from Iraq, communications between our inspectors and their families were limited. We also struggled to arrange reliable, affordable transportation to and from the Mina Al-Bakr terminal, as we were dependent on aged transportation vessels to go to and from that terminal. The harsh conditions in Iraq were noted in the reports to the United Nations and were confirmed by a United Nations Iraq-Kuwait Observation Mission ("UNIKOM") safety audit of the Mina Al-Bakr operations in April 1999.

Saybolt had little control over these living conditions. The government of Iraq controlled the Mina Al-Bakr terminal, the Basrah Rest House for the Mina Al-Bakr terminal staff, and the Zakho station where Saybolt operated, and the government of Iraq strictly regulated the travel of Saybolt inspectors to and from these sites. The lodging, on-site food, laundry, security, and other subsistence-related services for Saybolt's in-country oil inspection teams therefore had to be provided by the government of Iraq. The government of Iraq required that Saybolt pay for these services, and Saybolt ultimately agreed to pay a reasonable amount for these services. The United Nations and the Ministry of Foreign Affairs of The Netherlands were fully aware of this arrangement.

In performing their duties, Saybolt's inspectors were also often subjected to other personal risks. Nearby military operations and violent attacks were not uncommon. As we have all seen in news reports from that time, Iraq did not always welcome the United Nations or its contractors. Iraq initially resisted the very idea of an Oil-for-Food Program. This political friction between Iraq and the outside world made our task especially delicate, because we were associated with the United Nations in the eyes of Iraqis. Coping with these physically and mentally challenging working conditions required courage and professionalism on the part of inspectors.

In spite of these difficulties, by the time the Program ended in 2003 after the overthrow of Saddam Hussein, Saybolt had acted as the United Nations monitor for almost seven years, and had monitored more than 2700 loadings totaling approximately 3.4 billion barrels of oil over the life of the Program. As the program was dismantled, the Second Contract was partially suspended on April 17, 2003, and was formally terminated by the United Nations on June 4, 2003.

III. SAYBOLT'S KNOWLEDGE OF IRREGULARITIES RELATED TO THE OIL-FOR-FOOD PROGRAM

I understand the investigations into the Oil-for-Food Program are focusing on a variety of reported irregularities. Saybolt's mandate was not to inspect all of Iraq, and it was not to act as a police force. However, we sought to assist in the enforcement of sanctions by providing information to the responsible parties. In its role as a monitor of oil exports from the two specified export points and the Zakho station, Saybolt learned of irregularities in three areas of note: efforts by Iraq to collect port charges, the export of oil from locations other than the Saybolt inspection points, and the topping off of the tanker *Essex* at the Mina Al-Bakr port in May and August of 2001. In each instance, Saybolt sought to support the sanctions regime by communicating pertinent information to the United Nations.

Reported Payments to Iraq by Oil Companies

Among the irregularities under investigation are payments oil purchasers reportedly made to Iraq during the Program. Saybolt was not in a position to know about these payments. When Saybolt was notified by the United Nations of its approval of the letter of credit opened by a buyer of oil under the Program, Saybolt proceeded to monitor the quantity of oil loaded by the buyer, and to transmit that information to the United Nations. This was our role. Saybolt monitored oil, not money.

As it monitored oil exports, Saybolt did hear about charges Iraq attempted to assess for the use of the Mina Al-Bakr port by companies who were purchasing oil through the Program. The port charges were reported in the press, including by Reuters in September 2000. During the Program, when the United Nations asked

Saybolt about the port charges, Saybolt provided what information it had regarding the surcharges, which it had learned from oil companies. On another occasion, when the International Association of Independent Tank Owners (“INTERTANKO”) inquired about the legality of port charges, we informed the association that they had been verbally advised by the United Nations that such fees would be in violation of the U.N. sanctions.

Exports of Iraqi Oil Outside the Program

Through its work in monitoring oil, Saybolt also heard of instances of the export of oil through channels outside the Oil-for-Food Program. We reported those instances to the United Nations verbally and, on occasion, in writing. In November 2000, Saybolt informed the United Nations of rumors that the Iraqi pipeline to Syria had been put into operation. In March 2001, Saybolt informed the United Nations that Iraq was exporting oil to Turkey outside of the Oil-for-Food Program. In addition, we informed both the United Nations and the MIF about apparent loadings that were taking place at Khor Al Amaya, a terminal 10 kilometers to the north of Mina Al-Bakr.

Two Unauthorized Loadings of Additional Oil on the Vessel Essex in 2001

In October 2001, we also briefed the United Nations after we learned from the United Nations that the captain of the vessel *Essex* had reported two incidents of unauthorized “topping off” of the *Essex* at the Mina Al-Bakr terminal—one in May 2001 and another in August 2001. Saybolt immediately investigated what happened and why. We conducted extensive interviews of our staff, including the Team Leader on the Mina Al-Bakr Platform, and reviewed all available documentation relating to the loadings of the vessel. Documents subsequently provided to Saybolt by the United Nations and others indicate that the State Oil Marketing Organization of Iraq (“SOMO”) had arranged to load on board the *Essex* a total of approximately 500,000 barrels of oil above and beyond that which had been approved by the United Nations. The two additional loadings apparently took place while Saybolt inspectors were either at another end of the platform in the rest quarters or attending to other vessels. It is also important to recall that, as mentioned above, Iraq never put into place consistently functioning meters at Mina Al-Bakr.

We promptly detailed the findings of our investigation and the bases for our conclusions in a report presented to the 661 Committee. That report is included in the documents previously provided to the staff of your Committee. For all of the reasons detailed in our report, we concluded that it was extremely unlikely that there were other incidents of unauthorized topping off. Nonetheless, as described in the report, Saybolt put into place additional procedures designed to prevent unauthorized topping off. These included having Saybolt inspectors at Mina Al-Bakr remain on board vessels after the loading amount had been certified until the vessels left port, to ensure there were no additional loadings. For any vessel that did not leave the port immediately after loading, Saybolt placed numbered seals on the vessel loading valves after the loading amount was certified. Before the vessel left the port, our inspectors returned to the vessel to ensure that the seal was still in place, with the same number. We are unaware of any topping off incidents occurring after we instituted these additional procedures.

In addition, it now appears that Iraq may have compromised one of our inspectors. Over the past year, Saybolt learned of allegations that, after the second *Essex* topping off incident in August 2001, Iraq had made two payments totaling approximately \$105,000, to one of the Saybolt inspectors who had worked at the Mina Al-Bakr platform at the time of the topping off incidents. When we learned of this allegation, we again immediately opened an investigation. I have personally overseen that investigation, through which we made persistent efforts on a global scale to ascertain whether, in fact, Iraqi officials compromised this inspector—and whether he violated his commitment to act ethically and impartially in accordance with Saybolt’s code of conduct and to uphold our reputation for integrity and impartiality. Last month, after the Congress provided us with copies of Iraqi documents that tended to corroborate the allegation that Iraq had made the alleged payments to this inspector, we suspended the inspector pending a further investigation by Saybolt that was to have included confronting the inspector with the newly-released Iraqi documents. However, after receiving the suspension notice, the inspector voluntarily resigned and is no longer employed by the company.

Our prompt and thorough responses to the allegations surrounding the *Essex* incidents are consistent with our reputation for impartiality and integrity in Iraq and elsewhere. While we consider any penetration of our tight controls to be a serious issue, as shown by the additional preventive measures we immediately implemented to address the *Essex* incidents and our full-scale investigation of the allegation that

Iraq had made payments to one of our inspectors, these two isolated incidents need to be kept in perspective. Saybolt monitored nearly 2,700 loadings of some 3.4 billion barrels of oil. Even an Iraqi memo released by Congress last month acknowledged that only the buyer of the approximately 500,000 barrels of unauthorized oil loaded at the Mina Al-Bakr onto the *Essex* in 2001 was able to “penetrate the tight control” of Saybolt in Iraq.

Allegation that Iraq Tried to Allocate Oil to Saybolt

Finally, on the topic of reported irregularities in the Program, I should mention one other issue that also came up last year: the allegation that Saybolt received an oil allocation from Iraq. In the report released by CIA official Charles Duelfer last year (the “Duelfer Report”), a document reportedly prepared by SOMO after the fall of the Hussein regime indicated that Iraq attempted to allocate 1 million barrels of oil to Saybolt during Phase 10 of the Program. We have also looked into this allegation and are not aware of any instance in which Saybolt requested or received an allocation. In addition, as noted in the Duelfer Report, the allocation Iraq attempted to link to Saybolt was never used to lift any oil. Therefore, it remains a mystery to Saybolt as to why the name of Saybolt appears on a list of unused allocations or, for that matter, on any list for allocations of Iraqi oil.

IV. U.N. OVERSIGHT OF SAYBOLT

The Saybolt contract with the United Nations was subjected to several layers of external oversight: the United Nations reviewed data supplied by Saybolt, communicated with Saybolt regarding implementation issues that arose in the collection of that data, and audited management of the contract.

Review of Data Supplied by Saybolt and Dialogue on Implementation Issues

Through the use of a commercially-available electronic online database, Saybolt supplied U.N. offices with real-time data on loading of oil onto tankers at the Ceyhan port and the Mina Al-Bakr platform and on the flows of oil through the Iraq-Turkey pipeline at the Zakho station. We also supplied daily and weekly reports to the U.N. Oil Overseers. The 661 Committee also reviewed special reports Saybolt prepared, including our expert studies on the Iraqi oil industry.

In addition, we regularly communicated with the U.N. Office of Iraq Programme (“OIP”) regarding implementation issues during the initial phases of our monitoring contract. As part of these communications, Saybolt and the United Nations carried on an open dialogue about problems with Iraqi infrastructure, and in particular a lack of fully functioning meters at monitoring stations, which required Saybolt to resort to an alternative method of measuring oil exports.

U.N. OIOS Auditing of Management of Saybolt Contract

I understand the Subcommittee recently heard testimony regarding findings expressed in a certain U.N. Office of Internal Oversight Services (“OIOS”) audit report of Saybolt recently made public by the U.N. Independent Inquiry Committee (“IIC”). Saybolt welcomes the release of this and other reports. In fact, as I think your Subcommittee staff may recall, when the Chairman of the full Committee and your Senate counterpart requested copies of these audits last May, I personally recommended to the UN secretariat office that all audits be released, only to be told at the time that the UN would not allow release of these audits.

We have always been, and will continue to be, in favor of more transparency in the investigation of the Program rather than less. Unfortunately, though, the IIC did not release the comments Saybolt and the U.N. OIP filed in rebuttal to the OIOS audit. As those rebuttals make clear, the OIOS auditors failed to grasp that the United Nations and Saybolt had entered into a “fixed price” contract, rather than a “cost plus” contract. Because of that fundamental misinterpretation of the contract, the OIOS audit incorrectly concluded that Saybolt “overcharged” the United Nations where costs turned out to be lower than anticipated, and incorrectly concluded that the United Nations could recover the difference. That interpretation and the related conclusions are wrong. As noted at the beginning of my testimony, the fixed contract price was the result of negotiations between Saybolt and the United Nations. The risk that actual costs would be higher was borne by Saybolt and the risk that actual costs would be lower was borne by the United Nations. Saybolt has produced its rebuttal comments to this Subcommittee and would encourage their public release.

Thank you for your important work and the opportunity to address you today.

Mr. ROHRABACHER. Thank you very much, Mr. Denson.
Ms. Suarez?

**STATEMENT OF EVELYN SUAREZ, ESQUIRE, WILLIAMS &
MULLEN, REPRESENTING COTECNA S.A.**

Ms. SUAREZ. Mr. Chairman, Members of the Subcommittee, good afternoon. My name is Evelyn Suarez. I am U.S. counsel to Cotecna Inspection, a company headquartered in Geneva, Switzerland.

Mr. ROHRABACHER. Could you pull your microphone a little closer there?

Ms. SUAREZ. Sure.

Mr. ROHRABACHER. Thank you.

Ms. SUAREZ. I am an expert in Customs law, and my professional background includes service as a senior attorney in both the Chief Counsel's Office and the Office of Regulations and Rulings at U.S. Customs.

You have invited me to testify on behalf of Cotecna regarding its role as independent inspection agents for humanitarian goods in the U.N. Oil-for-Food Program. In particular, you have asked me to discuss the effectiveness of the inspections process and end user verification.

My statement today will emphasize three main points. First, Cotecna's responsibility was limited to the authentication of humanitarian goods under the Oil-for-Food Program. Second, Cotecna was not empowered by the U.N. to enforce sanctions or to police the Iraqi border. Third, Cotecna was not responsible for end user verification.

Most people misunderstand Cotecna's role in Iraq. Their role did not involve policing the Iraqi border, enforcing sanctions or performing traditional Customs inspection functions. Mr. Chairman, Cotecna was not the gatekeeper for the transactions of the program. Instead, Cotecna's role was limited to authentication, a process unique to the U.N. Oil-for-Food Program. Authentication was a critical step in the process of getting humanitarian goods to the people of Iraq.

Cotecna was contracted to provide authentication services to verify that the goods arriving at specified sites in Iraq under the Oil-for-Food Program were the goods described in the contracts approved by the 661 Committee. Authentication triggered payment to the suppliers. This was a very limited role.

I direct your attention to table 1 over there showing what Cotecna's role did and did not include. Authentication included four main processes highlighted with checkmarks on the table. First, inspection agents would compare U.N. documentation against the goods actually being presented to Cotecna in Iraq. Second, inspection agents visually inspected all the Oil-for-Food Program goods presented.

Third, inspection agents randomly examined 10 percent of these goods more closely. Finally, inspection agents laboratory tested all food to ensure fitness for human consumption, again a term created specifically by the U.N. for this program.

In contrast, the second column of the table shows that Cotecna's inspection agents by contract and U.N. direction were not authorized to compel authentication or otherwise to perform any task with respect to goods not presented; were not authorized to interdict prohibited goods outside the Oil-for-Food Program; were not authorized to assess the value of the goods shipped; were not au-

thorized to verify that the food shipped was of the grade contracted for.

They were not authorized to verify prices between suppliers and the Government of Iraq, and, finally, they were not involved in any of the commercial aspects of the transactions as reflected in the table.

Importantly, the first two items in the second column would have constituted border or sanctions enforcement, which no one at the border performed. Iraqi Customs had no interest in enforcing a U.N. sanctions program, which leads me to my second point.

Cotecna's role was not to monitor or enforce sanctions. In fact, Cotecna was not authorized to stop any goods crossing the border. I direct your attention to table 3 showing what Cotecna did and did not authenticate.

As table 3 shows, Cotecna was not authorized to monitor outbound oil, inbound oil, weapons, contraband, smuggled goods, non-Oil-for-Food goods imported by the Government of Iraq and goods imported by private parties. Indeed, the very design of the Oil-for-Food Program placed no enforcement arm or enforcement support at the border.

This Subcommittee specifically asked me to address the end user verification process. My third main point is that Cotecna was not responsible for end user verification. Its sole function in end user verification was to notify Saybolt and the U.N. Office of the Humanitarian Coordinator for Iraq when conditionally approved dual-use cargo reached the border.

Once Cotecna had communicated this advance information, Cotecna's participation in end user verification ended. It was Saybolt's and the U.N. Humanitarian Coordinator's duty to monitor the end use and end user.

Mr. Chairman, I would like to respond to a question you raised in your opening statement. You asked about reports of bribery. I can say that we have no reports of bribery. If the Subcommittee has any examples we certainly will look into it and report back to the Subcommittee, but we do not have any reports of this type of conduct. If it occurred, we would have taken appropriate actions.

In conclusion, Cotecna's role was limited to the authentication of humanitarian goods under the Oil-for-Food Program. Cotecna's role was not to monitor or enforce sanctions. It was not responsible for end user verification.

Cotecna did an outstanding job under extremely difficult circumstances. The best evidence of Cotecna's outstanding performance is the fact that the U.N., the Coalition Provisional Authority and the Iraqi Interim Government continued to use Cotecna's services.

