

Statement by Robert Massey
to the United States Senate
Permanent Subcommittee on Investigations
Committee on Homeland Security and Governmental Affairs
February 15, 2005

Mr. Chairman and distinguished Members of the Subcommittee, good morning. My name is Robert Massey. From 1993 to the present, I have been the CEO for Cotecna Inspection S.A. in Geneva, Switzerland. Cotecna served as independent inspection agents for humanitarian goods in the United Nations' Oil-for-Food Program ("UN-OFFP") between February 1, 1999 and November 21, 2003. In that role, Cotecna enabled greatly needed humanitarian goods to reach the Iraqi people when Iraq was under UN trade sanctions. Thank you for this opportunity to address the Subcommittee today and thereby establish for the public record the realities, first, that Cotecna was properly awarded its UN contract, and second, that Cotecna performed its job well and fully in accordance with its mandate .

I will discuss three subjects:

- (1) the big picture context, which limited the scope of work defined in the UN's October 9, 1998 Request for Proposals ("RFP"), Cotecna's 1998 proposal and the UN contract awarded to us as a result;
- (2) the ways in which Cotecna's limited technical role prevented it from knowing personally about any illegal payments, to either UN or Iraqi officials, by suppliers of goods under the OFFP; and
- (3) Cotecna's employment of Kojo Annan, the duties he performed and the fact that he had no role in the procurement of the 1998 UN-OFFP contract.

I will focus on the "big picture," while my colleague André Pruniaux will address operational details and contract performance.

By my testimony today, I will seek to promote a fuller understanding of our limited and technical role as inspectors at the Iraqi borders. It was Cotecna's role confirm the arrival of humanitarian goods under Security Council Resolution 986. This confirmation (known as "authentication") was one of the necessary steps in the process for payment of suppliers. Cotecna did have the power to do its job in the OFFP as designed by the UN, and Cotecna did perform its job well—extraordinarily well, under difficult conditions. It was not our job to verify prices or assess quality as we do in other contexts around the world and as we would have done under a predecessor program in 1992. Also, we did not inspect all goods entering Iraq but only 986 goods voluntarily presented for authentication.

I. BIG PICTURE EVOLUTION OF THE OFFP BETWEEN 1992 AND 1998

To understand the evolution of the program, it is important to bear in mind three years: 1992, 1996 and 1998.

A. 1992

In 1992, Cotecna participated in and won, through a competitive bidding process administered by the United Nations Development Program (“UNDP”), the first international call for tender for a UN program to monitor the purchase of humanitarian goods by the Government of Iraq.¹ The 1992 program, which preceded the creation of the OFFP, would have been implemented under the UN sanctions program existing at that time. The company’s 1992 draft contract, a copy of which is attached to my statement as Appendix B, would have provided for Cotecna to perform three tasks:

- (1) price verification,
- (2) pre-shipment inspection and
- (3) post-landing inspection.²

As embodied in the 1992 draft contract, Cotecna offered to provide “*price verification.*” Under our proposal, the “price verification” would have confirmed whether or not the price of a humanitarian good corresponded within reasonable limits with the export price levels generally prevailing in the country of supply, or where applicable, the world market. The proposed “*preshipment inspection*” would have involved physical inspection of the goods in the country of supply in respect to quantity, quality and labeling. “*Post-landing inspection*” would also have entailed physical inspection of the goods but would have occurred upon arrival at entry point into Iraq; that is, post-landing inspection would have confirmed whether the goods conformed to the quantity, quality and labeling as found during the preshipment inspection. These are the functions that Cotecna believed were necessary to best perform its inspection functions at the Iraqi borders.

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

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 [SA016479-81].

² See Appendix B: 1992 Draft Contract, SA016412-17.

⁴ See Appendix C: “Cotecna’s Authentication Services in Iraq: Partial Glossary.”

