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Culture of Inaction

The United Nations' Response to the
Manipulation of the Oil-For-Food Programme

Master's thesis in History - five year lector programme
Supervisor: Espen Storti
Trondheim, May 2016

Master's thesis

NTNU
Norwegian University of Science and Technology
Faculty of Humanities
Department of Historical Studies



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Preface

It is with mixed feelings that I am concluding this Master's Thesis on the United Nations response to the Oil-For-Food Programme. First of all, it is a wonderful feeling to finally put the finishing touches on my very own historical product and being able to call myself a history teacher. It has been months of hard work and I can honestly say that I am proud of what I have written. However, finishing this thesis also means that my five years as a student in Trondheim has come to an end. It has been five incredible years filled with new experiences, fantastic people and tons of fun. Now begins a new chapter in my life.

There have been several people who have helped me on the way to finishing my Master's Thesis. I would especially like to thank my supervisor Espen Storli for everything he has done in assisting me in my research. There have been periods where I faced obstacles in my work that made me both downtrodden and frustrated. However, Espen has always helped me keeping a positive outlook on my research and I have never walked out of his office feeling worse than when I entered. I know that for many students, it is the other way. I would also like to thank everyone who has participated in the seminars Espen arranged and for the feedback you gave me on chapter 4.

I would like to thank Mark Califano and Michael Soussan for being responsive and more than willing to assist me in my research. Their contribution has been invaluable for my thesis and for that, I am ever grateful. I would also give a big thank you to Emily Bolton and the Volcker Alliance for their help in getting me in contact with Mark Califano. Amanda Leinberger and the staff at the United Nations Archives also deserves appreciation for assisting me in my research.

Finally, I would like to thank the students at the lector programme at NTNU, the lovely people at "Studentersamfundet," my fellow students at study hall 6393 and all my friends in Trondheim who have made the past five years the best of my life.

Erik Søgård

Trondheim, May 15 2016.

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List of Abbreviations

CPMD	Contract Processing and Monitoring Division of the Office of the Iraq Programme
DHA	Department of Humanitarian Affairs
DPA	United Nations Department of Political Affairs
EOSG	Executive Office of the Secretary-General
IAEA	International Atomic Energy Agency
IIC	Independent Inquiry Committee into the United Nations Oil-For-Food Programme
NGO	Non-governmental organization
PMD	Programme Management Division of the Office of the Iraq Programme
OCHA	Office of the Coordinator of Humanitarian Affairs
OFFP	Oil-For-Food Programme
OIP	Office of the Iraq Programme
SOMO	State Oil Marketing Organization of Iraq
UNA	United Nations Archives
UNICEF	United Nations Children's Emergency Foundation
UNMOVIC	United Nations Monitoring, Verification and Inspections Commission
UNOHCI	United Nations Office of the Humanitarian Coordinator
UNSCOM	United Nations Special Commissio

Chapter 1: Introduction

1.1 Topic and thesis question

On September 7 2005, Paul Volcker presented the United Nations Security Council with the definitive report from the Independent Inquiry Committee into the United Nations Oil-For-Food Programme. The Independent Inquiry Committee (IIC) had been tasked with investigating the allegations of fraud and corruption in the Oil-For-Food Programme (OFFP) that had been raised in the media after the fall of the Ba'athist regime in Iraq. The Oil-For-Food Programme was a humanitarian relief operation that had been implemented in 1996 to avert the humanitarian crisis in Iraq caused by the international sanctions imposed on the country following its invasion of Kuwait in 1990. In an effort to force President Saddam Hussein to comply with the Security Council resolutions, the sanctions prohibited almost all forms of trade relations with Iraq. Saddam, however, did not give in to UN pressure which caused the sanctions to remain and the standard of living for the civilian population of Iraq to deteriorate. In order to prevent an escalation of the humanitarian crisis while keeping the sanctions regime in place, the Security Council adopted the Oil-For-Food Programme. The Programme permitted Iraq to sell oil on the international market and to use that money to purchase food, medicine and other civilian goods.

The Oil-For-Food Programme would endure for the remainder of Saddam's time as President of Iraq. While noble in its intentions, the Programme would be tarnished by the corruption and fraud that permeated its operations. As the IIC revealed in their reports, Saddam had no difficulties manipulating the Programme to his regime's benefits, and the UN Secretariat and the Security Council were, for the most part, incapable of taking the necessary measures to stop the corruption. Through surcharges on oil allocation and kickbacks on humanitarian contracts, Saddam was able to earn more than \$1.8 billion in illicit income.

The investigation revealed that almost all companies involved in the Programme made some form of illegal transaction with Iraq. Even more shocking, corruption also reached the top of the UN bureaucracy. The Programme's administrator, Benon Sevan was found to have compromised his position by accepting bribes for directing oil allocation to his associates' trading firm. Even the two Secretary-Generals who served while the Programme was active were suspected, albeit found not guilty, of being involved in corrupt activity. The Oil-For-Food Scandal, as it came to be known, was extremely damaging to the United Nations' credibility as a responsible intergovernmental organ.

In addition to showing the apparent nonchalant compliance by individuals and companies to engage in corrupt activity, the IIC-reports also exposed the ineffectiveness of the Security Council and the UN Secretariat in enforcing the Programme rules and combating the corruption scheme. The investigation revealed that both the Security Council and the Secretariat were fully aware that companies were paying illegal surcharges and kickbacks to Iraq. Despite knowing that these payments were a violation of the sanctions regime and having the authority to stop them, both the Security Council and the Secretariat did little to crack down on the manipulation. The Security Council was able to force Iraq to end their surcharge policy on oil allocations in 2002. The kickback scheme however, went unchecked throughout the remainder of the Programme.