Indeed, Cotecna is proud that it enabled desperately needed humanitarian goods to improve the lives of the Iraqi people.

Mr. Chairman, this concludes my prepared statement. I would be pleased to answer any questions.

[The prepared statement of Ms. Suarez follows:]

PREPARED STATEMENT OF EVELYN SUAREZ, ESQUIRE, WILLIAMS & MULLEN,
REPRESENTING COTECNA S.A.

TESTIMONY OF EVELYN SUAREZ, ESQ.

PARTNER AT WILLIAMS MULLEN AND

COUNSEL TO COTECNA INSPECTION SA

BEFORE THE SUBCOMMITTEE ON OVERSIGHT AND INVESTIGATIONS,

COMMITTEE ON INTERNATIONAL RELATIONS,

U.S. HOUSE OF REPRESENTATIVES

MARCH 17, 2005

Mr. Chairman, Members of the Subcommittee, good afternoon. My name is Evelyn Suarez. I am counsel to Cotecna Inspection SA ("Cotecna"), a privately-held company headquartered in Geneva, Switzerland. You have asked us to testify with regard to Cotecna's role as independent inspection agents for humanitarian goods in the United Nations' Oil-for-Food Program ("UN-OFFP"). In particular, the Subcommittee has asked us to discuss the effectiveness of the inspections process as well as the end-user verification process in which Cotecna participated.

INTRODUCTION

The Subcommittee's focus on "inspections" and "end-user" processes implicitly invites Cotecna to describe its success in preventing weapons of mass destruction ("WMDs"), weapons of mass effect ("WMEs") or nuclear, biological and chemical materials for the manufacture of such weapons from entering Iraq's borders. A simplistic response to this invitation could perpetuate a misunderstanding of Cotecna's limited and technical role in the OFFP.

My statement today will therefore make two main points, to dispel any such misunderstanding and to refocus attention on related but different problems in the program:

- (1) Cotecna's contractual role as independent inspection agents required and authorized the company only to confirm the arrival in Iraq of OFFP humanitarian goods voluntarily presented at specified sites. This confirmation was one of several steps in the process of paying suppliers under the OFFP. Cotecna had no role whatsoever in interdicting prohibited goods outside the program or in enforcing sanctions.
- (2) Other serious structural flaws in the OFFP may have allowed the Government of Iraq to manipulate dealings with suppliers of humanitarian goods or purchasers of oil.

ABSENCE OF ENFORCEMENT ARM AT BORDER

To understand the OFFP's lack of an enforcement arm and of enforcement support at the border, one must distinguish between what the UN did and did not require and authorize Cotecna to do as independent inspection agents. And to grasp that difference, one must first situate Cotecna's role in its historical context.

Cotecna's substantial experience and outstanding record of performance prepared it well to serve in the OFFP beginning in 1999.

Elie Georges Massey founded Cotecna in 1974 to provide commercial inspection services for private buyers and sellers in international transactions. In 1984, Cotecna was awarded its first government pre-shipment inspection contract with the Government of Nigeria. Since that time, government contracts for customs services such as pre-shipment and destination inspection have been the greater part of the company's business. Thus, Cotecna has substantial expertise and experience in the field. In fact, it is one of half a dozen independent inspection companies.

Cotecna has also had significant experience working with the United Nations, first providing commercial inspection services to the UN agencies and then being selected as independent inspectors under the 1992 UN Development Program ("UNDP"),¹ the predecessor humanitarian program to the UN-OFFP, which began in 1996. The 1992 program was never implemented, however, because the UN and Iraq did not reach agreement.

The UN-OFFP commenced in 1996. Cotecna submitted a proposal in response to the UN's 1996 Request for Proposals ("RFP"), but the UN did not award Cotecna the 1996 contract. In 1998, Cotecna again participated in a UN international call for re-tender and this time was selected in December 1998, through a competitive bidding process. Cotecna was selected fairly on objective grounds including price, responsiveness to the RFP and expertise.

It is noteworthy that the UN renewed Cotecna's contract five times and awarded it one competitive re-tender. Even greater evidence of Cotecna's contract performance is the fact that the Coalition Provisional Authority ("CPA") and subsequent Iraqi government continued to use and renew Cotecna's services.² Thus, Cotecna performed its OFFP role for the UN from

¹ See Appendix A: June 4, 1992 letter to Elie Massey from Daan Everts, UNDP, informing Cotecna of its selection "to perform price verification and inspection services" under the UN program proposed at that time, and related May 18, 1992 letter to Elie Massey from Jorge Claro, UNDP Senior Project Coordinator.

² See, e.g., PD/CON/324/98 (awarding Cotecna its initial contract for a six-month period through July 31, 1999); Amend. 2 to PD/CON/324/98 (extending Cotecna's contract for a further six-month period through Jan. 31, 2000); Amend. 3 to PD/CON/324/98 (extending Cotecna's contract for a further six-month period through July 31, 2000); Amend. 4 to PD/CON/324/98 (extending Cotecna's contract for a further one-year period through July 31, 2001); PD/CO144/01 (awarding Cotecna a new one-year contract after its Apr. 24, 2001 proposal won the competitive bidding in response to the UN's Mar. 30, 2001 RFP); Amend. 1 to PD/CO144/01 (extending Cotecna's contract for a further one-year period through July 31, 2003); Amend. 4 to PD/CO144/01 (extending Cotecna's contract for approximately five months through Nov. 21, 2003); Agreement on Assignment and Modification of Contract among the United Nations, Cotecna Inspection S.A. and the Coalition Provisional Authority (assigning PD/CO144/01 from the UN to the CPA, and extending its term from Nov. 21, 2003 to Dec. 31, 2003); Amend. 6 to PD/CO144/01

February 1, 1999 through November 21, 2003, when the UN's control of the program ended. Cotecna's extended role did not end until October 8, 2004, when Cotecna handed the task over to local authorities.

From 1996 on, the role of OFFP independent inspection agents was limited by contract to authentication.

Cotecna's role as independent inspection agents at the designated Iraqi border posts was limited by contract to confirming the arrival of humanitarian goods voluntarily presented under Security Council Resolution 986. This differed significantly from the role of the independent inspection agents under the 1992 UNDP program. The 1992 contract would have had Cotecna provide: (1) price verification; (2) pre-shipment inspection; and (3) post-landing inspection.³ Price verification would have aimed to ensure fair prices. Pre-shipment and post-landing inspection would have ensured, for example, that goods deemed "Grade A" were "Grade A" in fact.

All three services anticipated under the 1992 UNDP contract resembled those that Cotecna performs under contracts in many different countries around the world. The 1992 contract and inspection program, however, were never implemented, because the UN and the Iraqi government did not reach agreement.

Under the 1996 program, by contrast, the newly created UNOIP required that the independent inspection agents "authenticate" voluntarily presented OFFP goods entering Iraq. Authentication is not a customs term or function. Rather, the UN created this term and mission specifically for purposes of the OFFP.

The authentication process compared appropriate documentation, including the UN approval letters and contract specifications, against humanitarian supplies, and later oil spare parts, actually arriving in Iraq. Authentication also involved conducting a physical visual inspection of all the goods (and a more intrusive examination of a 10% random subset), to verify that the goods as delivered were in fact the goods specifically identified in the contracts approved by the UN 661 Committee. In addition, Cotecna performed laboratory tests of all foodstuff to ensure that it was "fit for human consumption" (again a term coined by the UN specifically for this program).⁴

However, as shown by our table provided in Appendix D,⁵ inspection agents starting in 1996, by contract and UN direction, were *not* authorized to: (1) verify that the foodstuff shipped was of the grade contracted for; (2) assess the value of goods shipped (although Cotecna offered to do so); (3) interdict prohibited goods outside of the OFFP (notably, OFFP inspection agents did not have the enforcement support of a customs administration that inspection services

(extending Cotecna's contract, now under the CPA rather than the UN, for a further six-month period through July 31, 2003).

³ See Appendix B: 1992 Draft Contract.

⁴ See Appendix C: "Cotecna's Authentication Services in Iraq: Partial Glossary."

⁵ See Appendix D: "Table One. What Cotecna's Role Did and Did Not Include."

normally enjoy in contracts with governments); (4) perform any task with respect to goods not voluntarily presented by transporters (including at times 13% account goods—i.e., UN Agency goods); (5) select the goods to be imported, establish their specifications, select suppliers, negotiate the prices to be paid, designate any sales intermediaries, establish sales commissions, verify prices between suppliers and the Government of Iraq, or handle funds for the payment of goods. Given this limited and technical role, inspection agents were not in a position to have knowledge of illegal payments by suppliers to Iraqi receivers.

No sanctions enforcement functions existed at Iraq's borders.

Cotecna's contractual duty was thus not to enforce sanctions against non-OFFP cargo but to verify the delivery in Iraq of voluntarily presented OFFP humanitarian goods.⁶ Moreover, no one else at the border performed a sanctions-enforcement duty. Typically, when working with governments, Cotecna acts in conjunction with customs officials. That is, there is a governmental enforcement entity. Here no enforcement function was present, because Iraqi customs had no interest in enforcing a UN sanctions program.

Further to demonstrate the absence of an enforcement function at the border, let me share with you a conversation between Cotecna and the UN about "risk assessment." Once in early 1999 Jonas Larsen of the UN urged Cotecna to use risk assessment, an approach that would have had Cotecna visually inspect not 100% of OFFP goods, as the company did, but only those goods deemed "high-risk." But risk assessment does not suit a sanctions regime. Risk assessment works only when information exists to determine which shipments contain high-risk goods. More to the point, risk assessment is typically used as part of a customs function, where the aim is to ensure the accurate collection of duties—i.e., mitigating a fiscal risk—and where post-entry audit is possible. Risk assessment does not suit a system partly intended to restrict the importation of dual-use items—i.e., mitigating weapons of mass destruction risks.⁷

Cotecna participated in end-use and end-user monitoring mechanisms only at the border.

The Subcommittee's invitation to testify asks me to discuss, among other procedures, the "end-user verification process." Cotecna's role comprised only a small part of the "end-user verification process" and did not include observation at the site of end use. As such, Cotecna's role again did not constitute a comprehensive customs or sanctions enforcement function.

⁶ The highly erroneous testimony of one witness during a Congressional hearing earlier this year exemplifies the misstatements that can arise when one misguidedly attributes to Cotecna a duty to enforce customs revenue functions or sanctions. Questioning the worth of Cotecna's contract with the UN, the witness wondered why Cotecna had not inspected "all goods entering Iraq" to ensure that no one brought "military, chemicals or other potential dangerous goods" into the country. The witness thus misstated Cotecna's contractual obligations and authority as broader than they were or else improperly faulted Cotecna for the fact that the UN designed Cotecna's scope of work narrowly. See "Submission of Arthur Venham," Permanent Subcommittee on Investigations, Committee on Homeland Security and Governmental Affairs, U.S. Senate (Feb. 15, 2005), p. 5, § 3.3.

⁷ We note, in passing, that one of the arguments apparently used against Bureau Veritas—a French inspection company that Lloyd's had beat out during the 1996 tender, was that Veritas had proposed risk analysis, which did not conform to the 1996 RFP. See February 3, 2005 IIC Interim Report, p. 99.

“End-user verification” ensured that only intended persons used certain OFFP cargo in Iraq, and “end-use verification” ensured that those persons used the cargo only in intended ways. The kind of dual-use OFFP cargo subject to such verification appeared on the UN Resolution 1051 list (“1051 list”) and later the Goods Review List (“GRL”)⁸ and included, in particular, mobile equipment, especially heavy trucks, firetrucks, pumps, cranes, forklifts and generators, among many other items. If not monitored, such items could easily change location and carry military equipment or personnel, or pump or disperse chemical or biological agents.

What was Cotecna’s role with regard to such cargo? When conditionally approved 1051-list or GRL cargo reached the border, Cotecna would notify Saybolt and the UN Office of the Humanitarian Coordinator for Iraq (“UNOHCI”), so that they, in turn, could monitor the end-user and end-use. Cotecna’s notification consisted of: truck plate numbers, Comm numbers, Iraq manifest numbers, a brief description of the cargo, quantity information, and the importer, the date of passage and the destination (as reported in shipping documents). Once Cotecna had communicated this advance information, Cotecna’s participation in “end-user” and “end-use” verification ended. Rather, Saybolt and UNOHCI reported directly to the UNOIP or 661 Committee the results of their end-user and end-use observations.⁹

OTHER STRUCTURAL DESIGN FLAWS IN OFFP

Beyond the absence of an enforcement arm, many other structural flaws in the design of the OFFP allowed the Government of Iraq to manipulate dealings with suppliers of humanitarian goods. Such manipulation would not alone allow WMDs, WMEs and related materials to enter Iraq. The structural flaws would, however, enable Saddam Hussein’s regime unlawfully to obtain money from suppliers of humanitarian goods or purchasers of oil.

One can see specific evidence of structural flaws in the UN’s vague 1998 RFP, Cotecna’s imprecisely drafted 1998 UN contract, the failure of formal contract amendments to keep pace with the evolution of Cotecna’s OFFP obligations, obstacles when Cotecna took over its role from Lloyd’s Register, the UN’s unresponsiveness when Cotecna sought to expand its role, and operational problems arising from the mandatory use of an inappropriate IT system, Lotus Notes.

⁸ See, e.g., “Letter dated 3 May 2002 from the Deputy Permanent Representative of the United States addressed to the President of the Security Council,” consisting of a 419-page Goods Review List, posted at <http://daccessdds.un.org/doc/UNDOC/GEN/N02/389/54/PDF/N0238954.pdf?OpenElement> (visited Mar. 14, 2005).

⁹ “End-user” and “end-use” verification differed from three other procedures with which one might confuse it: “special authentication procedure” cases, “complete check on the border” cases, and “ancillary service authentication” cases. In “special authentication procedure” cases, Saybolt would verify the arrival of certain oil-spares-parts line items at their end-use location and then report back to Cotecna for authentication. In “complete check on the border” cases, Cotecna subjected certain marked shipments to more intense scrutiny. In “ancillary service authentication” cases, pursuant to Art. 4.4(a) of PD/CON/324/98, Cotecna’s inspectors confirmed the performance of OFFP-related services at sites away from the border stations (e.g., at the “Nassiriya” power station in southern Iraq).

The UN's 1998 RFP was surprisingly vague.

The UN worded its 1998 RFP very broadly, thereby complicating Cotecna's early contract negotiations.¹⁰ For example, the RFP did not impose on bidders any specific information technology system or specific telecommunications obligations. In addition, the 1998 RFP set forth an unusually short initial contract duration of only six months. For these reasons, Cotecna based its original 1998 bid (\$499 per inspector per day) on Cotecna's own proposed information technology systems and telecommunication facilities. In December 1998, however, the United Nations revealed, for the first time, a specific requirement for the contractor to use Lotus Notes instead of Cotecna's own systems, which Cotecna had developed over a number of years for a variety of inspection projects and which could be customized and tailored to specific project demands. Because Lotus Notes would involve large, previously unforeseen operating expenditures (for example, additional telecommunication costs) associated with the time-consuming replication requirement that the Lotus Notes systems demand, Cotecna and the UN on December 24, 1998 agreed that the UN would pay Cotecna additional compensation to address the Lotus Notes issue. This agreement became Amendment 1, which Cotecna did not sign until 29 March 29, 1999 and the PD until April 21, 1999.¹¹

From the outset Cotecna would have preferred for the original RFP to have set out a more detailed scope of work—especially as, in hindsight, the UN was requesting non-standard services, as contrasted with traditional pre-shipment inspection and destination inspection, in a harsh and unstable operating environment. Furthermore, the UN insisted that tenders be submitted on a fixed per-man-day pricing basis, which would require significant up-front capital expenditure. As such Cotecna was forced to assume very significant risks. Indeed, the vagueness of the UN's 1998 RFP in the context of a program that had been in operation for two years was highly unusual. It is therefore surprising in retrospect that the UN did not provide a more detailed and comprehensive specification as regards information technology and communications requirements, physical infrastructure, existing and required, as well as SOPs. This specification would also have ensured that the UN analyzed tenders on the basis of a common understanding and level playing field.