B. 1996

In 1996, therefore, Cotecna participated in a new UN international call for tender—this one administered not by the UNDP but by the newly created Office of the Iraq Program (“OIP”), for the authentication of goods imported into Iraq. What is “authentication”? Again, there has been misunderstanding among commentators over this term. Authentication is not a customs or inspection term or function. In fact, it appears as though the UN created the term and the mission specifically for purposes of the OFFP.

Specifically, “authentication” entailed a comparison of the appropriate documentation, such as bills of lading, other shipping documents or cargo manifests, and the approval letters issued by the UN against humanitarian supplies, and parts and equipments for the petroleum industry, actually arriving in Iraq. It also entailed a physical visual inspection of the goods crossing the border. Attached as Appendix C to my statement is a partial glossary explaining Cotecna’s “authentication” services in Iraq by means of such “inspection” terminology as “quality” inspection and “quantity” inspection.⁴ The inspectors were to add their authenticated confirmation of arrival to trigger the process for payment of the supplier.

Cotecna did not begin to authenticate OFFP shipments in 1996, however, because the UN rejected all bids and entered into direct negotiations with a single inspection company. This result naturally disappointed Cotecna, and my father, in his capacity as chairman, wrote to the UN to inquire about the bidding process. The UN did not respond to this letter. Importantly, the 1996 contract had reduced the scope of work contemplated by the UN in 1992, when the independent inspection agents would have played a more robust role, providing price verification and inspection in the exporting country as well as in Iraq. By contrast, the independent inspection agents in 1996 were to provide only “authentication.”

C. 1998

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. The UN’s 1998 RFP designed the inspectors’ mission, again, as authentication rather than price verification, pre-shipment inspection and post-landing inspection. Like the role defined in 1996, Cotecna’s “authenticating” role was limited, technical and unique, devised by the UN specifically for the program. Despite our further suggestions to expand the scope of our work, there were no changes in the scope of our mission.

I can best explain our role by spelling out exactly what Cotecna did and did not do. Fulfilling its contract as part of the overall OFFP sanctions regime, which also provided humanitarian goods to the Iraqi people, Cotecna did:

- (1) compare with the UN database the accompanying documents for the 986 goods crossing the Iraqi borders at specified locations, upon voluntary presentation by the transporters;

- (2) physically visually inspect 100% of these goods (and more intrusively examine a 10% random selection) to verify what they were; and
- (3) by means of laboratory testing, assess whether 100% of foodstuff was “fit for human consumption” (a term again coined by the UN specifically for the program).

Cotecna did not:

- (4) verify that the foodstuff shipped was of the grade contracted;
- (5) assess the value of goods shipped;
- (6) interdict prohibited goods outside of the OFFP;
- (7) perform any task with respect to goods not voluntarily presented to Cotecna by transporters (including at times 13% account goods—i.e., UN Agency Goods); or
- (8) 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.

My colleague, André Pruniaux, will speak in more detail about the performance of Cotecna’s role authenticating humanitarian goods and the difficulties surrounding it.

II. LIMITED, TECHNICAL ROLE

The second main topic of my testimony concerns the ways in which Cotecna’s limited technical role prevented it from knowing personally about any illegal payments, to either UN or Iraqi officials, by suppliers of goods under the OFFP.

A. Ambiguities in Cotecna’s Mission

Before I proceed, allow me to highlight three ambiguities in Cotecna’s complex mission—to explain certain confusions that have plagued public perception of Cotecna’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.” Cotecna analyzed the foodstuff for radioactivity, heavy metals, microbes and pesticides.

However, inspectors were not to verify that foodstuff was of the grade contracted—for example, “Grade A.” Again, the “fit for human consumption” assessment was developed for and specific to the OFFP.

Second, while the UN’s 1998 RFP and contract were vague as to Cotecna’s mandate in inspecting goods, Cotecna insisted in visually inspecting 100% of shipments that it authenticated, using random detailed examination of up to 10% of the goods in each shipment. Cotecna also laboratory-tested all foodstuffs for fitness for human consumption in its laboratories in Jordan and Turkey.