It is surprising that both the Security Council and the Secretariat remained relatively passive when reports of the kickback scheme were presented to them. The purpose of this thesis is therefore to discuss why they failed to stop Iraq from extracting kickbacks on humanitarian contracts. The Security Council and the Secretariat had the authority to reject any contract they pleased and they exercised that right several times, but never for contracts that were suspected of involving kickbacks. Due to the number of complaints and media reports concerning the kickback scheme, the organs responsible cannot claim to have been unaware of the issue. To understand why they remained inactive, we have to understand how the organs operated, what their responsibilities were and what influenced them not to take action. It is also important to discuss the potential consequences of taking action against the kickback scheme. The Programme was designed to save the lives of the civilian population of Iraq and a stop in programme operations carried the risk of potential human loss. Previous research has only briefly discussed how humanitarian concerns contributed to allowing the kickback scheme to continue. This humanitarian factor is therefore given significant attention in my Master's Thesis.

The United Nations and the Government of Iraq agreed to the terms of the Oil-For-Food Programme on May 20 1996 and the Programme was terminated following the United States' invasion of Iraq in 2003. This a natural beginning and end of the thesis. However, the sanctions were imposed in 1990 and the design for an oil for food exchange programme was proposed as early as 1991. Negotiations between the UN and Iraq also took place months before the agreement. Although my thesis does not deal directly with the negotiations of the Programme guidelines, the period from the imposition of the sanctions regime to the implementation of the Oil-For-Food Programme will be included in the background chapter.¹

1.2 Previous research

Since the Oil-For-Food Programme is a relatively recent historical topic and the Independent Inquiry Committee concluded their work only ten and a half years ago, the historiography on the subject is fairly limited. However, there has been written a few works on the subject. The principal work on the Programme is the five reports from the Independent Inquiry Committee, and I have used these, especially the final two, extensively in my research. The reports are written by the chairman of the Committee, Paul Volcker and members Mark Pieth and Richard J. Goldstone. The first report gives an overview of the evolution of the Programme and shows how Benon Sevan compromised his position by engaging in corrupt activity.² The second report addresses allegations of conflict of interests against Secretary-General Kofi Annan. The Programme awarded an inspection contract to a Swiss firm called Cotecna, which had previously employed Annan's son, Kojo.³ The third report further examines the actions of Benon Sevan along with former procurement officer, Alexander Yakovlev. The report accuses them both of corruption and explains how they took advantage of their positions in order to benefit economically from the Programme by soliciting or accepting bribes.⁴ The fourth report, also known as the *Manipulation Report*, reveals how the Iraq regime was able to manipulate the Programme and earn over \$1.8 billion in illicit income. The report also

¹ Chapter 2: The Design & Purpose of the Oil-For-Food Programme.

² Richard J Goldstone Paul A Volcker, Mark Pieth, 'Interim Report', in *UN Documents and Publications* (New York: United Nations, 2005).

³ Richard J Goldstone Paul A Volcker, Mark Pieth, 'Second Interim Report', in *UN Documents and Publications* (New York: United Nations, 2005).

⁴ Richard J Goldstone Paul A Volcker, Mark Pieth, 'Third Interim Report', in *UN Documents and Publications* (New York: United Nations, 2005).

examines the actions of a number of companies who did business under the Programme, the majority of which paid some form of illegal fee to Iraq. It also discusses a potential conflict of interest in the selection of the bank BNP⁵ as the holder of the Programme's escrow account as well as an analysis of former Secretary-General Boutros Boutros-Ghali's bank account. The Iraqis attempted to bribe the former Secretary-General during the negotiations of the Programme; however, there is no evidence that Boutros-Ghali accepted the bribes.⁶ The fifth and final report is split into four different volumes. The first volume is the report on the work of the IIC with its recommendations for how the UN could prevent such a scandal in the future.⁷ The second, third and fourth volume examines the role of the Security Council and the UN Secretariat respectively and how they responded to the sanctions violations.⁸

The reports are also the basis for the principal book on the subject, *Good Intentions Corrupted: The Oil-For-Food Scandal and the Threat to the U.N.*⁹ The book is written by two members of the IIC, Senior Counsel, Jeffrey A. Meyer and Chief Legal Counsel, Mark G. Califano, with an introduction by Paul Volcker himself. Overall, the book is a condensed version of the reports with some variations and additions. As with the reports, the book is highly critical of how the UN managed the operation of the Oil-For-Food Programme and suggests comprehensive reforms to the UN in order to prevent mismanagement of similar programmes in the future. Another book that deals primarily with the Oil-For-Food Programme is Michael Soussan's autobiography *Backstabbing For Beginners: My Crash Course in International Diplomacy*.¹⁰ Soussan worked as Coordination Officer in the Office of the Iraq Programme (OIP), the department responsible for managing the Oil-For-Food Programme. Soussan's book gives the reader an inside-look into the management culture of

⁵ Banque Nationale de Paris

⁶ Richard J Goldstone, Paul A Volcker & Mark Pieth, 'Manipulation of the Oil-for-Food Programme by the Iraqi Regime', in *UN Documents and Publications* (New York: United Nations, 2005).

⁷ Richard J Goldstone Paul A Volcker, Mark Pieth, 'The Management of the United Nations Oil-for-Food Programme: Volume I - Report of the Committee', in *UN Documents and Publications* (New York: United Nations, 2005).

⁸ Richard J Goldstone Paul A Volcker, Mark Pieth, 'The Management of the United Nations Oil-for-Food Programme: Volume II - Report of Investigation: Programme Background', in *UN Documents and Publications* (New York: United Nations, 2005).

Richard J Goldstone, Paul A Volcker & Mark Pieth, 'The Management of the Oil-For-Food Programme: Volume III – Report of Investigation: United Nations Administration, Part 1', in *UN Documents and Publications* (New York: United Nations, 2005).