An imprecisely drafted 1998 contract made three parts of Cotecna's mission ambiguous.

Although Cotecna's 1998 contract made crystal clear the company's obligation only to "authenticate" OFFP goods voluntarily presented at the border, at least three major ambiguities in Cotecna's mission have created public misperception of the company's duties and performance.

First, Cotecna's inspectors were to verify that the humanitarian goods matched their description, and at the same time to evaluate foodstuff as being "fit for human consumption." "Fit for human consumption" is not a term used in the inspection industry. There is no industry standard of "fitness for human consumption," and the contract did not define the term. Accordingly, at the direction and with the approval of the UNOIP, Cotecna analyzed the

¹⁰ See the UN's October 9, 1998 RFP.

¹¹ See Amend. 1 to PD/CON/324/98.

foodstuff for radioactivity, heavy metals, microbes and pesticides. However, inspectors were not to verify that foodstuff was of the grade contracted for.

Second, the UN's 1998 RFP and contract were vague as to Cotecna's mandate "inspecting" goods. Beyond laboratory-testing all foodstuffs for fitness for human consumption, the contract did not contain other standards or directions regarding the level of inspection authorized. As a result, with the approval of the UNOIP, Cotecna insisted on visually inspecting 100% of all other (non-foodstuff) shipments it authenticated using random detailed examination of up to 10% of the goods in each shipment.

Third, in support of the overall OFFP "objective," the 1998 contract has Cotecna provide services, equipment and materials enabling an unnamed party (UNOIP) to verify and confirm that the "value" of the goods met the requirements of the 661 Committee.¹² The same contract's description of Cotecna's "scope of work," however, does not provide for Cotecna itself to determine the goods' "value."¹³ Indeed, as stated in the Independent Inquiry Committee's ("IIC") February 3, 2005 Interim Report, the OIP in New York, not Cotecna, was responsible for "key elements of the oil and humanitarian contracts, including price and quality of goods," as well as "fairness of price and end-user suitability" (pp. 32 and 189).

Given these three examples of ambiguities, and there were others, one may fairly conclude that the UN drafted the 1998 contract imprecisely. Moreover, this lack of precision has contributed to the current confusion as to what Cotecna's duties were under the contract.

Cotecna's contractual obligations evolved over time.

To overcome the 1998 contract's drafting problems, numerous communications made between UNOIP and Cotecna, but never formalized by contract amendments, established Cotecna's limited, technical role as the UN's authentication agent. To name just a few ways in which communications between UNOIP and Cotecna clarified the company's OFFP obligations, I would highlight agreements whereby UNOIP: compensated Cotecna for having to use Lotus Notes instead of a more appropriate (Cotecna's own) information technology system; dropped the mobile laboratory contractual obligation; elected not to have Cotecna provide a "Chemist" in Iraq; allowed temporary man-day shortages during a transitional phase; adjusted inspector shifts at certain sites to correspond with border opening times and the times that Iraq officials were available to receive goods; first prevented Cotecna from authenticating goods at Umm Qasr until the receiver had removed them from the port, then later allowed authentication of goods immediately upon inspection, thereby resolving the problem of authentication delays; and ordered Cotecna to authenticate "retroactively" certain "stranded goods" that Cotecna never visually inspected but that were in transit when Cotecna was instructed to evacuate the camps following the coalition forces' intervention in 2003.

Despite this evolution of Cotecna's obligations, miscommunication between separate UN units—specifically the UNOIP, the Procurement Division ("PD") and the Office of Legal Affairs

¹² See Contract PD/CON/324/98, Art. 3.

¹³ See Contract PD/CON/324/98, Art. 4.3.

(“OLA”)—made contract amendments sometimes sporadic, occurring by oral agreement or ad hoc written communication, rather than by formal documentation. Separate UN offices handled contract negotiation (PD), operational issues (UNOIP) and legal services (OLA). These three UN departments did not necessarily agree or communicate with each other. As a result, UN decisions routinely “amending” Cotecna’s obligations, after the company’s performance began on February 1, 1999, did not always result in formal written contract amendments. Such miscommunication also created long delays in the decision-making process on the ground.

Like the ambiguities in Cotecna’s contractual mission, this institutional fragmentation can explain some of confusion that has swirled around public perceptions of Cotecna’s duties and performance. One should not misconstrue as non-performance by Cotecna the UN departments’ failures to communicate with each other and record operational adjustments. In no material instance did Cotecna act without the instruction, authorization and agreement of the UNOIP. Cotecna’s contract obliged the company to report exclusively to the UNOIP in all aspects of its duties. Cotecna fully complied with its contractual obligations in this and all other respects.

Handover issues deprived Cotecna of guidance when it assumed its role in 1999.

Upon winning the contract, Cotecna received no existing operational documentation from Lloyd’s or the UN, including SOPs. Those OFFP records that Cotecna did inherit were in complete disarray. Nor did Cotecna receive information regarding the performance of Lloyd’s. We now know, for example, based on an Office of Internal Oversight Services (“OIOS”) audit report that the IIC posted on its website January 10, 2005, that the UN did audit the performance of Lloyd’s.¹⁴ Despite this prior audit, Cotecna did not gain, in any meaningful or coordinated way, the benefit of the trial and error of the preceding two years of work as carried out by Lloyd’s and the UNOIP. Instead, Cotecna was forced to start with a blank slate, increasing the expense of contract performance.

Also, bombing raids in 1998 caused Lloyd’s to evacuate the sites at short notice, leaving them vulnerable to decay through lack of maintenance. Furthermore, the senior Lloyd’s inspectors and team leaders were almost all British and were precluded from returning to the sites by the Iraqi authorities, acting in response to the UK’s involvement in the bombings. As such, there was a “brain drain” as certain sites were understaffed or staffed with inexperienced, recently hired Lloyd’s inspectors. This situation persisted for approximately three months. The consequences included a significant loss of know-how and a backlog of data to be processed before Cotecna took over the inspection duties.

In addition, Lloyd’s had developed a parallel IT system (SAMDS—a relational database in Microsoft Access 97) for tracking OFFP trade, which Lloyd’s used due to the difficulties associated with the Lotus Notes System. When Lloyd’s lost the contract, Lloyd’s removed this system and the data contained in it from the sites. These factors hindered a smooth transition from taking place.

¹⁴ See OIOS Audit Report AP98/17/5.

Cotecna twice, unsuccessfully, sought to expand its role in the OFFP.

Cotecna after 1998 proposed to UNOIP that it expand Cotecna's scope of work, to fill perceived gaps in the system. Cotecna did not propose expansion in response to the UN's 1998 RFP, because deviation from the UN's specifications would likely disqualify Cotecna from being considered. Instead, after contract performance was already underway and Cotecna had identified the inherent problems in the structure of the inspection mission, Cotecna proposed to broaden the scope of work at least twice to include, among other duties, price verification and more thorough inspection techniques. First, André Pruniaux orally made the proposal to Mr. Farid Zarif to assist UNOIP in price verification during a general meeting with UNOIP staff in New York sometime in 2001. Second, in early 2002 André Pruniaux presented Cotecna's scanning technology (specifically, presenting a CD-ROM of Cotecna's scanning operations in Ghana and Senegal), highlighting the use of such a machine for container shipping, especially at the port of Umm Qasr and in Trebil.

It is my understanding that the UNOIP declined these additional services offered by Cotecna for at least three reasons. First, the UNOIP saw itself as responsible for assessing contract value. Thus, it did not see the necessity for Cotecna to perform price verification. Second, UNOIP believed that any price analysis by the independent inspection agents would risk embroiling them in commercial disputes between suppliers and the Iraqi government. In fact, the UN strictly forbade Cotecna to perform commercial inspections. Third, the UN did not want to incur the additional cost of using Cotecna's scanning technology.

Lotus Notes shortcomings created operational problems.

Without going into technical details, which I have particularized in Appendix E to my written statement,¹⁵ let me summarize by saying that the UN imposed a system that was fundamentally unsuited to the task at hand.

Lotus Notes is primarily a document management and e-mail system. Indeed IBM, the current owner, does not recommend Lotus Notes as a database tool. Clearly a task that involved the authentication of hundreds of thousands of shipments (and the data associated with them) requires a system that can efficiently analyze, communicate and track large volumes of information and most of all easily link relevant data sets. The Lotus Notes system that the UN imposed on Cotecna could not do this. For example:

- (1) Replication, the means by which the UNOIP New York and Cotecna Iraq synchronized OFFP information via Lotus Notes, took place over telephone lines and often took days to be complete—even crashing the computer system at times. This had very significant cost implications and also compromised data and left data gaps.

¹⁵ See Appendix E, "Oil For Food Lotus Notes Database Appendix," including a diagram of the Lotus Notes system that the UN imposed, contrasted with a system that would have linked key pieces of information and provided a more satisfactory audit trail. This document has been prepared by Cotecna's legal and technical team.

- (2) The Lotus Notes system did not link key pieces of information to each other, as shown in Appendix F, a diagram contrasting the actual Lotus Notes structure used and our suggested, more logical structure.¹⁶ Most importantly, the Lotus Database itself did not integrate the actual authentication information. This recordation Cotecna was required to put down on paper, transmit via fax or send by e-mail. As such Cotecna often had to fax up to 2,000-3,000 pages per night. In addition, Cotecna was required to develop on the ground reports for Cotecna's own purposes when, for example, individual contracts involved multiple shipments. Some contracts involved thousands of individual shipments over lengthy periods of time, creating the type of paperwork nightmare that the computer system was supposed to eliminate.
- (3) As a result of the above, the Lotus Notes system did not provide an automated audit trail. It was possible to generate an audit trail of sorts only by a lengthy and largely manual process. This weakness of Lotus Notes, of course, makes monitoring performance and reporting almost impossible.

Furthermore, the UN insisted that it retain complete control over the data entry and the structure of the database. Indeed, the data entry that Cotecna undertook was very limited and restricted to shipment inspection forms. Any corrections or amendments noted by Cotecna would be passed on to the UNOIP via fax or e-mail, and then corrections would be made by the UNOIP directly and passed back to Cotecna further to a successful replication.

In short, an IT system that prevents a user from seeing the big picture, either contemporaneously or in retrospect, would provide an opening for wrongdoers to manipulate the humanitarian program implemented by that IT system.

CONCLUSION

Together, these instances of the OFFP's structural design flaws—the vague RFP, the imprecisely drafted contract, the difficulty of formally amending contracts, the lack of guidance during handover, the resistance to expansion of Cotecna's role, and Lotus Notes—created opportunities for illegal profit. In addition, the OFFP lacked an enforcement function at the border. Cotecna nevertheless did the best job possible given the company's narrow mandate and the challenges presented by the realities of implementation and the tools the UN provided.¹⁷

¹⁶ See Appendix F, a diagram contrasting "OFF Current Lotus Notes Structure" (not linking authentication sheets or authentication data to the user interface) with a "Suggested Logical Structure" (linking these, as well as related reports).

¹⁷ The recently released 2003 OIOS Audit Report made 25 recommendations, some of which have been interpreted as criticizing Cotecna's performance. I have attached, as Appendix G, a detailed response to all 25 recommendations contained in the Audit Report. I will here make only four general observations. First, the Audit Report's recommendations sometimes fail to grasp the larger context that I have described today: Cotecna's limited, technical role, the company's unsuccessful efforts to assist in price verification, the limited design of the company's mission, the vague RFP, the failure of certain operational adjustments to record themselves as formal contract amendments, and so on. Second, the Audit Report's recommendations sometimes arise from misinterpretation of

Under the unusual and restrictive conditions I have described, Cotecna fully met its obligations to the UN and enabled greatly needed humanitarian goods to reach the Iraqi people when Iraq was under trade sanctions. Indeed, Cotecna is proud of its performance in this program.

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Cotecna's contractual obligations. Third, the Audit Report does not as often describe inadequate performance by Cotecna as inadequate contract drafting or monitoring by the UN. Fourth, UNOIP staff communicated regularly, even daily, with senior Cotecna staff. Cotecna never acted in the performance of its contract without either specifically obtaining clearance from the UN or acting at its instruction. At no time did the UN tell Cotecna, in so many words, that it was not fully discharging its contractual obligations. Indeed, the UN did not give Cotecna a copy of the Audit Report, about which the company first learned through media coverage of its release on a website mid 2004. Only one out of 58 OIOS audit reports raises observations and recommendations relating to Cotecna's performance. Moreover, this Audit Report was an interim and internal working document and was the only Audit Report that was unofficially released to the press.

Appendix A

1992 11:45 212.898 6854 UNDP/OPS

United Nations
Development Programme
Office for Project Services



World Development

Facsimile Feb 1992

Attachment (Handwritten)

No. of Pages 1
To Fax No. 4122-786-3920

Date 11 February 1992
OPS FAX Misc/008/92

TO: Cotecna Inspection S.A.
Geneva, Switzerland
FAX 4122-786-3920

ATTN: MR. E.G. Massey, Chairman

SUBJECT: Contract for Price Verification and Inspection Services -
- IRQ/91/R31

I have the pleasure to inform you that UNDP/OPS has now completed the evaluation and selection process for an inspection agent to perform price verification and inspection services under the United Nations' scheme for monitoring the purchases of humanitarian needs by the government of Iraq, and that the proposal from Cotecna Inspection S.A. has been selected.

UNDP/OPS is now awaiting the green light from the United Nations in order to proceed with the activities. However, in view of the need for readiness for the start-up of operations, I would appreciate your contacting Mr. Jorge Claro of this office soonest. UNDP/OPS would like to finalize the detailed aspects of the services, and in particular, the communications network and information requirements, so that they may be incorporated into the contract documents.

I look forward to our successful collaboration in this endeavor.

Sincerely yours,

[Handwritten Signature]
Dan Evers
Assistant Administrator
and Director, UNDP/OPS

Programa de las Naciones Unidas
para el Desarrollo
Oficina de Servicios para Proyectos

Desarrollo Mundial

POUW

R 27 MAI 1992

18 May 1992

Attachment (1/2)

Dear Mr. Massey,

Subject: Draft Contract for Inspection Services

With reference to our discussions on the above subject, I am pleased to send you herewith a revised draft of the contract which OPS would sign with Cotecna for price verification and inspection services relating to the procurement of humanitarian goods by Iraq.

Although in this version of the contract we have included many of the paragraphs of your initial draft, please have your staff review the various steps in the inspection process and make sure that the technical language is correct. As you can appreciate, we have tried to accommodate your draft while still staying within the framework and language of the Security Council resolutions.

We still must obtain final clearance from the United Nations Office for Legal Affairs, so there might be some modifications later on. I am confident, however, that the basic structure and provisions would not change much. Of course, certain fine points will have to be added once we have confirmation that the Iraqi authorities accept the resolutions and any modifications are made in agreement with the UN.

I have addressed a question to Mr. Matz in Reston concerning the possibility of post-landing inspections taking place at storage or distribution sites inside Iraq rather than at entry points. Of course, this, too, would be spelled out clearly in the contract should this become the final modus operandi.



Mr. E.G. Massey
Chairman
COTECNA INSPECTION, S.A.
Case 244
1211 Geneva, Switzerland





Office for Project Services

Kindly let me have your comments on this document at your earliest convenience so that we may continue with the process. A copy of this letter and attachments are being sent to Mr. Joe Matz.

Yours sincerely,


Jorge Claro
Senior Project Coordinator
BOL/88/003

Appendix B

draft of 15 May

AGREEMENT made on the ____ day of _____, 1992 between the United Nations Development Programme, Office for Project Services (hereinafter "UNDP/OPS"), located at 220 East 42nd Street, New York, New York, USA; and Cotecna Inspection S.A., a corporation incorporated in Geneva, Switzerland, with an address at 68, rue de la Terrasse, Case Postale 244, 1211 Geneva 6, Switzerland (hereinafter "Cotecna").