Third, in support of the overall OFFP “objective,” the 1998 contract has Cotecna provide services, equipment and materials enabling an unnamed party to verify and confirm that the “value” of the goods met the requirements of the 661 Committee.⁶ The same contract’s description of Cotecna’s “scope of work,” however, does not provide for Cotecna itself to determine the goods’ “value.”⁷ Indeed, as stated in the Independent Inquiry Committee’s (“IIC”) February 3, 2005 Interim Report, the OIP-NY, 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, the role that Cotecna inherited had design flaws.

B. Efforts to Expand or at least Clarify Cotecna’s Role

While “authentication” was thus not mere rubber stamping, Cotecna after 1998 proposed to UNOIP to expand Cotecna’s scope of work, both to fill perceived gaps in the system and to let Cotecna pursue the business opportunity presented to provide more extensive services. 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, Cotecna proposed to broaden the scope of work at least twice to include, among other things, 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 scanner activities (specifically, presenting a CD-ROM of Cotecna’s 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 because UNOIP saw itself as responsible for assessing contract value. Thus, it did not see the necessity for Cotecna to perform price verification. Additionally, UNOIP believed that any price analysis by the independent inspection agents would risk embroiling them in commercial disputes between suppliers and the Iraqi government.

⁶ See Contract PD/CON/324/98, Art. 3, SA006503.

⁷ See Contract PD/CON/324/98, Art. 4.3, SA006504.

Even if we accept the OFFP's design at face value, though, the UN drafted the 1998 contract imprecisely. 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. To name just a few ways in which communications between UNOIP and Cotecna clarified our 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. Cotecna has, from the beginning of this investigation, provided documentation substantiating such points.

C. Cotecna's Inability to Detect Illegal Payments by Suppliers

Mr. Chairman and distinguished Members, your kind invitation to testify asks me to describe my personal knowledge, or my company's knowledge, if any, of illegal payments by suppliers to either UN, Cotecna or Iraqi officials. Let me state unequivocally: I and my company have no knowledge of any such payments to anyone. As I have elaborated in my testimony, we as inspectors with a limited and technical role were not in a position to have such knowledge.

III. EMPLOYMENT OF KOJO ANNAN

The third and final portion of my testimony today addresses our employment of Kojo Annan, his duties and the fact that he played no role whatsoever in helping Cotecna obtain the UN contract. Indeed, Kojo Annan's work for Cotecna had nothing to do with the OFFP. He worked on African business exclusively. I would ask you, therefore, to view our relationship with Kojo Annan in its correct and African context.

A. The Nigerian Business Context

In order to better understand Kojo Annan's work at Cotecna, we are providing a timeline captioned "Business Environment in Nigeria and Ghana," which places his work in its proper context—West Africa.⁸ I would highlight the following events, in particular.

⁸ See Appendix D: "Business Environment in Nigeria and Ghana."

Cotecna won its first government pre-shipment inspection contract with Nigeria in 1984. The Nigeria business has since then been either the most important contract or one of the most important contracts for us. Cotecna hired Kojo Annan in 1995 to work in Lagos, Nigeria on pre-shipment inspection and, later, as a junior liaison officer, on African business development. In April 1997, the Nigerian administration terminated Cotecna's contract. As a result, Cotecna significantly downsized its Nigerian operations in Lagos, where Kojo Annan was employed. Since there was no position for Kojo Annan in Lagos, we offered him another position in Niamey, Niger. Kojo Annan declined this offer and resigned from Cotecna in December 1997 to pursue other interests.

Because of his value in marketing in Nigeria and Ghana, Cotecna offered Kojo Annan a ten-month consultancy agreement in March 1998. He accepted. In that capacity, he covered a Non-Aligned Movement ("NAM") meeting in Durban, South Africa in late summer 1998. He also was in New York during the UN General Assembly meeting in the fall of 1998 to develop Cotecna's relationships with the African leaders likely to attend the activities at these meetings. I can assure you that in his capacity as a consultant to Cotecna, Kojo Annan covered these meetings not to market the UN itself but to pursue contacts with African delegates and their associates attending these events.