Richard J Goldstone, Paul A Volcker & Mark Pieth, 'The Management of the Oil-For-Food Programme: Volume IV – Report of Investigation: United Nations Administration, Part 2', in *UN Documents and Publications* (New York: United Nations, 2005).

⁹ Jeffrey A. Meyer, Mark G. Califano, and Paul A. Volcker, *Good Intentions Corrupted : The Oil-for-Food Program and the Threat to the U.N* (New York: PublicAffairs, 2006).

¹⁰ Michael Soussan, *Backstabbing for Beginners: My Crash Course in International Diplomacy* (New York: New York: Nation Books, 2008).

the UN and how it contributed to the failure of the Programme. The book also highlights how the OIP received warnings of inappropriate behaviour in the Programme-operations, but failed to address them sufficiently. Hans von Sponeck who served as UN Humanitarian Coordinator in Iraq has also published a book describing his experiences called *A Different Kind of War: The UN Sanctions Regime in Iraq*.¹¹ Although the book gives great insight and information on the Oil-For-Food Programme, it primarily deals with the Programme's operations on the ground level and the difficulties the Programme had in satisfying the needs of the Iraqi population. In addition to sharing his frustration while working as Humanitarian Coordinator, von Sponeck is also highly critical of sanctions regime and especially the role the United Kingdom and the United States had in maintaining it. Another biography that mentions the Programme briefly is Kofi Annan's *A Life in War and Peace*.¹² Like others, Annan is critical of how the Programme was managed by the UN and how easily Iraq was able to extract illicit payments. Annan, however, goes a long way in distancing himself from the Programme's day-to-day operations.

The Oil-For-Food Programme has also been discussed in academic journals. Most of it suggesting reforms the United Nations needs to implement to prevent similar scandals in the future.¹³ However, Joy Gordon provides an interesting defence of the United Nations Secretariat in her article *When Unilateralism Is Invisible: A Different Perspective on the Oil-For Food Scandal*. She claims that the Secretariat was only responsible for the implementation of the Programme and there was little room for decision-making on the Secretariat's behalf. She also criticises the IIC-reports for insufficiently addressing the fact that the Oil-For-Food Programme was the product of a political process by the permanent members of the Security Council and that the Secretariat had no power to override the structures that were put in place.¹⁴

For background information on the sanctions regime and relations between Iraq, the Security Council and the UN, I have also included *Iraq: The Human Cost of History* by Tareq

¹¹ Hans von Sponeck, *A Different Kind of War: The UN Sanctions Regime in Iraq*, (Oxford: Berghahn Books, 2006)

¹² Kofi A. Annan, Nader Mousavizadeh & Kjell Olaf Jensen, *I Krig for Fred*, (Oslo: Aschehoug, 2012).

¹³ Example: Susan A. Notar, 'The Oil-for-food Program and the Need for Oversight Entities to Monitor UN Sanctions Regimes', in *Proceedings of the Annual Meeting (American Society of International Law)* Vol. 101. (Washington: American Society of International Law, 2007).

¹⁴ Gordon, Joy, "When Unilateralism Is Invisible: A Different Perspective on the Oil-for-food Scandal" in *Global Governance* Vol. 13, No. 1, (Boulder: Lynne Rienner Publishers, 2007).

Ismael and William Haddad¹⁵ *Sanctioning Saddam* by Sarah Graham-Brown¹⁶ and *Channels of Power: The UN Security Council and U.S. Statecraft in Iraq* by Alexander Thompson.¹⁷ Both *Iraq: The Human Cost of History* and *Sanctioning Saddam* were published before the manipulation of the Oil-For-Food Programme was publically known. This brings an interesting perspective on the contemporary view of both the sanctions regime and the Programme. Additionally, Ismael and Haddad have a far more critical view on the sanctions and the United States and the United Kingdom's actions in the Security Council and are more sympathetic towards the Government of Iraq than other works on the topic. The book also heavily documents how the sanctions contributed to the humanitarian crisis in Iraq. For more data on the humanitarian situation in Iraq, I have used a UNICEF-report on health and nutrition in Iraq from 2003 by Richard Garfield and Juan Diaz.¹⁸ I have also consulted a report from the New York-based non-governmental organization (NGO): Center of Economic and Social Rights (CESR) from 1996. This report evaluates the legality of the international sanctions in relation to the Human Rights Agreement and the Geneva Convention.¹⁹

Because of the relatively limited previous research on the subject, it is not only important to discuss what has been written, but also what has *not* been written. All of the works on the Oil-For-Food Programme has been written by Western authors and from the perspective of the United Nations Secretariat or the Security Council. There is a clear lack of research on the subject from the Government of Iraq's point of view. Several Iraqi ministers were interviewed by the IIC and the reports is therefore the closest we get to see the Programme from Iraq's perspective. There is also a lack of input from the perspective of Russia and China. Their representatives, both individuals and companies, were largely uncooperative with the IIC-investigation, often denying any wrongdoings and refusing to answer questions. There has also not been written much about how the numerous companies experienced doing business under the Programme with the Government of Iraq. Although many companies refused to cooperate with the investigation and often denied to have paid surcharges or kickbacks to the Iraqi regime, some did explain their actions to the IIC. Overall, research on the Oil-For-Food Programme from the perspective of other actors than the

¹⁵ William W. Haddad and Tareq Y. Ismael, *Iraq : The Human Cost of History* (London: Pluto, 2003),

¹⁶ Sarah Graham-Brown, *Sanctioning Saddam: The Politics of Intervention in Iraq*, (New York: I.B. Tauris & Co Ltd, 1999)

¹⁷ Alexander Thompson, *Channels of Power: The UN Security Council and U.S. Statecraft in Iraq*, (Ithaca: Cornell University Press, 2009)

¹⁸ Richard Garfield, Juan Diaz, 'Health and Nutrition', in *Iraq Watching Briefs* (New York: UNICEF, 2003).