WHEREAS,

- (i) The United Nations Security Council has passed certain resolutions to permit the Government of Iraq to import humanitarian needs in an otherwise embargo situation;
- (ii) The Government of Iraq has accepted those resolutions and has agreed to a scheme to implement the purchase of such humanitarian needs;
- (iii) UNDP/OPS is assisting the United Nations by overseeing the external monitoring of purchases of humanitarian needs by the Government of Iraq;
- (iv) UNDP/OPS is in need of the services of an inspection firm to undertake price verification and inspection services as part of the external monitoring; and
- (v) Cotecna is ready and willing to undertake price verification services, as well as pre-shipment and post-landing inspections, as specified below of any and all goods purchased by Iraq in accordance with the Security Council resolutions,

NOW THEREFORE IT IS HEREBY mutually agreed as follows:

Contract Documents

1. The overall Agreement between the parties ("the Contract") consists of the following documents ("the Contract Documents") which, in case of any contractual inconsistency between the provisions, shall prevail in the following order:

- a. This agreement;
- b. UNDP General Terms and Conditions (Annex A);
- c. UNCITRAL Arbitration Rules (Annex B);
- d. The UNDP/OPS Request for Proposals, December 17, 1991 (Annex C); and
- e. Cotecna's Technical and Price Proposal, dated January 14, 1992 (Annex D).

2. This Contract embodies the entire understanding of the parties regarding the subject matter hereof. All prior representations and agreements, whether written or oral, have been merged into and replaced by this Contract.

3. No modification of, or change in, this Contract, or waiver of any of its provisions, or additional contractual relationship with Cotecna shall be valid and enforceable unless such modification, change, waiver or additional relationship be agreed upon in writing by the authorized officials of both parties.

Responsibilities of Cotecna

Item and Price Verification

4. On the basis of a written request from UNDP/OPS with supporting documents such as the Purchase Order contract or information from the supplier as to the details of the order, whether or not in the form of a pro-forma invoice, Cotecna shall undertake a verification of all items being purchased by Iraq to ensure that they are contained on the list of approved goods authorized by the United Nations Security Council.

5. If Cotecna finds that the items are contained on the list of approved goods, then price verification shall be performed. If the items are found to not be on the approved list, Cotecna shall so notify UNDP/OPS.

6. Cotecna shall carry out a price verification of the items in the country of supply, taking into account the country of origin. The price verification shall be conducted according to the guidelines stipulated in the I.F.I.A. Code of Practice.

7. In countries where the price comparison is subject to legal restrictions it is understood that this service shall be performed within the framework of existing laws of those countries but any such limitation shall be reported by Cotecna to UNDP/OPS.

8. Upon completion of item and price verification, Cotecna shall issue to UNDP/OPS a Prevailing Price Report, indicating whether or not the price corresponds within reasonable limits with the export price levels generally prevailing in the country of supply, or, where applicable, the world market.

Pre-Shipment Inspection Services

9. Upon written request from UNDP/OPS, Cotecna shall carry out physical inspections of the goods in the country of supply at the site or location agreed upon between Cotecna and the Supplier/Exporter, having due regard to the exporter's need for economy and expeditious movement of goods. More specifically, goods may be inspected at points of production, storage or shipment. Cotecna shall be given at least five (5) working days notice of availability of the goods to commence any physical inspection.

10. Cotecna shall carry out the physical inspections in respect of quality, quantity and labelling of goods to be imported into Iraq and shall satisfy itself that the goods to be supplied:

(a) Conform in respect of quality and quantity specifications with all the terms of the contracts agreed between Iraq and the supplier/exporter;

(b) Conform, in the case of goods where no standards have been established in the contract or country of supply, with reputable international standards or national standards to be chosen at the sole discretion of Cotecna;

(c) Conform in respect of United Nations Security Council labelling requirements.

11. The pre-shipment inspections shall be performed in accordance with recognized international standards for such inspections.

12. Following pre-shipment inspection, Cotecna shall take measures to deter substitution of inspected goods, including sealing of shipments where practical.

13. Upon satisfactory completion of pre-shipment inspection, which also includes a review of the exporter's duly signed and stamped shipping documents, Cotecna shall issue a Clean Report of Findings to UNDP/OPS.

14. In the event that any irregularity, defect, or discrepancy beyond reasonable limits is detected during inspection, Cotecna shall first undertake to resolve the problem with the supplier/exporter. If the problem cannot be resolved, Cotecna shall issue a Report of Findings which details the irregularity, defect or discrepancy.

Post-Landing Inspections

15. Cotecna shall carry out an inspection of goods upon arrival at entry points to Iraq and shall satisfy itself that the goods conform to the quantity, quality and labelling as found during the pre-shipment inspection.

16. The inspection shall involve a quantity inspection by weight or by count, as well as a quality inspection including visual inspection, sampling, and, if required, analysis.

17. Cotecna shall verify that all goods are properly labelled, in accordance with United Nations Security Council resolutions.

18. Upon satisfactory completion of the post-landing inspection, Cotecna shall issue a Clean Report of Findings to UNDP/OPS.

19. In the event that any irregularity or discrepancy beyond normal commercial practice or beyond reasonable limits is found, Cotecna will so inform UNDP/OPS in lieu of issuing a Clean Report of Findings.

Information System

20. Cotecna shall develop at its expense the necessary software to monitor all requests for price verification and inspection services and provide UNDP/OPS with access to the system for information exchange purposes.

21. In addition, the information system should be able to extract progress reports which shall be issued on a period basis, detailing by category of goods, a listing of the orders placed and their status, any irregularities, dates of shipment, arrival, and any other relevant information which may be required by the United Nations Security Council.

22. Cotecna shall arrange for regular courier service for the timely dispatch of documentation between Cotecna and UNDP/OPS.

Reports

23. In addition to the progress reports indicated in paragraph 20, above, Cotecna shall issue other ad hoc reports, as may be required by UNDP/OPS, as well as a final report upon completion of the services under this contract.

Personnel

24. Cotecna shall provide the following personnel who will manage its activities throughout the period of the Contract:

- (a) (Name) (Location)
- (b)
- (c)

Cotecna shall not change the management team without prior agreement of UNDP/OPS.

Privileges and Immunities

25. The provisions of paragraph 7 of Security Council Resolution 712 (1991) which relate to privileges and immunities shall apply to all persons, natural or juridical, including agents, contractors and their personnel, performing services under this Contract.

Non-Performance

26. In the event that UNDP/OPS determines that Cotecna is unable to perform or execute any single inspection request, UNDP/OPS reserves the right to instruct an alternative (standby) inspection agency to execute such inspection. UNDP/OPS will advise Cotecna in writing of the action so taken, stating the nature of the inspection, the items to be inspected, the

place and dates for the inspection, and the name of the standby inspection agency appointed to execute the inspection.

Other Responsibilities of Cotecna

27. (a) In carrying out its obligations under this Contract, Cotecna shall exercise due care and diligence, and bring to bear upon each transaction professional skill, expertise and relevant experience.

(b) In any event where a third party has undertaken a Pre-Shipment Inspection on behalf of Cotecna or at the request of Cotecna, then Cotecna shall be liable in respect of all the material findings, advice or opinion rendered by such party within the terms and limits of this Contract except as qualified below. In this regard, "third party" shall include any firm or corporation directly or indirectly associated with Cotecna, regardless of whether it is a holding company, subsidiary company or other company.

(c) The liability of Cotecna for proven gross negligence under paragraphs (a) and (b) shall be limited to three (3) times the fees payable on the FOB value of the consignment and such liability shall not prejudice the importer's rights or actions against suppliers under the commercial agreement. In conducting price verification, Cotecna may rely on information it obtains from third parties, including sources located in the country of origin or supply. Cotecna shall not be liable for the inaccuracy of any information it obtains from third parties, unless it should have known, by acting with due care and diligence, that the information was inaccurate.

(d) Proven gross negligence on the part of Cotecna shall be considered a material breach of this Contract, and, notwithstanding any financial liability attributable to Cotecna, UNDP/OPS may terminate this Contract.

Responsibilities of UNDP/OPS

28. UNDP/OPS will provide Cotecna all Security Council resolutions and decisions which shall be pertinent to the services to be provided.

29. UNDP/OPS will provide the lists of goods which have been approved by the Security Council for purchase by Iraq.

30. UNDP/OPS will provide Cotecna on a monthly basis the official United Nations rates of exchange which shall be used to determine the US Dollar value of all purchase orders issued by Iraq.

Fees and Terms of Payment

31. In consideration of the services rendered by Cotecna, UNDP/OPS agrees to pay Cotecna as follows:

(a) For Price Verification Services, as described in paragraphs 4 to 6, above, a fee equivalent to ___% of the FOB value of the proposed goods to be imported.

(b) For Pre-Shipment Inspection Services, as described in paragraphs 9 to 14, above, a fee equivalent to ___% of the FOB value of imports covered by each Cotecna Report of Findings.

(c) For Post-Landing Inspection Services, as described in paragraphs 15 to 18, above, a fee equivalent to ___% of the FOB value of the imports covered by each Cotecna Report of Findings.

(d) For each shipment there will be a minimum fee of US\$ ___.

32. (a) All fees due to Cotecna shall be paid monthly, on a net 30 days basis, upon receipt by UNDP/OPS of an invoice indicating the total number of Reports of Findings issued during the billing period and the total value of the Reports of Findings.

(b) Invoicing by Cotecna shall be in U.S. Dollars, using the official United Nations rate of exchange prevailing on the date of each Report of Findings.

Period of Contract

33. This Contract shall be effective upon signature by both parties and shall continue, unless terminated by either party in accordance with the termination provisions contained in this Contract, until such time as the monitoring scheme concludes.

Termination of Contract

34. In addition to the termination provisions set forth in paragraph ___ of the UNDP General Terms and Conditions (Annex A), UNDP/OPS reserves the right to terminate this Contract in accordance with decisions by the Government of Iraq or United Nations Security Council decisions and resolutions which may affect the nature and scope of the UN monitoring operations. UNDP/OPS also reserves the right to terminate the Contract without prejudice for any material breach by Cotecna.

Appendix C

COTECNA'S AUTHENTICATION SERVICES IN IRAQ**PARTIAL GLOSSARY**

To support documentary controls (for authentication), Cotecna provided the following "inspection" services:

- **Quality Inspection**

Only for foodstuffs, we took "samples" (see SOPs) for laboratory analysis to verify that the imported goods were "fit" for human consumption only. Criteria were jointly designed by Cotecna and UNOIP.

Note: We performed no quality inspection on medicines; however, we did some sampling. Sampling of medicines was discontinued in 2000 at UNOIP's request; in any event, we never tested medicines.

- **Quantity Inspection**

We performed physical visual inspection on all imports (containers, bulk, general cargo, holds or hatches on the vessels, etc.)

For bulk cargo (mostly foodstuffs), we relied on local equipment (weighbridges, forklifts, etc.), since the Iraqis had refused to let us bring or install our own equipment.

We performed detailed examinations of up to 10% (in number), sometimes more, depending on the goods. We would break the seals, open the trucks, enter the containers, count packages/items, identify markings, check dimensions, open some packages, take photos, take samples, etc.

Note: Special procedures applied to oil spare parts. These were inspected by Saybolt at end use sites.

Appendix D

TABLE ONE. WHAT COTECNA'S ROLE DID AND DID NOT INCLUDE

COTECNA'S ACTUAL "AUTHENTICATION" ROLE	WHAT "AUTHENTICATION" DID <u>NOT</u> INCLUDE*
<ul style="list-style-type: none"> ✓ Compare documents accompanying 986 OFFFP goods voluntarily presented at specified sites to UN database 	<ul style="list-style-type: none"> ✗ Perform any task on goods not voluntarily presented at specified sites (Including "13%" UN Agency goods) ✗ Interdict prohibited goods outside of the OFFFP
<ul style="list-style-type: none"> ✓ Physically and visually inspect 100% of goods to verify what they were 	<ul style="list-style-type: none"> ✗ Assess the value of goods shipped* ✗ Verify that foodstuff shipped was of the grade contracted*
<ul style="list-style-type: none"> ✓ Randomly examine 10% sample of goods more intrusively 	<ul style="list-style-type: none"> ✗ Verify prices receivers paid suppliers* ✗ Select goods to be imported ✗ Establish specifications for goods ✗ Select suppliers
<ul style="list-style-type: none"> ✓ Lab test 100% of foodstuff to assess its "fitness for human consumption" 	<ul style="list-style-type: none"> ✗ Negotiate prices to be paid ✗ Designate sales intermediaries ✗ Establish sales commissions ✗ Handle funds for payment of goods

* Asterisks indicate functions in the proposed 1992 contract between UNDP and Cotecna, and proposed by Cotecna as modifications after the 1998 contract but declined by the UN.



Appendix E

Oil For Food Lotus Notes Database Appendix

In late 1998, Cotecna submitted a successful bid in response to the RFP issued by the UN for provision of inspection services under the OFFP. Cotecna did so on the basis that their own IT and communications solutions would be implemented. In hindsight these would have been efficient in terms of data exchange and processing time as well as significantly more cost effective. The cost of implementing and operating these proposed solutions was included in the fixed man day price quoted of \$499.

However, during contract negotiations it became apparent that the UN insisted on the use of an existing Lotus Notes Database ("LN") system. It became clear that LN would have communications cost implications when used to monitor such a program and especially so in the Iraqi environment. As such, the UN agreed to an increase of the fixed man day price.

Once on the ground Cotecna became aware that the insistence of using LN not only resulted in communication cost increases but also led to processing difficulties. The three main difficulties can be summarized as follows:

1) Replication Delays and Failures

Replication in LN is the process whereby remote servers are synchronized with information and data from a master server (in this case the master server was located at UN offices in New York). The LN process of replication involves the following:

- Comparing all the information or data between two different computers
- Defining the differences between the two computers
- Synchronizing the information on both computers

Due to the volume of data being replicated and the poor communications environment in Iraq, this often took a significant amount of time (sometimes days) to complete. It was also common for the replication process to fail which resulted in starting the process of replication again from scratch. Using a more suitable database

platform would have allowed for a more efficient "replication" process to occur in that either newly introduced data or recently edited information would be the only information included in the synchronization process. This would have improved the stability of replication as well as reduced time and communication costs.

2) Data Gaps and/or Anomalies

A direct result of replication failure was data gaps and anomalies between what was available at the UN master server and the local servers in Iraq. Further, there were gaps and anomalies, often significant, within the UN contract details themselves. Specifically, there were differences between the contract summaries and the individual items that these contracts consisted of.

The data gaps and anomalies between the UN master server and the local servers in Iraq can be primarily attributed to the following:

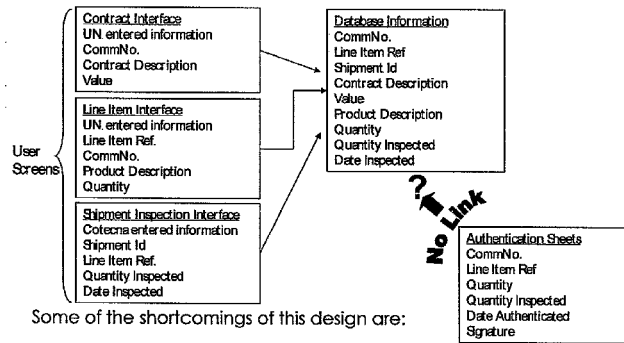
- Replication failures mentioned above
- UN failure to enter relevant information (for the purpose of minimizing the amount of data to be synchronized in the replication process and thereby expediting the replication process)
- Site specific data replication, whereby a contract delivery showed up for inspection at a border other than what was planned. Each border did not have access to information/contracts that were scheduled to arrive at other borders.

In order to resolve the data gaps and anomalies there was an extensive amount of correspondence involved with the UN as well as ultimately additional attempts to update local computers via replication attempts.