Around the same time, in October 1998, I sought to limit the activities of Kojo Annan pursuant to his consultancy agreement. Because I did not consider continuing the existing remuneration structure to be cost effective, I allowed Kojo Annan's consultancy agreement with Cotecna to expire by its own terms at the end of 1998.

On January 11, 1999, Cotecna sought to extend and make enforceable the non-compete clause of Kojo Annan's consultancy agreement in order to prevent him from offering his business contacts and any proprietary business information to competitors at a time when Cotecna was actively pursuing important inspection contracts in both Nigeria and Ghana. To enforce the non-compete clause under Swiss law, Cotecna was advised that it had to pay reasonable compensation to Kojo Annan. Cotecna did not regain the Nigeria pre-shipment inspection contract until June 1999. Cotecna also concluded a Destination Inspection contract with the Government of Ghana in 1999. From 2000 until present, Cotecna has been engaged in negotiations also to provide Nigeria with Destination Inspection services requiring a substantial investment for new technologies. This highlights why Kojo Annan's non-compete agreement continued to be important.

Cotecna has previously produced, for this Subcommittee, documents maintained by Cotecna in Geneva Switzerland and Lagos, Nigeria, in connection with work performed for Cotecna by Kojo Annan. Kojo Annan was not involved in Cotecna business outside of Africa.

B. Timing of the UN's 1998 RFP

There has been press speculation about the timing of the UN's RFP in 1998 and Cotecna's relationship with Kojo Annan and the question as to whether this relationship

influenced the OFFP tender process. This could not have been the case, as Kojo's work for Cotecna was restricted to Africa-related projects alone.

As one of the few qualified inspection companies worldwide, Cotecna learned of the UN's October 9, 1998 RFP as per standard procurement procedures. Further, Cotecna had in the past won UN projects, was an approved vendor, had won the 1992 bid and had been invited to bid again in 1996. In 1998, the UN faxed the RFP to various inspection companies, including Cotecna, which received the RFP through its Reston, Virginia office (since closed). The RFP was then forwarded to Cotecna in Geneva for the preparation of the bid by the most appropriate team, which did not include Kojo Annan. Before this time, no one from the UN had specifically informed Cotecna that the contract would be up for tender, although as part of general business development and the previous requests for tender, we retained an interest in the project and inquired periodically about the possibility of bidding for subsequent phases.

During contract negotiations, neither I nor any other Cotecna employee mentioned to anyone at the UN that Cotecna had employed Kojo Annan. Mr. Annan's employment in Nigeria did not relate to contract negotiations for technical services outside of the African market. Moreover, mentioning Mr. Annan seemed irrelevant.

Finally, I note a paradox: Some people might fault Cotecna for having *not* mentioned Kojo Annan's employment during the RFP process. If Cotecna *had* mentioned Kojo Annan's employment, however, the same people would probably condemn us for that. Meanwhile, to suggest that Cotecna should have either fired Kojo Annan or not bid on the UN's 1998 RFP would perpetrate an injustice on him or on the 4,000 other employees who depended on the company's survival.

To the best of our knowledge, Cotecna was awarded the contract in 1998 on the basis of our proposal, which offered the most cost-effective solution, technical expertise and experience in harsh working conditions.

IV. CONCLUSION

In conclusion:

- (1) the inspection mission in the UN humanitarian programs for Iraq changed between 1992 and 1998;
- (2) Cotecna's limited technical role would not place it in a position to detect illegal payments; and
- (3) Cotecna's employment of Kojo Annan had nothing to do with Iraq and everything to do with West Africa.

Thank you for this opportunity to shed light on these important subjects.

Appendix A

1992 11:45

212.905 6654

UNDP/OPS

United Nations
Development Programme

Office for Project Services



World Development

Facsimile Feb 1992

Attachment No. 1

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/91/331

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.