¹⁹ Center for Economic and Social Rights, *UNsanctioned Suffering: A Human Rights Assessment of United Nations Sanctions of Iraq*, (1996),

Security Council and the United Nations would be highly valuable to get a better understanding of the topic.

1.3 Source material

Because the Oil-For-Food Programme is a relatively recent topic, much of the relevant archive material is strictly classified and not available to the public. Therefore, I have used different categories of sources in my research. For the thesis, I have used interviews, newspaper articles, investigation reports and published material to complement the archive records that were available to me.

The records that were disclosed to the public were found in Kofi Annan's holdings in the United Nations Archives (UNA) in New York. Although the Oil-For-Food Programme was implemented under his predecessor, Boutros Boutros-Ghali, the first "phase" of oil shipments and humanitarian imports was not initiated until just before Annan assumed office in 1997. From Kofi Annan's holdings, the records that were most interesting for my research were located in the *Intra-Organisational Relations*-series. This series contained the correspondences between the Executive Office of the Secretary-General (EOSG) and the many departments in the United Nations Secretariat. This included almost all of the departments involved in the Oil-For-Food Programme including the Office of the Iraq Programme (OIP), the Department of Political Affairs (DPA) and the Office of the Coordination of Humanitarian Affairs (OCHA). The holdings also included correspondences between EOSG and the Independent Inquiry Committee (IIC). Many of the records are digitised and available online, but some were only accessible from the UN Archives' reading room in Manhattan. With financial support from the Department of Historical Studies and the project my thesis is part of, I was able to travel to New York in early February 2016 where I spent six days working in the archives.

Months before my visit to the archives, I had inquired the UNA about what records related to the Oil-For-Food Programme were open for research. Although the records in Kofi Annan's holdings had recently bypassed the 20-year restriction and were open to the public, most of the records related to the Oil-For-Food Programme were classified. For instance, the meeting protocols from the Security Council's sanctions committee (661 Committee) and all records related to the IIC's investigation were behind a 50-year strict access rule and even UN

staff members were not allowed access to the files or even the index to the files. However, due to the IIC's findings being widely reported in the investigation reports, I was still able to use their findings in my research. However, it is important to note that the reports are secondary sources; what has and has not been included in the reports have been subjected to selection by the editors of the reports. There are, for instance, no full transcripts of audits and interviews in the reports.

There were some relevant records in Kofi Annan's holdings that were also classified. Some folders related to the Oil-For-Food Programme from the *Intra-Organisational Relations*-series were under strict access rules and the series *Strictly Confidential Notes of Meetings, etc* had a few folders related to the Programme. Additionally, the series named *Chef de Cabinet / Deputy Secretary-General Mark Malloch Brown (2006)* had some very interesting folders. For instance, the folders *IIC – Benon Sevan*, *IIC – OCHA*, *IIC – Documentations* and *IIC – Paul A. Volcker followup* could have been valuable for my research had they been open to the public.

Because of the potential difficulties in getting access to the relevant source material, I started early to look for alternative sources of information to assist me in my research. With the help of Paul Volcker's foundation, the Volcker Alliance, I was able to schedule an interview with Mark Califano. As mentioned above, Califano co-authored *Good Intentions Corrupted* and served as the Chief Legal Counsel of the IIC. He was responsible for the supervision of the Committee staff in addition to leading major aspects of the Committee's investigation. The interview took place on February 9 in the headquarters of American Express in New York where Califano is currently employed. I have also had personal correspondences with Coordination Officer of the OIP and author of *Backstabbing for Beginners*, Michael Soussan. Both Califano and Soussan offered me insights and evaluations of the Oil-For-Food Programme and the UN in general that have been of paramount value to my thesis.

1.4 Thesis structure

The thesis is comprised of six chapters with one introductory chapter, two background chapters, two empirical chapters and one conclusive final chapter. Chapter 2 details how the Oil-For-Food Programme came into existence following the Gulf War. The chapter explains

the rules and guidelines of the Programme and the responsibilities of the Security Council, the sanctions committee, the UN Secretariat and the Office of the Iraq Programme. The chapter also examines how the oil traders and humanitarian suppliers did business with the Government of Iraq under the Programme. Chapter 3 reveals the various ways in which Iraq manipulated the Programme, either for political leverage or to earn illicit income. The kickback scheme on the humanitarian contracts, which is the topic of my thesis, will be given the most attention. I will also explain how the Security Council and the UN Secretariat responded to warnings of the sanctions- and programme-violations and how they, in the end, did little to stop the Iraqis from extracting kickbacks on the humanitarian contracts.

Chapter 4 will discuss why the Security Council and the sanctions committee failed to take action against the kickback scheme. The chapter will both present and evaluate the explanations presented in previous research as well as how humanitarian concern might have contributed to the inaction. Chapter 5 is similar to chapter four except that it concerns the UN Secretariat and the administration of the Office of the Iraq Programme. Here, the actions and motivations of Benon Sevan is given much of the focus. Sevan, as I mentioned, was found to have been involved in corrupt activity while administering the Programme. How corruption might have played a role in his mismanagement of the Office of the Iraq Programme will be problematized and evaluated. Additionally, the chapter will discuss other explanations for the failure of the OIP and question whether the UN Secretariat was structurally capable of managing the Oil-For-Food Programme to begin with.