3) Authentication Data not Linked to Contract Information

This is perhaps the most significant issue relating to the LN system design. Payment for contracts was based on authentication sheets that were generated from the LN system. The LN system does not link the generated authentication sheets to the stored electronic contract information. That is, there is no relevant information to track authentication sheets such as date of authentication, date the authentication sheet was emailed/faxed or if an authentication sheet

was generated at all. As a result, all that can be generated is at best a highly manual and time consuming audit trail or at worst a non-existent audit trail. Below, is a diagram describing the infrastructure of the LN system:



Some of the shortcomings of this design are:

- Related information must be viewed through multiple screens/interfaces. People performing work manually not using computer to facilitate workload.
- No link between final authentication and work leading up to an authentication (no complete audit trail)
- Inefficient storage of information making computer searches time consuming
- QC reports and summary reports not possible without some sort of manual interaction

We provide as an end note¹ an example what steps are needed to be undertaken to complete an audit trail of authenticated goods. You will note that this is almost entirely manual and that it could take hours if not days to recreate a trail for a single comm. Number.

We feel that the primary reasons for problems encountered as a result of the implemented UN IT system can be summarized as follows:

- 1) The UN insisted on using an inappropriate software package, LN, to implement a "Data and Information Management" system. The stated primary purpose of LN is for emailing, messaging, calendar scheduling and document management. As such:

- a. LN is an unstructured platform and not a relational database system which would have been the appropriate platform to have put in place.
- b. There are size constraints as regards data volumes that can be handled

Furthermore, it is our understanding that IBM which owns LN, markets another of their products called DB2 for this type system.

- 2) The database design itself had some fundamental issues that needed to be met by either manual intervention or by developing separate tools – most significantly
 - a. All essentially associated groups of information were not linked.
 - b. There were no controls to identify anomalies such as UN entered contract summary vs. UN entered individualized line items
 - c. No Quality Control checks/reports
 - d. Obtaining line item reports is cumbersome and tedious
 - e. The process of faxing and emailing signed authentication sheets was manual, time consuming and meant that the authentication details were not recorded within LN.

Conclusion

We are of the opinion that the UN chose an IT platform that was fundamentally unsuited to the task at hand. The problems of using an inappropriate system, were then compounded the difficulties by implementing a poorly designed database structure.

This led to data gaps which compromised the integrity of the database (data gaps, manual/incomplete audit trail, reduced quality control and oversight).

No complete list of authentication sheets or a summary of all authenticated shipments can one be generated from the Lotus Notes database. The shortcomings of the system implemented by the UN were also identified by the UN agencies in Iraq. The Lotus Notes system did not provide an automated report or method that would allow the agencies to summarize shipments that had been inspected on a daily basis. They therefore commissioned Cotecna to provide this information. Cotecna could only do so by creating there own software solution that could summarize the information taken from the Lotus Notes database

(information which of course had to be gathered manually and re-entered into the new system).

There is no reason that a system could not have been developed using a more suitable relational database platform (e.g. DB2, SQL Server or Oracle) to meet the challenges of this program.

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ⁱ Audit trail for one specific contract (CommNo.) – necessary steps:

- 1) Use Lotus Notes interface to search for specified CommNo. This is an ascending list of all CommNo.s. To find a specific CommNo, a user is required to scroll through to the specified number. The CommNo.s range from 1 to 1,320,016, making the process a slow and tedious one.
- 2) Once the specific CommNo is found, details of the contract can be viewed by selecting its number.
- 3) Further details can be displayed about a contract by expanding a section of line items. It is a list in no particular order of specific product details within a contract's shipment.
- 4) Each line item's details can be viewed by selecting it from the list. From this view there is still no information about whether the item has been authenticated or not.
- 5) Further details can be displayed about a line item by expanding a section of shipment inspection details. Each shipment inspection entry must be reviewed to determine how much of a line item has been inspected / authenticated.
- 6) Each shipment inspection entry details can be viewed by selecting it from the list.
- 7) Once an authentication or inspection date is obtained about an individual line item, a manual review of either email records or faxed documents is required to locate electronic images of signed authentication sheets.
- 8) The specific border where the authentication occurred must be determined. This is not always captured by the database as it was not a required field of entry.
- 9) The email log for the specific border is accessed. In cases where the specific border is not captured, a review of all logs for all borders is required.
- 10) Sort the log by date

-
- 11) Scroll to a date close to the authentication date. Scrolling to the specific date of authentication is not always appropriate as authentication sheets may not have been sent on the actual day of authentication because:
 - a. Replication problems with the UN master server
 - b. Data entry delays as a result of local LN database not being up to date with information from UN master server
 - c. Data entry delays as a result of poor database performance in speed limitations
 In some instances, an email will not exist. This could be due to:
 1. Early stages of project faxing was the UN's designated protocol for sending authentication sheets
 2. Due to replication problems sometimes faxing was used instead of emailing
 - 12) Identify all emails with attachments on and after the authentication date
 - 13) Open each individual attachment and search for specified CommNo.
 - 14) Review the description for the specified CommNo. To determine if it is the specific line item.
 - 15) Ensure the quantity tallies up to the expected quantity detailed in line items of the contract. If the totals do not tally, then repeat the email review process starting at step 5.

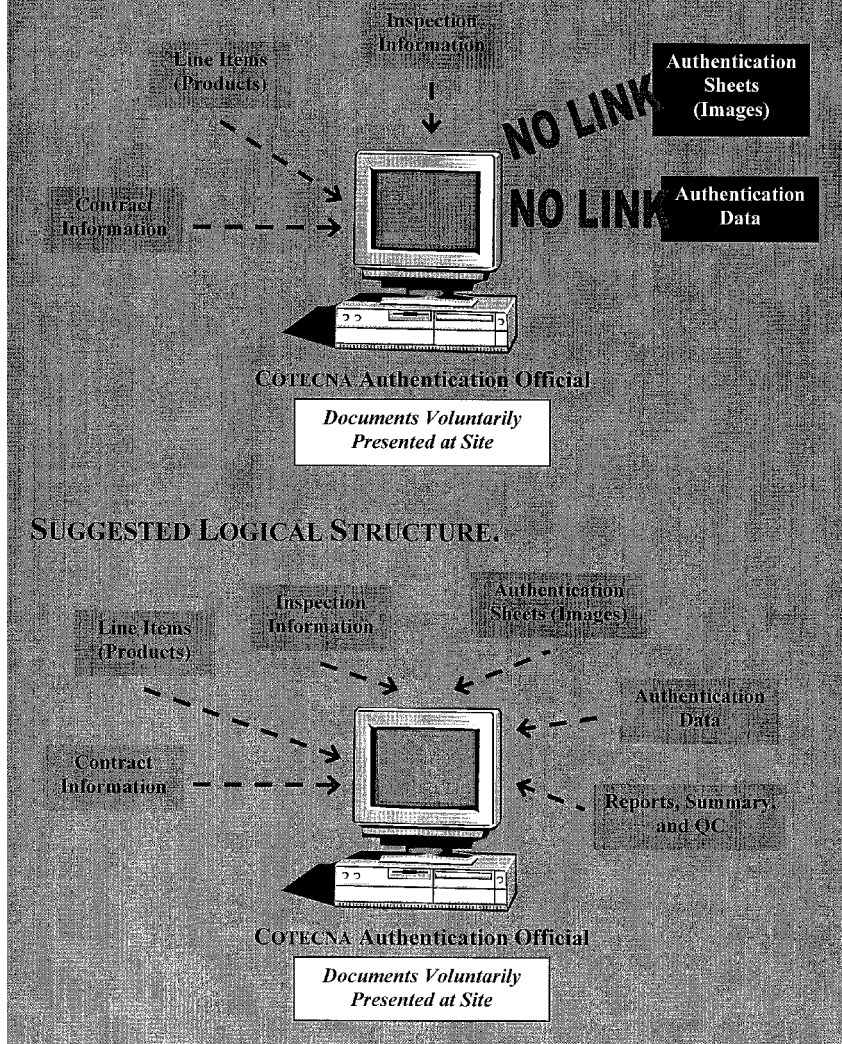
Repeat Steps 4 through 15 for each individual line item within a specific CommNo.

Audit trail for one specific contract using a more appropriately designed system

- 1) User types in the CommNo. on an audit screen
- 2) User clicks a button to generate a report that shows:
 - a. The CommNo.
 - b. The related line items
 - c. The related shipment inspection forms
 - d. A summary of the authentication sheet (an image of the actual authentication sheet could also be produced)

Appendix F

TABLE TWO. CURRENT OFF LOTUS NOTES STRUCTURE.



Appendix G

**RESPONSES TO
2003 OIOS AUDIT REPORT ON COTECNA**

The 2003 internal audit report discusses 25 recommendations. Below, we have briefly summarized and addressed each recommendation.

Recommendation 1. Suggesting that procedures were not in place to verify Cotecna's attendance records, the audit report recommends that OIP independently verify them.

Response. The United Nations could already verify attendance records by comparing monthly invoices with UNOCHI visa entry records or by examining records in the Amman office. Whether the United Nations in fact did so Cotecna does not know. However, we know that UN-OIP-NYC directly and regularly checked, at random, the number of Cotecna inspectors on each site. Regular visits by OIP to all Cotecna sites typically occurred every six months and lasted two weeks.

Recommendation 2. Stating that staff strengths were lower than the contract stipulated, the audit report recommends that OIP and the Procurement Division amend the contract to include a penalty clause for understaffing.

Response. Early in the contract period, OIP agreed to certain understaffing, so long as Cotecna's invoices accurately reflected this fact, authentications did not suffer, and the understaffing was only temporary. The United Nations agreed to this temporary arrangement because of various factors including: the probationary status of inspectors hired from Lloyd's, delays in the granting of visas, illnesses, etc. Authentications did not suffer and Cotecna's invoices accordingly reflected any shortages. Staffing soon reached and even surpassed contract requirements at no additional cost to the United Nations.

Recommendation 3. Observing that the United Nations failed to realize a two percent discount on the contract price because Cotecna did not receive payment on its invoices within 15 days, the audit recommends that OIP management create internal controls to ensure timely payment.

Response. This recommendation does not raise any "concern over Cotecna's performance" and, in fact, the two percent discount was regularly applied later on.

Recommendation 4. Noting that UNOCHI provided Cotecna with a free-of-charge office in the Canal Hotel, Baghdad, and did not charge Cotecna for medical services, the audit report recommends that OIP quantify the value of these items and bill Cotecna accordingly.

Response. The United Nations did not charge Cotecna for its use of the office at the Canal Hotel because the Government of Iraq, in turn, had not charged the United Nations. Meanwhile, the bombing of the Canal Hotel and subsequent withdrawal of UNOCHI from Iraq prevented the United Nations from seeking reimbursement for medical costs. Given Cotecna's readiness to reimburse the United Nations for any proven costs, the fact that the United Nations

never sought such reimbursement, again, does not raise any “concern over Cotecna’s performance.” However, UNOHCI regularly charged Cotecna for monthly telecommunication costs from the Canal Hotel, and Cotecna did in fact reimburse the UN.

Recommendations 5-10. Six of the audit report’s recommendations arise from its conclusions that the OIP inadequately monitored Cotecna’s performance, and that Cotecna inadequately performed, with regard to “Inter-Agency Humanitarian Programme supplies [13 per cent account goods] in Northern Iraq.” The audit also proposes recovery of moneys from Cotecna for not providing the convoy control and passport collection services for the 13 per cent account goods arriving through Ibrahim Khalil, Zakho as well as whether UNOHCI should continue to provide convoy control services at Zakho at all. Finally, the audit recommends providing induction training for all new inspection agents.

Response. When Cotecna first inherited the contract from Lloyd’s in 1999, Cotecna found, as the OIOS audit report itself puts it, a “Lack of clarity in the Contract concerning the specific obligations of the Contractor in relation to the 13 per cent account goods” (p. 8). Indeed, authentication of 13 percent goods, unlike that for goods approved under the 59 percent account, was not a prerequisite for payment to the supplier. OIP in the end broadened and clarified Cotecna’s authentication responsibility to include 13 per cent goods. OIP did so not to control entry of such goods into Kurdish territory or to control payments to suppliers but to gather information and obtain reliable statistics. It is essential to understand that Cotecna due to its nature as a private sector UN contractor performed a limited “authentication” function. As such it had no enforcement duties or capabilities. Cotecna’s mandate did not authorize it to stop trucks or vessels but only to “authenticate” goods voluntarily presented. Cotecna therefore relied on suppliers to present goods and information. Discrepancies that the audit report tabulates between Cotecna and UN figures arose because some UN agencies and contractors who delivered 13 percent goods did not present their goods to Cotecna. Cotecna had no ability to force the UN agencies to comply with the requirement to present goods for “authentication” but rather relied on the cooperation of the UN agencies. To solve such problems and facilitate the matching of statistics, UNOHCI organized monthly meetings in Baghdad with Cotecna and all UN agencies. Cotecna did not request, and OIP did not pay, additional compensation for the extra work necessitated by Cotecna’s obligation to inspect 13 per cent goods.

As to the recovery of costs for convoy control and passport collection services for the 13 per cent account goods arriving, OIP, Cotecna and UNOHCI eventually agreed that UNOHCI could best provide the convoy of 13 per cent goods.

Dramatic changes in the program following the implementation of Resolutions 1472 and 1483 after the war prevented the United Nations and Cotecna from implementing the kind of induction package for new inspectors that the audit report recommends. Even so, Cotecna did at that time distribute the OIP’s guidelines concerning revised procedures to all staff and developed Standard Operating Procedures (“SOPs”) for the first time as Lloyd’s had none. Cotecna’s SOPs were approved by OIP before implementation. Additionally, new inspectors were given extensive on-the-job training and were closely supervised, never working alone during the training period.

Recommendations 11 and 12. Stating that the OIP inadequately monitored Cotecna's performance, and that Cotecna inadequately performed, with regard to the contract's "24-hour duty requirement" at Zakho and Trebil, the audit report recommends either ensuring 24-hour coverage at those sites or seeking to recover fees for reduced hours.

Response. At all sites, Cotecna's inspectors were available 24 hours a day, 7 days a week. With OIP approval, shifts in Zakho and Trebil corresponded to border opening and closing times when Iraqi officials were available to clear goods. Even when these borders were not open, however, the authentication work of Cotecna's inspectors continued—including data processing, archiving, faxing and otherwise communicating with OIP until at least midnight in Iraq to accommodate the time difference with New York.

Recommendations 13 and 14. Stating that the program lacked equipment adequate to ensure "independent" authentications, the audit report recommends making Cotecna obtain such equipment and making the United Nations in future statements of work specify required equipment more expressly.

Response. Both recommendations appear to misinterpret Cotecna's role under the contract and the equipment required to do so. The OIOS also confuses authentication and commercial inspection. Cotecna had all the necessary equipment to take samples of foodstuffs and to inspect other shipments. An example of the audit report's confusion is its claim that Cotecna was responsible for "the unloading and reloading of containers" (p. 11). Cotecna's contract does not state this as being Cotecna's duty in its capacity as independent inspection (authentication) agent.

Recommendations 15 and 16. Noting that the UN's RFP had not disclosed the Government of Iraq's providing certain facilities free of charge (with such disclosure possibly reducing contract bids), the audit report recommends negotiating a contract reduction with Cotecna and providing such free-facility information in future RFPs.

Response. It is worth noting that the RFP did not provide specifications relating to the precise infrastructure available to the bidder. Further, when Cotecna took over from Lloyd's, the sites and cabins were not in good living condition. Cotecna therefore purchased equipment and materials from Lloyd's, invested in new cabins and continued to make capital improvements in the facilities throughout the duration of its contracts. Basic research by those who submitted proposals responding to the UN's 1998 RFP revealed that Iraq provided offices to Lloyd's free of charge. At the same time, OIP could not ensure that Iraq would continue to provide the offices for free. These circumstances diminish the audit report's assertion that the sites were "free" and the implication that Cotecna received a windfall.