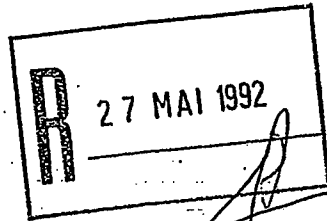
UNDP/OPS is now awaiting the green light from the United Nations in order to proceed with the activities. However, in view of the need for readiness for the start-up of operations, I would appreciate your contacting Mr. Jorge Claro of this office soonest. UNDP/OPS would like to finalize the detailed 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,

[Signature]
Daan Everts
Assistant Administrator
and Director, UNDP/OPS

SA016479



18 May 1992

(Attachment No. 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

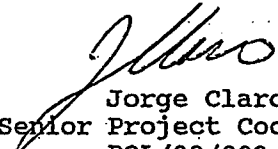




Office for Project Services

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

SA016481

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 58, rue de la Terrassière, 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 8, 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 19, 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 Finding.

(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

BUSINESS ENVIRONMENT IN NIGERIA AND GHANA

1974	Cotecna established to perform private commercial inspections
1984	Cotecna bids on its first Pre-Shipment inspection ("PSI") with the Government of Nigeria
Sept. 1984	Cotecna wins Nigerian PSI contract
1988	Cotecna signs its second PSI contract with Kenya
Early 1994	SGS buys majority shares of Cotecna
July 1995	Kojo Annan's CV presented to Cotecna
Sept. 1995	Cotecna confirms that Kojo Annan would begin PSI training in its UK offices on Oct. 9, 1995
Dec. 1995	Employment contract as Junior Liaison officer in Lagos Nigeria with Kojo Annan executed for 3-6 months with possible extensions. Duties to include the operations and development of the activities of Cotecna's Lagos Liaison office. Responsible for day to day operations, reporting to the Chief Liaison Officer and Liaison Officer
Jan. 15, 1997	Kojo Annan promoted from Junior Liaison officer to Assistant Liaison Officer in Lagos
Feb. 1997	Effective March 10, 1997, Kojo Annan to assume the position of Assistant Manager Marketing in Lagos for the Nigerian PSI contract
April 1997	Nigerian Government directs Cotecna to stop its activities in the frame of the Nigeria PSI contract
April-Aug 1997	Cotecna phases out its PSI operations in Nigeria
Oct 1997	Massey family buys back 100% of Cotecna from SGS
Late 1997	Cotecna seeks to build bridges with Nigerian Government to regain PSI business
Dec. 1997	Kojo Annan submits his resignation as employee effective Dec. 31, 1997
Dec. 18 1997	Letter from Cotecna confirming Kojo Annan's contract terminated effective Feb. 28, 1998

March 1998	Consultancy Agreement with Kojo Annan, effective for 10 months
December 1998 / January 1999	End of Kojo Annan consultancy agreement. Kojo Annan signs a non-compete agreement
June 1999	Cotecna resumes its Nigeria PSI contract
1999	Cotecna introduces X-ray scanners and Destination Inspection ("DI") Program in Ghana
2001	Nigeria copies Ghana DI program
May 9, 2001	Nigerian issues RFP for Provision, Installation and Operation Management of X-Ray Scanning Equipment and Risk Management for Nigerian Customs
July 5, 2001	Cotecna's bid to Nigerian Government presented
June 2002	Cotecna's second bid to Nigerian Government
Jan. 2003	Cotecna's third bid to Nigerian Government
Feb. 25, 2003	Nigeria awards Cotecna contract for Provision, Installation and Operation, Management of X-Ray Scanning Equipment and Risk Management for Nigerian Customs
June 26, 2003	Agreement between Federal Republic of Nigeria and Cotecna signed
March 2004	Last payment to Kojo Annan under non-compete
July 30, 2004	Cotecna officially informed of a new RFP issued by the Nigerian government within the framework of the existing contract in order to allow additional companies to operate
Sept. 29, 2004	Cotecna's preliminary response to the Request for Proposals (RFP), making recommendations with continued operation with additional operators
Present	Awaiting decision from Federal Republic of Nigeria to decide on additional operators.