1.5 Educational Relevance:

As this Master's Thesis is part of the five-year teacher's education at the Norwegian University of Science & Technology, it is important that the thesis is relevant for the educational system. While the topic of the thesis might seem to be too narrow on face value, I will argue that the broader perspective is highly relevant as part of my teacher's education and the Norwegian educational system. As part of the common core for history in upper secondary, the students must "find examples of events that have shaped the history of a non-European country after 1900, and reflect on how the country might have developed if these events had not taken place." In addition to the UN, Iraq is the focus of this thesis, and the country suffered under international sanctions for 13 years and played a big part in curbing

the power and the expansionist policies of Ba'athist Iraq. However, the sanctions also led to dramatically deteriorating living standards in the country, this might have contributed to increasing hostility towards the United States and Western society in Iraq and the Middle East in general. As part of their upper secondary education, Norwegian student must "examine the background for an on-going conflict, and discuss and elaborate on reactions in the international society." The lower living standards and the fall of Ba'athist Iraq due to war, sanctions and invasion is definitely part of the on-going conflict in Iraq and my thesis is therefore relevant to this competence aim.

The process of writing a Master's Thesis is also valuable to me as a future history teacher. One of the competence aims for history in upper secondary is that students should be enable to "identify and assess different types of historical materials and origins as sources, and use them in his or her own historical presentation." I have used wide variety of historical material when writing this thesis, including archive records, reports, literature, newspaper articles and interviews with relevant people. This has given me an increased understanding of how history is created and how our understanding of historical events is shaped. Hopefully, I will be able to transfer this constructivist approach to historical knowledge to my future students.

Chapter 2: The Design & Purpose of the Oil-For-Food Programme

2.1 The Gulf War, sanctions and the creation of the Oil-For-Food Programme

The Oil-For-Food Programme came into existence following Iraq's invasion of Kuwait on August 2, 1990. Four days after the invasion, the United Nations Security Council responded with Resolution 661, imposing comprehensive international sanctions on Iraq, prohibiting almost all forms of trade with the country. After a coalition force, mandated by the Security Council and led by the United States, expelled Iraq from Kuwait in the ensuing Gulf War, the Council adopted Resolution 687 in April 1991. The resolution renewed the sanctions and required Iraq to disarm and destroy its long distance ballistic missiles and all chemical, biological and nuclear weapons or facilities. Iraq also had to submit to inspections by the United Nations Special Commission (UNSCOM) and the International Atomic Energy Agency (IAEA) and as long as Iraq possessed weapons of mass destruction or the facilities to produce them, the sanctions would continue.²⁰

However, Saddam did not comply with the Security Council's decision and refused to cooperate with the weapons inspectors, which meant that the sanctions remained in place.²¹ This quickly led to drastically deteriorating humanitarian conditions in Iraq. In the decades leading up to the Gulf War, the living standard of Iraqi citizens had improved substantially, fuelled by the revenues from the country's vast oil reserves.²² The country had a large public sector with extensive social programs and free public health care. For instance, in the late

²⁰ Sarah Graham-Brown, *Sanctioning Saddam: The Politics of Intervention in Iraq*, (New York: I.B. Tauris & Co Ltd, 1999), Pg. 56-59.

²¹ Jeffrey A. Meyer, Mark G. Califano, and Paul A. Volcker, *Good Intentions Corrupted : The Oil-for-Food Program and the Threat to the U.N* (New York: PublicAffairs, 2006). pg. 2.

²² William W. Haddad and Tareq Y. Ismael, *Iraq : The Human Cost of History* (London: Pluto, 2003), Pg. 120-122.

1980s, approximately 97% of the urban population and 71% of the rural population had access to medical care.²³ Although the Iran-Iraq War from 1980 to 1988 had devastating effects on the country's infrastructure and economy, the interior of Iraq and its health service suffered little due to the fighting and the government initiated programs during the war to stimulate population growth, which led to a substantial decline in mortality rates.²⁴ The international sanctions that followed the Kuwait-invasion were extremely effective and had an immediate impact on the humanitarian situation in Iraq. The health sector, which was reliant on medical imports from abroad, struggled to provide care for its citizens. After only six months of sanctions, before the United States' bombing campaigns started, mortality rates among infants and children increased by 17% and 11% respectively.²⁵ Before the invasion of Kuwait, Iraq also imported more than 75% of the calories consumed by the population and the agricultural sector was heavily dependent on the importation of seeds, fertilizers, pesticides, machinery and equipment from abroad. After the sanctions were imposed, food prices skyrocketed and widespread famine and malnutrition soon followed. The sanctions also led to a complete shutdown of Iraq's economy by stopping approximately 97% of Iraq's exports.²⁶ The situation only worsened following the Gulf War, which caused an estimate of \$232 billion in damages to infrastructure and economic assets. The consequences of the sanctions was given considerable media attention, especially the plight of the children. A report published by the International Study Team (IST) in August 1991 estimated that nearly 50,000 Iraqi children had died because of war and sanctions in only eight months.²⁷

With Saddam not agreeing to the UN resolutions and with no immediate end of the sanctions in sight, the Security Council proposed, in August and September of 1991, an oil-for-food exchange programme, which would allow Iraq to sell up to \$1.6 billion of oil every six months. The proceeds from these sales would be deposited into a UN controlled escrow account and would be used to purchase humanitarian goods, primarily food and medicine. Iraq rejected this proposal, arguing that it was an infringement on their national sovereignty and that the programme would make the sanctions seem more acceptable and postpone the lifting of them. The rejection of this programme and little improvement in Iraq's cooperation with the weapons inspectors meant that the sanctions regime remained in place for the

²³ Richard Garfield, Juan Diaz, 'Health and Nutrition', in *Iraq Watching Briefs* (New York: UNICEF, 2003). pg. 5-6.

²⁴ Garfield and Diaz, (2003). Pg. 2.

²⁵ Garfield and Diaz, (2003). Pg. 7.