Recommendation 17. For efficiency's sake, the audit report recommends moving Cotecna's Contract Manager from Amman to Baghdad, where he could share an office with the Liaison Officer and communicate more directly with the UNOHCI.

Response. As the audit report itself acknowledges, the contract does not require a Contract Manager, a position that Cotecna initiated on its own, absorbing the associated

additional costs. Also, the Contract Manager's attendance at monthly UNOHCI meetings in Baghdad satisfied the audit report's concerns. Furthermore, moving the Contract Manager to Baghdad was not acceptable to UN-OIP for security and confidentiality reasons.

Recommendations 18 and 19. Recognizing that increased flexibility would improve the contract's efficiency, the audit report recommends drafting new contract provisions that would enable staffing and remuneration to correlate more closely with the varying volumes of cargo presented for authentication at each site.

Response. Indeed, Cotecna itself sought more flexibility in transferring inspectors between the sites because not all sites were equally busy all the time. When Cotecna first inherited the program from Lloyd's, Cotecna sought to avoid such overstaffing and understaffing. For whatever reason, OIP did not give Cotecna the flexibility to move inspectors around. Moreover, the political situation in Iraq did not make movement between sites an easy matter, and it would take some three days to commute between the sites.

More generally, Cotecna would have appreciated written variations to the contract as it changed and written definitions of new and/or amended concepts to provide clarity to the scope of work—e.g., definitions of "Fit for Human Consumption" and "Authentication." Cotecna's requests for such, however, were not welcome.

Recommendation 20. Alleging that Cotecna's hiring of inspectors through Romcontrol (a Romanian provider of personnel) and its request that Iraq put Cotecna on its accreditation list constituted "unprofessional conduct" violating the contract's prohibitions against subcontracting and potential conflicts of interest, the audit report recommends a formal reprimand.

Response. Cotecna sought and obtained OIP's prior written approval and clearance for every individual inspector that it hired through Romcontrol and went on to employ directly. In this sense, "subcontracting" describes only the channel through which these inspectors were paid, not the manner of their appointment nor their employment. In fact, even Cotecna's proposal responding to the 1998 RFP includes the CVs of one Romcontrol chemist and seven Romcontrol inspectors.

As to the potential conflict of interest in simultaneously serving as independent inspection agents and possibly offering commercial inspection services, admittedly, the request that Iraq put Cotecna on its accreditation list was an error, arising from a misunderstanding by Cotecna's commercial division about the company's OFFP contract. Cotecna's Senior Vice President steadfastly reminded employees about the prohibition. The error in this case was immediately rectified, and the person involved was dismissed.

Recommendations 21-23. Expressing dissatisfaction that the United Nations and Cotecna amended their contract before Cotecna began to perform, the audit report recommends that the United Nations ensure that future contract provisions allowing amendment not contradict contract provisions making stated prices all-inclusive, that the United Nations craft future RFPs such that they more accurately identified all requirements in advance, and that it recover from

Cotecna a \$95,000 payment for certain equipment's residual value, pursuant to the first contract amendment.

Response. With regard to Recommendation 23, and pursuant to Amendment 1, Cotecna reimbursed \$95,000 to the United Nations in May 2003, thereby enabling Cotecna to retain ownership of the relevant equipment at the end of the program. Meanwhile, as with so many other items that the audit report identifies, Recommendations 21 and 22 raise no "concern over Cotecna's performance." Rather, they instruct the United Nations to draft its contracts and RFPs differently. The context for these recommendations is as follows. The 1998 UN RFP was not a detailed document and, for example, did not impose on bidders any information technology replication scheme or specific telecommunications obligations. Cotecna therefore based its original 1998 bid (\$499 per inspector per day) on Cotecna's own proposed IT systems and telecommunication facilities. In December 1998, however, the United Nations revealed, for the first time, a specific requirement for the contractor to use Lotus Notes instead of existing communications systems. Because Lotus Notes would involve large, previously unforeseen capital expenditures and telecommunication costs associated with the replication of the Lotus Notes system—never mentioned in the 1998 Request for Proposals—, Cotecna and the UN's Procurement Department on 24 Dec. 1998 agreed that the UN would have to pay Cotecna additional compensation to address the Lotus Notes issue. This agreement became Amendment 1, which Cotecna signed on 29 Mar. 1999, and the UN Procurement Division on 21 Apr. 1999.

Cotecna would have welcomed a more detailed RFP. The program had been in operation for two years with Lloyd's as the contractor, so it is especially surprising in retrospect that the UN did not provide a more detailed and comprehensive specification as regards its information technology and communications requirements, physical infrastructure (existing and required) as well as SOPs.

Recommendations 24-25. Two recommendations call "inappropriate" a "price increase [from \$499 to \$600 per inspector per day, effective 1 February 2000] on account of accommodation, communications and fee for retention of agents."

Response. Cotecna documented its costs for the rehabilitation of camps, inflation, telecommunications, employment of inspectors with special qualifications (such as electrical engineering), etc. As stated in the report itself, OIP was therefore satisfied that Cotecna's costs had actually increased. The audit report objected not to the payment but to the merging of such increased costs with the per-man-day fee structure. This merging of expenses risked overpayment if the \$600 fee per inspector day continued longer than necessary to reimburse Cotecna's investment. Cotecna's per man day fee dropped back down from \$600 to \$520 in 2001, however, eliminating the problem that the audit report anticipated. In any case, the United Nations, not Cotecna, bears responsibility for the choice to merge the increased costs with the per-man-day fee structure. In this context, it should be noted that the complexity of the program and the volume and value of goods authenticated between 1999 and 2002 increased dramatically, necessitating also an increase in the number of inspectors from 54 in February 1999 to 67 in November 2002.

Mr. ROHRABACHER. Thank you both very much. Your companies are very lucky to have two articulate spokesmen to come here and face a congressional Subcommittee like this.

Just a few questions for Mr. Denson. You mentioned the *Essex* affair. You are suggesting that is just a one-time affair and that did not reflect other instances that were like this where the people were topping off and more oil was going out than was part of the contract?

Mr. DENSON. That is right, Mr. Chairman. There were actually two incidents, to be more precise. In those two incidents there were unusual circumstances that allowed that to happen.

Not to go into a great deal of detail that you may or may not want to hear about the conditions at Mina Al-Bakr, but the location of the living quarters on the terminal, the ability to observe the vessels while they were there from those living quarters, this vessel had to be placed in a certain location to make it hard to see.

If you look at the documents very carefully and understand the conditions there—and this was all detailed in the report that Saybolt did to the 661 Committee following the *Essex* incidents—it had to be a very strange combination of events to allow the topping off to occur.

In addition, most of the vessels that were loaded under the Oil-for-Food Program left with full cargos. In other words, there was no room to top off.

Based on a number of factors that we analyzed in detail at the time, Saybolt concluded, and we feel the U.N. also agreed, that there was very little likelihood of there being any other incidents similar to *Essex*.

Mr. ROHRABACHER. So there just was not an opportunity for people to put more oil in than had been contracted for because almost every ship that came in was contracted to be full?

Mr. DENSON. Under the Oil-for-Food Program, yes, sir.

Mr. ROHRABACHER. Do you know of any bribe cases other than this one where people were talking about with Saybolt and I guess it was the *Essex*?

Mr. DENSON. There was.

Mr. ROHRABACHER. Is there any other bribe case that your company dealt with?

Mr. DENSON. No. That was the only incident that we ever became aware of.

Mr. ROHRABACHER. Okay. So there is no other paperwork someplace floating around that indicates your company was dealing with three or four other issues of bribery with your employees?

Mr. DENSON. In connection with the Oil-for-Food Program, absolutely not. I have not seen them if they exist.

Mr. ROHRABACHER. Okay. I am not saying there is. I am just making sure that you are on the record as being sure of what you are saying here.

Let me ask a little bit of Ms. Suarez here. Now, we have a vote. It is a 15-minute vote, so it will probably be ½ hour once we break. I am going to go on for a few minutes and let Adam have a few minutes, and then we will come back and finish up our questions with you and anyone else who shows up.

Cotecna received this award, your award from the United Nations. Did Cotecna raise its price? People are saying that right from the beginning that Cotecna was not dealing on the up and up with the U.N. and that immediately after getting your contract that your own company sort of did something that was a little questionable about raising the price that you were going to do your services to the U.N. Is that accurate?

Ms. SUAREZ. Mr. Chairman, Cotecna participated in a competitive retender and was awarded that contract based on its superior proposal based on price and its technology.

The technology is probably a large part of the reason why the price was raised. This is detailed in my longer testimony.

Mr. ROHRABACHER. Let me note there is always an excuse that people have of why it has to increase now. People do this throughout all the government. People have a low bid, and then they end up oh, now that we have the contract, by the way, we have to add these other things.

By the way, that is, of course, that I am suggesting what the United Nations said at the time.

Ms. SUAREZ. Mr. Chairman?

Mr. ROHRABACHER. Sure.

Ms. SUAREZ. That was not the case. It was unusual. There was a very short timeframe for the negotiation of this contract. It started in the beginning of December, and it was negotiated quite heavily probably through the middle of December with the contract being signed on December 31.

Mr. ROHRABACHER. Okay.

Ms. SUAREZ. The RFP was especially vague and was especially vague as to the technology that it wanted.

At the very last stages of the negotiations, they insisted on the use of Lotus notes, which, as we detailed, is a rather unsuitable application for this type of project. In fact, it entailed quite a bit larger cost. As a result, the United Nations, before signing the contract, agreed to an amendment.

Mr. ROHRABACHER. I have a feeling that we could talk about that particular issue for a long time. I am not here to verify, and you have certainly offered an adequate explanation. I think as I say, this happens so frequently with so many companies dealing with getting contracts that you may be absolutely right, or there may be some reasonable reason for skepticism here.

We have 10 more minutes. Let me ask you one more question, and then I will let Adam have a few minutes. We are going to break for probably about 20 minutes or so.

Ms. Suarez, in numerous interviews conducted over the past year with Committee investigators, our investigators have been told by present and former Iraqi, as well as U.N. officials, that Cotecna officials routinely accepted bribes. Our inspectors were told that.

These are bribes at the border to allow certain materials to proceed through the border and that taking a bribe, giving a bribe to Cotecna employees, was not an abnormality for the situation. Could you respond to that?

Ms. SUAREZ. Mr. Chairman, I have been working with this company throughout the course of these various investigations, and we

have heard absolutely no reports of bribery, that any inspectors have taken bribes.

Mr. ROHRABACHER. All right. So the interviews that were conducted by the Committee investigators and the people who made these allegations to our investigators, you never heard anybody say that to any company official?

Ms. SUAREZ. I have attended every single—

Mr. ROHRABACHER. There have been no whistleblowers?

Ms. SUAREZ. I have attended every single interview of Cotecna employees, and I have not—no investigator has raised an incident of bribery.

Mr. ROHRABACHER. Have there ever been any complaints by anyone that your employees have been accepting bribes?

Ms. SUAREZ. I cannot answer whether if anybody in the world—

Mr. ROHRABACHER. That you know of. That you know of.

Ms. SUAREZ. I am unaware of any allegations of bribery.

Mr. ROHRABACHER. When congressional investigators are told these things, and it seems to be a pattern here, it behooves us to follow up. I think that this is something that we need to discuss further, maybe perhaps give your company some of the specifics.

My staff is telling me that some of these charges came specifically from Iraqi Transportation Ministry officials, so let us pursue that in a little bit.

Adam, do you have a couple minutes of further questions, and then we will come back.

Mr. SCHIFF. Yes. Thank you, Mr. Chairman.

Mr. Denson, let me start with you if I could. You are the General Counsel of Saybolt?

Mr. DENSON. That is correct.

Mr. SCHIFF. How many contracts were there that Saybolt had in this program, and who was the other contracting party? Who were you contracted to do work with?

Mr. DENSON. If I understand the question, the question you are asking is how many contracts were under the Oil-for-Food Program with the United Nations?

Mr. SCHIFF. Well, that Saybolt had exactly.

Mr. DENSON. I do not know the exact number, but there were several. For a while they renewed every 6 months or so.

Mr. SCHIFF. Were the terms of each contract the same? It was just the term of the contract that was renewed?

Mr. DENSON. I believe so. To be honest with you, I do not have the details on each and every one of the contracts at my fingertips. The impression I have is that they were very similar.

Mr. SCHIFF. The contracts were between Saybolt and what part of the United Nations?

Mr. DENSON. The Office of the Iraqi Program, the OIP.

Mr. SCHIFF. And as General Counsel, I am sure you were very focused during the course of this investigation on the terms of your contract. What does your contract say very specifically about the scope of the work that you were to do?

Mr. DENSON. Well, it is not unusual for contracts—especially for programs that are new programs such as the Oil-for-Food Program was at the time—there was a lot of vagueness in it, to be honest

with you. The contracts were not very specific in terms of every detail, about how it is going to be done. A lot of things were learned in the process of implementing the contract after the first contract was put into place.

Having said that, there were very clear limitations on what Saybolt was expected to do under the contract. As I indicated in my oral testimony and in the written testimony, Saybolt was expected to monitor the oil leaving Iraq under the Oil-for-Food Program and nothing more than that. They had no obligation, for example—

Mr. SCHIFF. Mr. Denson, you are talking about expectations now, and I am interested in what the contract actually called for. I am similarly interested in Ms. Suarez with respect to Cotecna.

I mean, we have seen a chart of what responsibilities you represent you had and did not have. What I want to know is, Does the contract agree with those characterizations? What explicitly did the contract say you were to do?

Mr. DENSON. My understanding of the contracts is it required us to monitor oil exports under the Oil-for-Food Program and nothing beyond that, at least in terms of the oil inspection program.

Mr. SCHIFF. Monitoring oil exports. If that was the language of the contract, that is broad enough to include a lot of things your chart is not doing.

If the language is that you are supposed to monitor oil exports then oil exports, whether they were on the per se shipment they were supposed to be or whether they were illicit oil, shipments would be within your monitoring responsibility, so I am assuming you are not saying that is what the contract required.

Mr. DENSON. That is correct. I am not trying to say that. I do not have the contract with me to show you exactly the wording that was used in the contract. Are you asking for my understanding of the contracts?

Mr. SCHIFF. No, actually. You are the General Counsel. I want to know what the contracts said and not your understanding of it. If you cannot tell me today, I would like you to supply that to the Committee.

Mr. DENSON. I believe we have already given the contracts themselves to the Committee, but we will be happy to go through that and try to analyze it with the Committee if it would like, sir.

Mr. SCHIFF. I would like that.

Ms. Suarez, what do your contracts say about the scope of your responsibilities? Do you know specifically?

Ms. SUAREZ. Yes. We did find the contract rather vague and the scope of work rather vague. They created this concept of authentication, which does not really have a meaning outside this program. I described it in my testimony.

Also it has this concept of fitness for human consumption was also a different standard.

Mr. SCHIFF. Are the terms of the chart then based on your understanding of how you interpret the vague language of the contract?

The contract then does not say, for example, that you are to compare documents accompanying the OFP with goods voluntarily presented? That is your language, not the contract's language?

Ms. SUAREZ. Mr. Schiff, you are right. The company was not given standard operating procedures, SOPs, when it arrived at the Iraqi border, and that was somewhat surprising since this was not the beginning of the program, and in fact Cotecna took over at a retender.

Excuse me, Mr. Chairman. Do you need to break?

Mr. ROHRABACHER. Mr. Schiff, you will have more time when we come back, I promise you, to pursue this line of questioning.

Right now I declare that this Subcommittee hearing is in recess at the call of the Chair. It should be about 20 minutes.

[Recess.]

Mr. ROHRABACHER. This hearing is called to order. I apologize for keeping you folks, and I hope that your companies have you on an hourly retainer. No? That is too bad.

All right. Just a couple questions, and then we will move on to our last witness.

Is there any relative of any U.N. official working for either one of your companies?

Ms. SUAREZ. Excuse me? Would you like me to answer the question?

Mr. ROHRABACHER. Yes.

Ms. SUAREZ. What was the question again?