²⁶ Haddad and Ismael, (2003). Pg. 80-81

²⁷ Haddad and Ismael, (2003). Pg. 92.

following years, while the humanitarian situation continued to worsen.²⁸ In 1994, various humanitarian agencies reported that the sanctions caused between 4,500 and 6,000 excess deaths per month.²⁹ Iraq had also resorted to printing money to pay their employees. The resulting hyperinflation eroded the salaries of workers, reducing public sector real wages by roughly 98% by 1996.³⁰

In 1995, the ever-deteriorating conditions for the Iraqi people had made the sanctions regime increasingly unpopular in the Security Council. China had never been supportive of direct confrontation with Iraq, and had abstained from voting on Resolution 678 which gave the Security Council the mandate to remove Iraq from Kuwait by any means necessary. France and Russia had economic motivations for lifting the sanctions. Iraq had been France's largest supplier of oil and Iraq owed Russia more than \$8 billion for arms sales.³¹ The public also heavily criticised the sanctions regime. The international human rights NGO, Center for Economic and Social Rights (CESR), claimed that the economic warfare the Security Council was waging was a violation of both the Human Rights Agreement and the Geneva Convention.³² However, the United States' ambassador to the United Nations, Madeleine Albright, expressed in an interview with 60 Minutes in 1996 that containing Saddam was worth the price of abysmal humanitarian conditions for the people of Iraq.³³ Intent on continuing to enforce the international sanctions, the United States proposed a modified oil-for-food exchange programme more favourable to Iraq as a solution to the problems caused by the sanctions. This plan allowed for more oil to be sold by Iraq and delegated more control over the implementation of the programme to the UN Secretariat instead of the Security Council. This plan was adopted in Security Council Resolution 986 and became what would eventually be known as the official Oil-For-Food Programme. Despite the Security Council taking into consideration Iraq's objections with the previous plan, the Saddam regime rejected this proposal as well due to expectations that the sanctions would soon be lifted. Iraq had finally started to cooperate with the weapons inspectors and had disclosed and destroyed stockpiles of missiles and chemical weapons. UNSCOM reported that Iraq no longer posed a

²⁸ Meyer, Califano, and Volcker, (2006). pg. 2-3.

²⁹ Garfield and Diaz, (2003). Pg. 8.

³⁰ Haddad & Ismael, (2003), Pg. 81.

³¹ Alexander Thompson, *Channels of Power: The UN Security Council and U.S. Statecraft in Iraq*, (Ithaca: Cornell University Press, 2009), Pg. 102-104.

³² Center for Economic and Social Rights, *UNsanctioned Suffering: A Human Rights Assessment of United Nations Sanctions of Iraq*, (1996), Pg. 34-39.

³³ Haddad & Ismael, (2003), Pg. 25.

threat to their neighbours and that they had accounted for most of the prohibited weapons.³⁴ France signalled its intentions to resume diplomatic relations with Iraq and Russia pressed the Security Council for a resolution that would talk about lifting or suspending the oil embargo in the near future.³⁵ However, in August 1995, Saddam's son-in-law, General Hussein Kamel Hassan Al-Majid, surprisingly defected to Jordan. His subsequent cooperation with UNSCOM, CIA and MI6 led the weapons inspectors to previously undisclosed stashes of weapons-related documents. These new revelations meant that the Security Council had no other option but to keep the sanctions regime in place for the foreseeable future.³⁶ Iraq too, recognized this, and in the fall of 1995, Iraqi officials, on several occasions, met with Secretary-General Boutros Boutros-Ghali. Negotiations between the UN and Iraq took place in the early months of 1996 and led to a formal Memorandum of Understanding signed by the parties on May 20. The Oil-For-Food Programme could finally be implemented.³⁷

The first oil was "lifted" in December 1996 and the first shipment of humanitarian supplies arrived in March 1997. Although, food and medicine were finally being imported on a large scale into Iraq, it took several years before the Programme had a noticeable effect on the conditions of the Iraqi people. By the turn of the century, humanitarian indicators were far below what they had been ten years prior. In 2000, Iraq had the third highest death rate and second highest infant- and under-5 mortality rate of all Middle Eastern countries.³⁸ Since the economy had been virtually shut down for several years since the sanctions were imposed, the government could not afford to educate, train and pay competent personnel in, for instance, the health sector. Iraq had the material resources to care for its population, but lacked the human resources to do so.³⁹ Several human rights organizations and NGOs commented that it would take a complete revitalization of Iraq's economy for the humanitarian conditions to improve, not just a relief operation. Even in 2001, four years into the Programme, the UN's humanitarian coordinator in Iraq commented that Iraqi families had become so poor that they had to resort to selling the food they received for free through the Oil-For-Food Programme to purchase other civilian goods.⁴⁰

³⁴ Meyer, Califano, and Volcker, (2006). pg. 3-4.

³⁵ Graham-Brown, (1999), Pg. 80.

³⁶ Thompson, (2009), Pg. 100-101

³⁷ Meyer, Califano, and Volcker, (2006). pg. 5-7.

³⁸ Garfield and Diaz, (2003). Pg. 13.

³⁹ Garfield and Diaz, (2003). Pg. 30.

⁴⁰ Haddad & Ismael, (2003). Pg. 96.

2.2 The design of the Oil-For-Food Programme

The Oil-For-Food Programme would turn out to become the largest and most complex humanitarian relief operation in the history of the United Nations. As argued in the previous chapter the Programme was a way for the UN to alleviate the sufferings of the Iraqi people while not enriching Saddam in the process. To make sure that Saddam would receive none of the proceeds from the oil sales, the money would be deposited to an escrow account created and controlled by the United Nations. The funds in this escrow account would then be used, not only to pay the companies who sold humanitarian goods to the government of Iraq, but also to fund the administration of the programme, the weapons inspections and war compensations to the victims of the Gulf War. The Iraqi government was responsible for distributing the goods to the population in central and southern Iraq, but the various UN agencies who operated in Iraq were responsible for monitoring and observing how the government carried out this task. Because of Saddam's previous mistreatment of the Kurds in northern Iraq, UN agencies would organize and administer the distribution of humanitarian supplies in the country's northern provinces. Although the administration of the Programme, the weapons inspections and the war compensations demanded a sizeable portion of the funds, the majority of it was planned to be spent on food, medicine and other necessities.⁴¹ Figure A explains the planned distribution mechanisms of the Programme:

⁴¹ Meyer, Califano, and Volcker, (2006). pg. 20-22.

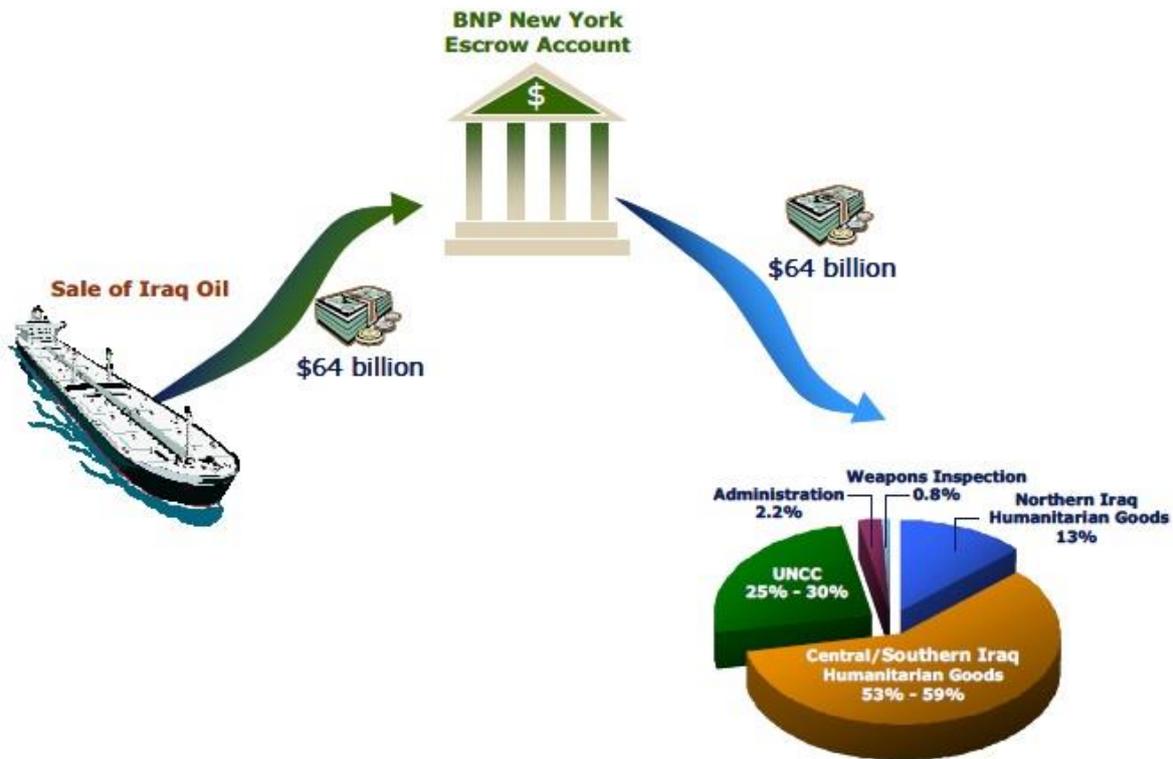


Figure A. Source: Richard J Goldstone Paul A Volcker, Mark Pieth, 'The Management of the United Nations Oil-for-Food Programme: Volume II - Report of Investigation: Programme Background', in *UN Documents and Publications* (New York: United Nations, 2005). Pg. 13. Chart A.

The Oil-For-Food Programme existed on the mercy of the Security Council and only with their consent could the programme be renewed for each six-month phase. Iraq had to provide a distribution plan for the humanitarian supplies for each phase, which had to be approved by the Security Council's sanctions committee, better known as the 661 Committee. The 661 Committee would also review and approve the numerous humanitarian contracts that were submitted and the pricing mechanism for the oil sales and any member had the power to reject a contract they felt violated the sanctions regime.⁴² The UN Secretariat was tasked with the management and implementation of the Programme. To facilitate this task, Secretary-General Kofi Annan, ten months after he took office, created the Office of the Iraq Programme to manage all the United Nations operations in Iraq.⁴³ The role and

⁴² Goldstone, Volcker & Pieth, 'The Management of the United Nations Oil-for-Food Programme: Volume II - Report of Investigation: Programme Background', (2005). Pg. 16-18

⁴³ Goldstone, Volcker & Pieth, 'The Management of the United Nations Oil-for-Food Programme: Volume II - Report of Investigation: Programme Background', (2005). Pg. 21-22.

responsibilities of both the 661 Committee and the Office of the Iraq Programme will be explained in detail later in this chapter.