Mr. ROHRABACHER. Is there anyone working for your company who is a relative of a senior U.N. official?

Ms. SUAREZ. There is no one who is a relative of a senior official currently working for Cotecna.

Mr. ROHRABACHER. That word "currently" certainly jumps at you, does it not?

Ms. SUAREZ. Yes.

Mr. ROHRABACHER. When did this relative of a high level U.N. official leave the employment of your company?

Ms. SUAREZ. Mr. Chairman, I think you are asking whether Cotecna ever employed a relative of an official at the U.N.?

Mr. ROHRABACHER. Any senior official of the U.N.

Ms. SUAREZ. Yes, of course, Mr. Chairman. Cotecna did employ from 1995 through the end of 1998 the son of the Secretary-General, and his name is Kojo Annan.

Mr. ROHRABACHER. And what year did you get the contract with the United Nations?

Ms. SUAREZ. We got the contract in 1998, and I must say I can unequivocally state that Kojo Annan had nothing to do with Cotecna getting the contract.

Mr. ROHRABACHER. Okay. So he did work there from 1995 to 1998, and then he left, and you got the contract in 1998?

Ms. SUAREZ. Yes. We bid on the contract in October. We did not bid on the contract, the RFP came out October 9. We bid on the contract in December, and we were awarded the contract based on competitive bidding, based on price and merit.

Mr. ROHRABACHER. This was a competed contract? There were other people bidding on it?

Ms. SUAREZ. Which contract? Do you mean the Oil-for-Food contract?

Mr. ROHRABACHER. Excuse me. Go right ahead.

Ms. SUAREZ. Mr. Chairman, I am not sure what your question is.

Mr. ROHRABACHER. Okay. First of all, you got the contract in 1998. Is that right?

Ms. SUAREZ. That is correct.

Mr. ROHRABACHER. Is that January 1998, or when you were talking, when you said October/November was that—

Ms. SUAREZ. No.

Mr. ROHRABACHER [continuing]. October/November of 1998 or December 1998? Is that what we are talking about? Did he work for you at that time?

Ms. SUAREZ. He was at the tail end of a consultancy agreement.

Mr. ROHRABACHER. He had a consultancy.

Ms. SUAREZ. Mr. Kojo Annan was—let me give you the chronology of his employment. He was employed from 1995 through 1997. He was employed as a junior liaison officer and was promoted during that period from 1995 to 1997.

In 1998 they required less services because they downsized his operations in West Africa where he was employed, and he was employed as a consultant for a period of 10 months. That consultancy agreement expired by its own terms at the end of 1998.

Mr. ROHRABACHER. Okay. And when he left he had a non-compete contract agreement with you?

Ms. SUAREZ. That is correct. You have to understand that Kojo Annan was employed in West Africa, and at that time Cotecna was actively pursuing two very important preshipment inspection contracts, a preshipment inspection contract with Nigeria and also a destination inspection contract in Ghana.

Mr. ROHRABACHER. When did he leave again? What month did he leave?

Ms. SUAREZ. He left in December 1998.

Mr. ROHRABACHER. Okay. So about the same time you got the contract he left?

Ms. SUAREZ. That is correct.

Mr. ROHRABACHER. Okay. Was he given a stipend? A lot of these companies sometimes will give a stipend to an employee after they leave.

Ms. SUAREZ. Yes. I was trying to address that question. The company negotiated a non-compete with Kojo Annan in January, the beginning of January 1999, because of the competitive situation in West Africa where he was employed.

Mr. ROHRABACHER. Okay. Does that mean that he received a stipend when he left, a certain amount of money when he left?

Ms. SUAREZ. Under Swiss law—

Mr. ROHRABACHER. Yes.

Ms. SUAREZ [continuing]. One has to receive compensation for a non-compete to be enforceable.

Mr. ROHRABACHER. And so the non-compete agreement was the justification for giving him how much money at that time on his leaving the company?

Ms. SUAREZ. It is not a one-time fee. It is compensation for his agreement not to compete in an area and so he received a monthly amount.

Mr. ROHRABACHER. And how long did that monthly amount go on?

Ms. SUAREZ. I believe it went until, I would say, early 2004.

Mr. ROHRABACHER. You paid him from 1998 to 2004 for not doing anything for you?

Ms. SUAREZ. No. We paid him not to go to the competition in a very competitive environment.

Mr. ROHRABACHER. How much was he being paid a month for this?

Ms. SUAREZ. Around \$2,500 a month.

Mr. ROHRABACHER. So he was being paid maybe \$30,000 a year about?

Ms. SUAREZ. Probably, and he was free to seek employment elsewhere, but he had to——

Mr. ROHRABACHER. Could you make sure that we get an exact amount on that?

Ms. SUAREZ. Certainly.

Mr. ROHRABACHER. Okay.

Ms. SUAREZ. In fact, I can give you a chronology of our activities in West Africa and why the non-compete was so important.

Mr. ROHRABACHER. I guess it is a little more difficult for some people in other professions to understand why someone is given money for as long as that for not actually rendering a service, but I take it from what you are saying that this is a common practice in the industry and that nobody in the industry would wink at all that you had provided him about \$150,000 worth of money for not working for you or anybody else in that given profession.

Ms. SUAREZ. I would not find it surprising at all, given the value of the contracts that they were competing for. That is a very small sum of money given the contracts with the governments that they were seeking.

Mr. ROHRABACHER. And how old is this young man?

Ms. SUAREZ. He was probably, in 1995, maybe 22, but you are talking——

Mr. ROHRABACHER. You paid a 22-year-old——

Ms. SUAREZ. A 25-year-old I would say.

Mr. ROHRABACHER. A 25-year-old?

Ms. SUAREZ. Yes. I do not think it is surprising given the knowledge that the young man had. We have gone through this.

Mr. ROHRABACHER. When he represented your company was his job to go and try to find U.N. business for your company? Did he participate in that?

Ms. SUAREZ. No, not at all. In fact, his role was to work in Nigeria in Lagos. He did standard preshipment inspection and did work in Nigeria. He did some work in Ghana, but his work was restricted to West Africa. And in fact at a later time his role was more——

Mr. ROHRABACHER. Okay. Do you know his education level?

Ms. SUAREZ. He has a college education.

Mr. ROHRABACHER. Okay.

Ms. SUAREZ. He went to school in England.

Mr. ROHRABACHER. And I do not imagine he has much work experience considering how young he was at the time that he was hired by your company?

Ms. SUAREZ. He was fresh out of school, and he was hired at a rate commensurate with other people fresh out of school.

Mr. ROHRABACHER. So you have a \$25,000 stipend for him a year or a little bit more—you do not know just exactly, but you are going to get that to me—after he left. What was he making while he was there?

Ms. SUAREZ. We can get you that information. We did, Mr. Chairman, provide the staff quite a long time ago, almost a year ago, with non-competes and other—not non-competes. With other agreements, other similar agreements.

Mr. ROHRABACHER. Okay. Are you aware if this young man was the recipient at all of any of the, what they call, oil vouchers, but they are sort of oil credits that were being given there by Saddam Hussein?

Ms. SUAREZ. We have no knowledge. We would not be in a position to know that.

Mr. ROHRABACHER. Okay. There have been accusations of that, but no one has suggested that to you before?

Ms. SUAREZ. No. We have no knowledge, no.

Mr. ROHRABACHER. That was not my question. My question was: Has it been suggested to you before that he may have been the recipient of those?

Ms. SUAREZ. No.

Mr. ROHRABACHER. Okay. That is different than having no knowledge, because maybe somebody suggested it but you did not have knowledge then either.

Listen, I will have to say that everybody likes to try to use influence of people, and it is not wrong to hire the son of Kofi Annan. It is not wrong in and of itself.

I think it might be a little questionable. I am a former journalist, and I would have loved to have had somebody pay me \$25,000 a year not to work for another for 6 years, 5 or 6 years. That is pretty good.

Ms. SUAREZ. It is not unusual for companies to enter into non-competes when individuals have sensitive business information.

Mr. ROHRABACHER. Well, I am sure we are going to hear from a lot of people in your industry telling me whether that is the case. If it is, your company has no worry about it. It sounds a little weird to those of us who are not involved in the intricacies of your business.

Of course, lawyers have certain things that they do and certain other businesses have certain things they do that others cannot fathom as being ethical, but it is because it is standard practice for certain professions to do things.

With that said, I want to thank all of you. I appreciate the fact that you were both here, and I think the fact that you were both here and both willing to answer questions like the ones I just asked indicates good faith on the part of both of your companies. I want to put that in the record.

We might have some other questions for you that we will put in writing, and I would hope that you could get back to us; especially you are going to get back with the specifics of the income level of the young man and exactly how much money he received from the company over the period of time that he was receiving money from the company.

Thank you very much. We will have our next witness now.

Thank you, Mr. Denson. Thank you very much.

Mr. DENSON. Thank you.

Ms. SUAREZ. Thank you.

Mr. ROHRBACHER. Our last witness is Rehan Mullick. Dr. Mullick worked and consulted for a number of organizations, including the U.S. Agency for International Development, the United Nations and Iowa State University. Currently Dr. Mullick is director of the Bridges Development Consortium, a USAID program to promote change in the Middle East through education and development.

Importantly for this hearing, in 2002 Dr. Mullick was a research officer of the United Nations Office on Humanitarian Coordination in Iraq and provided expertise for the Multidisciplinary Observation Unit which, among other things, was responsible for assessing and monitoring humanitarian conditions in Iraq and measuring the impact of the U.N. Oil-for-Food Program.

I want to thank you and all of our witnesses of course, but I want to thank you in particular for being here, and we look forward to your testimony. We welcome your attorney as well.

If you could boil it down to about 5 minutes of the good stuff and then we will have a little dialogue, and we will try to bring out some more in the questions and answers. Dr. Mullick?

STATEMENT OF REHAN MULLICK, PH.D., FORMER RESEARCH OFFICER, UNITED NATIONS OFFICE OF THE HUMANITARIAN COORDINATOR IN IRAQ [UNOHC]

Mr. MULLICK. Thank you, Mr. Chairman. I would also like to thank the Committee for giving me the opportunity to be here today.

I am a Pakistani-American. I received my Ph.D. from Iowa State University in 1999. After completing my Ph.D., I was working for a program affiliated with the university when, in 2000, I was contacted by the U.N. and offered a position monitoring the humanitarian conditions in Iraq and measuring the impact of the Oil-for-Food Program. I arrived in Iraq in September 2000.

We have always known that Baghdad had repeatedly rejected the Security Council's offer to sell oil for the purchase of humanitarian supplies. It was not until December 1996 when the effects on the population were devastating enough, threatening the regime itself, forcing them to sign a memorandum of understanding with the United Nations.

Later on, however, they discovered that the program offers many opportunities for them to use their own advantage. We are already aware of the regime's ability to use Oil-for-Food contracts to exercise influence around the world, but not much has been said about the regime's ability to use Oil-for-Food supplies to attain a dreadful and complete leverage over its own population.

I am convinced that the regime's influence around the world through Oil-for-Food contracts and its leverage over its own people through socially-engineered distribution of Oil-for-Food supplies could not possibly have happened without the cooperation of certain elements within the bureaucratic hierarchies of the United Nations.

Enough evidence has now surfaced suggesting considerable mismanagement in the allocation of Oil-for-Food contracts. My report 2½ years ago pointed at massive discrepancies in the observation and distribution of humanitarian supplies in Iraq.

Soon after I started my job, it became amply evident to me that a significant percentage of supplies were never distributed as the program intended, that many of the supplies such as trucks, pickups, 4x4s meant for humanitarian aid were diverted to Iraqi security and the military and that the program had been infiltrated by many Saddam loyalists.

During the almost 2 years I was in Iraq, I repeatedly made suggestions to strengthen the observation system and the data collection necessary to insure that the program was working as intended. Each suggestion resulted in my supervisors reducing my job responsibilities. This continued to occur until my only job was to run TV projectors at staff meetings.

I finally traveled to New York at my own expense because I was unable to get any U.N. official in Iraq to pay heed to the problems that I had repeatedly called to their attention. I alerted the U.N. officials in New York of what I had observed in Iraq. After I delivered my report in New York, I expected that those senior officials who had responsibility for the program would immediately contact me. In fact, I was not contacted by anyone. I heard nothing.

Finally I was contacted and told that my contract was not being renewed, which in U.N. parlance meant that I was fired. I continued my effort to notify other U.N. managers of my findings and toward this end sent my report to over a dozen U.N. officials. Like my initial effort, this effort was met with absolute silence.

It is sad that the U.N. administration in Iraq was allowing this to happen. What is even more discouraging is the fact that when the issues were brought to light the U.N. administration in New York not only systematically silenced my findings, but they fired me.

To this day, despite my very difficult years with the United Nations in Iraq and equally disappointing experiences in New York, I have never given up on the ideals of the United Nations that epitomize global peace, equality and human dignity.

Unfortunately, now I know from my own experience that persistent corruption in the U.N. will continue to undermine the attainment of these ideals, especially when the corruption is systematic and well orchestrated like in the Oil-for-Food Program.

For now, I just hope that the deliberations of this Committee and the efforts of all of those investigating the Oil-for-Food Program will generate enough synergy and influence to eventually push the United Nations to reform, to at least have general oversight procedures that work.

The age-old Mafia-style management where well-meaning employees are humiliated into falling in line or being fired must heed to a more open, transparent and democratic U.N. so that ordinary people like myself can go back to honest work even with the U.N.

Thank you, sir.

[The prepared statement of Mr. Mullick follows:]

PREPARED STATEMENT OF REHAN MULLICK, PH.D., FORMER RESEARCH OFFICER,
UNITED NATIONS OFFICE OF THE HUMANITARIAN COORDINATOR IN IRAQ [UNOHCII]

Thank you Mr. Chairman, and thank you members. I also would like to thank the committee for giving me the opportunity to be here today!

I received my PhD from Iowa State University in 1999. After completing my PhD I was working for a program affiliated with the University when in 2000 I was contacted by the UN and offered a position monitoring humanitarian conditions in Iraq and measuring the impact of the Oil for Food Program. I arrived in Iraq in September of 2000.

We have always known that Baghdad had repeatedly rejected the Security Council's offer to sell oil for the purchase humanitarian supplies. It was not until December 1996, when the effects on the population were devastating enough, threatening the regime itself, forcing them to sign a memorandum of understanding with the UN. Later on, however, they discovered that the program offers many opportunities for them to use it to their own advantage. We are aware of their ability to use oil for food contracts to exercise influence around the world, but not much has been said about the regime's ability to use Oil for Food supplies to attain a dreadful and complete leverage over their own population.

The Regime's influence around the world, through oil for food contracts, and its leverage over its own people, through socially engineered distribution of Oil for Food supplies, could not possibly have happened without the cooperation of certain elements within the bureaucratic hierarchies of the United Nations. Enough evidence has now accumulated, suggesting widespread corruption in the allocation of Oil for Food contracts. My report, two and a half years ago, pointed at massive discrepancies in the observation and distribution of these supplies inside Iraq.

According to the UN itself, the humanitarian tasks in Iraq revolved around the following activities:

- Tracking supplies received in Iraq, to establish quantities arrived, distributed and installed.
- Gauge the efficiency of procurement process, arrival, distribution and installation/utilization of these supplies.
- Assess the equitability of allocation and distribution of these, Oil-for-Food, supplies to the end-users.
- Ascertain the adequacy of supplies to meet the humanitarian needs.
- Observe the status of the humanitarian condition, and provide special reports that could facilitate the release of holds on urgently needed items.

Soon after I started my job, it became amply evident to me that there were gaping holes in UN's efforts to meet the above objectives. A robust, functional database on the use of the Oil for Food Program supplies, that one expects should have already been in place, was just not there. The database that existed was muddled beyond repair. The survey instruments deployed for observations were at best amateurish. The statistics quoted in the UN reports were often extrapolated with impunity and were often scientifically misleading. Geographical disparity in the intensity of suffering among Iraqi population (a stark reality of the southern Shia-dominated muhafazat of Iraq) was neither researched nor ever mentioned in any of the UN reports. Similarly, it was clear that large quantities of Oil-for-Food supplies were simply not being distributed, and yet the observation activities were narrowly focused around the distribution lists provided by the Government of Iraq. This meant that a lot of items that were held back or redirected by the GOI were never observed. During my tenure in Iraq I reported all my findings and observations to my superiors culminating in a formal report I delivered to the UN Department of Peacekeeping Operations in New York.

During the almost two years I was in Iraq I repeatedly made suggestions to strengthen the observation system and the data collection necessary to insure that the program was working as intended. Each suggestion resulted in my supervisors reducing my job responsibilities. This continued to occur until my only job was to run the slide projector at staff meetings.

I finally traveled to New York at my own expense because I was unable to get any UN officials in Iraq to pay attention to the problems that I repeatedly called to their attention.

I alerted the UN office in New York that:

The Iraqi regime was using the Oil-for-Food supplies to rebuild its tattered military, to accommodate its cohorts in the procurement process, to be preferential in the distribution of these supplies, and to stage-manage the humanitarian catastrophe in Iraq in making a case for the lifting of the sanctions.

The Iraqi regime had rendered the UN observation process meaningless, penetrated its information nerve centers by planting Saddam loyalists in the UN observation process. I also reported that the UN observation mechanism, failed to report the true humanitarian situation in Iraq, was uninterested in detecting the partiality of the distribution process, and was oblivious of stockpiling and redirection of these supplies for non-humanitarian purposes. As a result, the Iraqi military rebuilt its logistics by diverting thousands of trucks, pickups, 4X4s etc. that were delivered to Iraq under the Oil-for-Food Program. Similarly, it was common knowledge in Iraq that thousands of Toyota Camrys, and Avalons imported under the program were promptly gifted to the functionaries of the Iraqi Intelligence, and the Bath Party. Correspondingly, the Malaysian built Proton cars were offered freely to military officers at token prices. The UN was responsible to insure the proper distribution of these cars.

In summary, I reported that a significant percentage of the supplies were never distributed as the program intended (see Attachment); that many of the supplies such as trucks intended to distribute food were diverted to the Iraqi military; and that the program had been infiltrated by many Saddam loyalists. After I delivered my report in New York, I expected that those senior management officials who had responsibility for the program would immediately contact me. In fact, I was not contacted by anyone. I heard nothing. Finally I was contacted and told that my contract was not being renewed, which in UN parlance meant I was being fired. I continued my efforts to notify other UN officials of my findings and toward this end sent my report to over a dozen UN officials. Like my initial efforts, this effort was met with absolute silence.

I have often wondered why the UN sought me out to do the job I went to Iraq to do, if they were not interested in having me actually do it. I have no satisfactory explanation.

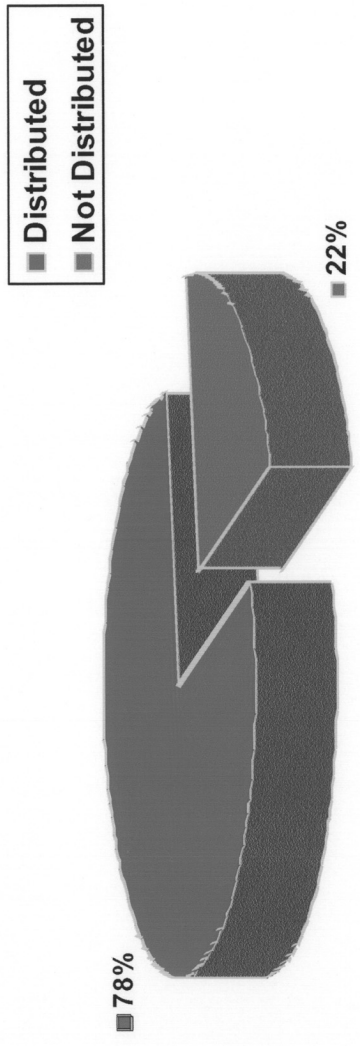
It is sad that the UN administration in Iraq was allowing it to happen, but what is even more discouraging is the fact that when the issues were brought to light, the UN administration in New York not only systematically silenced my findings, but also, promptly allowed my contract to lapse, in effect firing me. In addition, as an American citizen of Pakistani origin I remain very disturbed that the UN's administration of the Oil for Food Program undermined the national interest of the United States.

Despite my very difficult years with the UN in Iraq, and equally disappointing experiences in New York, I have never given up on the ideals of the United Nations that epitomize global peace, equality and human dignity. Unfortunately, now I know from my own experience that persistent corruption in the UN will continue to undermine the attainment of these ideals, especially when the corruption is systematic and well orchestrated, like in the Oil for Food Program. Had UN chosen to listen to, and offer protection to those who blow the whistle on bureaucratic injustice and corruption, a program like Oil for Food would have worked more in the interest of the impoverished Iraqi people rather than their detractors.

I just hope that the deliberations of this committee, and the efforts of all others investigating the Oil for Food Program will generate enough synergy and influence, eventually forcing the United Nations to make its oversight procedures work!

59% ACCOUNT

Total Arrived Approx. 20 Billion Dollars



Mr. ROHRABACHER. Dr. Mullick, first of all let me suggest to you that you are a very good American.

Mr. MULLICK. Thank you so much, sir.

Mr. ROHRABACHER. We are proud to have Americans like you, people who come from other parts of the world but have come here to try to show the world there is a better way and believing in our ideals and justice and truth and freedom.

The fact that you were willing to stand up and basically put your livelihood at risk speaks very well of you, and I hope that in your career—as you are now working on a USAID program—I hope if you see some things that are not exactly right in that program that you will find us much more responsive than you found the United Nations.

I know a lot of people think that the United Nations has this ideal that they were going to lead the world to a better world. I think the United States is going to lead the world to a better world because of people just like you and the fact that that is what we are made up of in the United States. We are made up of every race and religion and ethnic background, and what ties us together is hopefully our courage to stand up for the ideals that you are standing up for today.

With that said, I guess what you are telling us today is that there was not a self-correcting policy at the U.N. The policy was not to take seriously the type of complaints that you had, and thus when the problems arose, the U.N. was not getting any better because it was not correcting those problems as people pointed them out.

Mr. MULLICK. Definitely there is a lapse in oversight procedures at the U.N., and I think my situation, and there are some other whistleblowers, their situation, kind of makes it very obvious that U.N. has to address these issues.

Mr. ROHRABACHER. All right. Let me ask you this. There are things that came in, these humanitarian supplies that came in. You said that they were not going to where they were supposed to go. Where were they going?

Mr. MULLICK. Well, actually every week, almost, there used to be a frenzy on the distribution lists. That is how the observers were sent out to observe the Oil-for-Food supplies.

The distribution lists were something that the Government of Iraq were preparing and handing over to the United Nations. Based on that, they were using the distribution lists to send out the observers.

My question was, What is happening to the things that are coming in? So I drew a graph that showed the discrepancy between what was arriving and what was being distributed. I did question that, and I did not get an appropriate answer.

Mr. ROHRABACHER. So you had 22 percent of what was coming in not being distributed?

Mr. MULLICK. Up to a certain point, yes. Up to a fourth or a fifth of the supplies that were coming in were not being distributed.

Mr. ROHRABACHER. Okay. Where did it go?

Mr. MULLICK. That was the question that I was raising that our studies, our efforts, our observations should be directed toward those things.

Mr. ROHRABACHER. Do you think that these things could have made their way—instead of to the people who were suffering there in Iraq—could have been used to, for example, bolster Saddam Hussein's army or his military capabilities?

Mr. MULLICK. Definitely. Unless we had investigated and found otherwise, I think there was every reason to believe that they were being stockpiled and being used for the regime's own purposes.

Mr. ROHRABACHER. And was there a chance that Saddam Hussein was making a profit off of these things that were not distributed, meaning perhaps he was selling them to some people or something?

Was there that type of graft going on where the West set up the Oil-for-Food Program and we end up seeing Saddam Hussein selling the food rather than letting his own people have it?

Mr. MULLICK. There were reports that some of the things, especially medicine, from the Oil-for-Food Program were available in other places.

Mr. ROHRABACHER. Well, let me ask you this. There in your operation in Baghdad was the U.N. operation clean of Iraqi, and I say Iraqi, but Saddam Hussein's infiltrators? Was his intelligence system penetrating your operation to break down the integrity of the operation?

Mr. MULLICK. I had strong objections to some of the local staff looking at sensitive issues as end use reports, and the end use list that was being sent over by Cotecna was being handled by the local staff.

It was common knowledge that these individuals were well-connected, and definitely I would say that, yes, a lot of Saddam—

Mr. ROHRABACHER. Let me ask you this. Was your staff inappropriately influenced, or was it actually penetrated where there were some people working in your office that should not have been there because they had ties to Saddam Hussein?

Mr. MULLICK. Well, I would say that with some sensitive items like end use observations, the purpose of observation would be killed if the Government of Iraq knew ahead of time what was going to be observed, especially with the end use Oil-for-Food supplies. Knowing the individuals that were handling it, I think that might have happened.

Mr. ROHRABACHER. All right. You think it might have happened because there is a huge chunk, a little black hole in the chart that you cannot explain, and obviously the people who are supposed to get it are not getting it, so someone is. You have to say well, let us explain this or let us try to correct it.

When you pointed that out to your superiors, as you explained, they began demoting you as you began to bring that up. Why do you think your superiors did that? Were they unduly influenced by the Iraqi regime, or were they just people who were bureaucratically inclined toward looking at anyone who causes them to have to do more work to be the enemy?

Mr. MULLICK. I think once I was in New York and I did contact the United Nations office there, the silence there was even more mysterious for me than what was going on in Baghdad.

In Baghdad I could have imagined it was because of the mismanagement. It might have been because of the lack of interest in

the program itself, in implementing the program. But the silence in New York does point to something that is being—someone that is trying to hide some information here.

Mr. ROHRABACHER. Can you tell me maybe, just to be more specific, what specific kinds of goods were a part of this hole, this 20 percent or 25 percent hole in the operation? What kinds of goods were not being distributed?

Mr. MULLICK. There was a good mix, but a lot of motor vehicles, trucks, things like that where you could see them on the streets, but they were not deported and distributed.

Mr. ROHRABACHER. Trucks?

Mr. MULLICK. Pick-up trucks, smaller vehicles

Mr. ROHRABACHER. Trucks. I thought you were going to say cotton swabs or hospital medicine. Trucks? All right.

By the way, the trucks have not been delivered, and you cannot help but notice that a couple of these trucks are driving around every day. You are telling that to your local superiors in Baghdad, and they are not paying any attention to you I guess. That must have been very disheartening.

Mr. MULLICK. It sure was.

Mr. ROHRABACHER. My gosh. I am glad I asked that question.

The U.N. officials that did not answer back at headquarters back in New York, how high did you go with your complaints? How high do you know that the complaints were actually heard?

You actually gave your report. You tried to get people's attention. At what point do you really know that they heard that and ignored it? At what level?

Mr. MULLICK. I started out with the Department of Peacekeeping Operations, the department that had originally hired me, and then I moved all the way up to the Internal Oversight Department that is responsible for these kind of oversights. To this day I have not heard from any of the U.N. officials.

Mr. ROHRABACHER. Okay. When you say we are talking about at least 20 percent that you claim or are suggesting that you were involved in the program that you did not see was distributed or what should have been distributed, how much are we talking about?

We know we are talking about things like trucks and things like that. These are valuable pieces of equipment here. How much is not accounted for in terms of what was distributed?

Mr. MULLICK. Well, I would say by the end of phase 10 we had spent almost \$20 billion worth of things that had already come in, and I would say about \$4 billion worth of goods were being stockpiled.

Mr. ROHRABACHER. Okay. So there was \$20 billion that when you were there was coming into this—

Mr. MULLICK. The 59 percent account. I am talking about the main account.

Mr. ROHRABACHER. The main account for the Oil-for-Food Program. Okay.

Mr. MULLICK. Right.

Mr. ROHRABACHER. Of that \$20 billion, you are telling us that there was \$4 billion, maybe even \$5 billion, but \$4 or \$5 billion that just was unaccounted for. That is over how many years?

Mr. MULLICK. That is up through phase 10. That would be 5 years.

Mr. ROHRABACHER. Okay. So that is 5 years. We are not talking about \$5 billion every year. We are talking about \$1 billion a year for 5 years.

Mr. MULLICK. That is right. That is right.

Mr. ROHRABACHER. Okay. So we are talking about a perhaps \$5 billion loss over a 4- or 5-year period. That is not a small sum.

Of course, Iraq is not a huge country, and \$1 billion worth of goods is quite visible, is it not, and hard to miss that those goods were supposed to be accounted for and were not and are showing up around you. Is that right?

Mr. MULLICK. That is right.

Mr. ROHRABACHER. Well, let me just note from what our witness is saying is what we have is blatant corruption. Blatant and visible corruption that was ignored by the U.N. officials on the scene. Even worse, was covered up by the U.N. officials on the scene by trying to retaliate against an honest employee who was bringing up the details to try to correct the situation.

Making matters worse, when you went to the leadership at the United Nations headquarters there was no response. Let us say the actions that were taken against you in retaliation for being honest were tacitly affirmed by the leadership of the United Nations.

That \$1 billion a year represents, and let me note what we are talking about here. This is \$1 billion a year that is not accounted for that disappeared from this Oil-for-Food Program. These are goods that were humanitarian aimed goods that were supposed to be there to make sure that the people of Iraq did not suffer as an unintended consequence of our attempts to make sure that Saddam Hussein was not replenishing his military at that time.

Let me note that I remember over and over and over again various interest groups in this country claiming that the United States was intentionally engaged in starving little children. You put that claim parallel to the testimony that we hear today, that the United Nations was permitting \$1 billion a year minimum just going right down the black hole, not being used to help those children whatsoever, perhaps being used to bolster Saddam Hussein's regime. This is a travesty.

The fact that the U.N. officials on the scene did not look at it as such is even more of a condemnation of the United Nations. We remember the speeches at the United Nations of people claiming that the United States and the West was responsible for starving those children, and here we go that those U.N. officials were not even able to act or willing to act to see that that money was going where it was intended to go to help those people with their humanitarian needs.

Dr. Mullick, I appreciate your testimony. Again, I have been very laudatory of you today. I am a former journalist. The fact is that when we have freedom of press we rely on courageous citizens like yourself to get the word out so that journalists can then spread the word to the American people and other peoples of the free world to try to correct bad situations.

It is just too bad that you have bureaucracies that whether it is an intentional thing or whether it is an unintentional just bureau-

cratic practice or whether we are talking about corruption within the system, it just cannot be tolerated.

You have helped us identify this. We thank you very much. There is a lot of explaining on your case alone that the United Nations needs to do. It is our contention that there is a culture at the U.N. that needs to be changed. It is the culture.

Any culture that would have someone like yourself step forward with what you have told us today and say \$1 billion a year that should be going to humanitarian aid is being diverted in Iraq, and then instead of trying to help correct the situation, demoting the person who is making the complaint, any organization like that has a real problem in terms of their attitude and their culture, and we expect to see that that is changed, and that is what these hearings are all about.

I thank you very much for your contributions to this effort, and I appreciate all the witnesses we have had today. This has been very enlightening.

If you have any further trouble, especially if there is any retaliation for you coming here, you call my office and we will be much more responsive than your friends up in New York were.

Mr. MULLICK. Thank you, Mr. Chairman.

Mr. ROHRABACHER. Finally, yes. That means I have to be closing this up. I want to thank all the witnesses. I thank Dr. Mullick in particular.

We were going to be providing some questions to our witnesses and would hope they would answer those in writing, probably to the other two witnesses who were here. We will be submitting questions to them.

With that said, I would like to declare that this meeting is adjourned.

[Whereupon, at 4:48 p.m. the Subcommittee was adjourned.]