It is important to note that the Programme was only meant to be a temporary relief operation to provide food and medicine for the Iraqi people until the international sanctions were lifted. It was not meant to endure for the seven years it did.⁴⁴ However, as United States' Under Secretary for Political Affairs, Thomas R. Pickering stated; the Oil-For-Food Programme was the main instrument for sustaining the sanctions regime until Iraq met with its obligations, and as Iraq showed little intention to do that, the sanctions would remain in place for the foreseeable future.⁴⁵ This meant that, as time progressed, the Programme grew far beyond its original framework and encompassed increasingly more goods and services than initially planned. For instance, the humanitarian goods Iraq was allowed to purchase under the programme would not be limited to foodstuffs and medicine. Building material for construction projects were approved, so were funds allocated to the transport industry and the housing sector. Iraq would import trucks and heavy machinery, high-tech hospital equipment and other sophisticated goods the programme originally were not meant to provide. The limits on how much oil Iraq was allowed to sell each phase were more than doubled in 1998 before they were removed entirely in 1999, and by the final years of the programme, it provided goods for cultural, sporting and religious activities, to name a few. In June of 1998, the Security Council also authorized that Iraq could use \$300 million from the escrow account for every six-month phase to purchase spare parts to rebuild and upgrade their oil infrastructure. The funds available for this "oil spare parts programme" would be further expanded to \$600 million for every phase in March 2000.⁴⁶

Despite not being in control of the proceeds from the oil sales, the Iraqi regime were still given the freedom to sell oil to and purchase goods from whomever they chose. There were no regulations in place that determined, for instance, how much oil one company could buy or what type of companies could purchase oil. There was also no rule in place that limited the number of contracts with companies from the same country. This would be part of the reason for why the Saddam regime was able to manipulate the programme for its own gain.⁴⁷

⁴⁴ Goldstone, Volcker & Pieth, 'The Management of the United Nations Oil-for-Food Programme: Volume II - Report of Investigation: Programme Background', (2005). Pg. 13.

⁴⁵ Haddad & Ismael, (2003). Pg. 93.

⁴⁶ Goldstone, Volcker & Pieth, 'The Management of the United Nations Oil-for-Food Programme: Volume II - Report of Investigation: Programme Background', (2005). Pg. 13-15.

⁴⁷ Meyer, Califano, and Volcker, (2006). pg. 27.

2.3 The Companies and the mechanisms of the Oil-For-Food Programme

The mechanisms on how oil was purchased and humanitarian goods sold and the companies involved in it, was a major reason for why Iraq was able to manipulate the Programme. As I mentioned earlier, the rules of the Programme did not regulate who could purchase oil or sell supplies to Iraq nor how much they could buy or sell. This meant that Iraq quickly started to prefer business partners from countries that were perceived as supportive of Iraq's cause. Companies from countries with a seat in the Security Council were given the most preferential treatment, especially if their home countries were permanent members. With this business-strategy in mind, companies from China, Russia and France were the most desirable for Iraq to do business with, while they generally avoided companies from the United Kingdom and the United States.⁴⁸ It is, however, important to note that some American and British companies did contract with Iraq under the Programme. For instance, American oil company, Bayoil, received oil allocations through a subsidiary not based in the US and Oscar Wyatt's Coastal Petroleum Company were allowed to purchase oil due to Wyatt's long-standing relationship with Iraq's State Oil Marketing Organization (SOMO).⁴⁹

Since there was no rule in place that regulated what type of buyer Iraq could sell oil to, oil purchasers did not have to be established companies or involved in the oil trade at all. Iraq granted millions of dollars' worth of oil allocations to organizations, political parties or individuals who Iraq felt had some political influence and were supportive of lifting the international sanctions or supported Iraq in some other way.⁵⁰ Examples of these types of purchasers are political parties such as the Communist Party of the Russian Federation, influential political figures such as Special Advisor to the Secretary-General and France's former Permanent Representative to the United Nations, Jean-Bernard Mérimée and even British politician George Galloway.⁵¹ Although Iraq granted oil allocations to organizations

⁴⁸ Goldstone, Volcker & Pieth, 'Manipulation of the Oil-for-Food Programme by the Iraqi Regime', (2005). Pg. 15-16.

⁴⁹ Goldstone, Volcker & Pieth, 'Manipulation of the Oil-for-Food Programme by the Iraqi Regime', (2005), Pg. 115-124, 171-175.

⁵⁰ Goldstone, Volcker & Pieth, 'Manipulation of the Oil-for-Food Programme by the Iraqi Regime', (2005), Pg.15-17.

⁵¹ Goldstone, Volcker & Pieth, 'Manipulation of the Oil-for-Food Programme by the Iraqi Regime', (2005). Pg.27-29, 49-53, 79-89.

and individuals not directly involved in the oil trading business, the major recipient of allocations were global oil trading firms such as Vitol, Glencore and Taurus.⁵²

For the purchase of humanitarian goods, Iraq did not get into deals with individuals and organizations of the same category as with oil sales. Iraq did purchase goods and supplies from reputable Western European companies such as Siemens, Volvo and DaimlerChrysler, although, as with oil sales, they preferred to conduct business with companies based in Russia, China and France as well as Arab companies.⁵³ To allocate funds from escrow account to the various ministries, the Government of Iraq created a committee consisting of most of the high-ranking Iraqi ministers. Before each phase of the Programme, the committee issued a list of countries that the ministries should prioritize when purchasing humanitarian supplies.⁵⁴ Despite the preference of Russian, Chinese and French companies, the largest provider of humanitarian goods under the Programme was the Australian Wheat Board (AWB).⁵⁵ In addition, Iraq also bought supplies from foreign registered front companies partly owned by Iraq itself.⁵⁶

When a company wanted to purchase oil from Iraq, they first had to negotiate a contract with SOMO. They would also have to register with the United Nations through their home country's diplomatic mission. Once they had agreed to a contract with SOMO, they had to submit the contract to the 661 Committee for approval. Finally, when the oil overseers had approved the contract, the oil could be shipped from Iraq and money could be transferred to the UN controlled escrow account.⁵⁷ For humanitarian supplies, the company was usually approached either by the responsible Iraqi ministry or, for sales to the Northern provinces, a UN agency. The goods they wished to sell had to be identified in advance in the distribution plan submitted by Iraq and approved by the 661 Committee. The contract would have to be submitted to the OIP through the company's home country's diplomatic mission. The OIP would then review the contract before forwarding it to the 661 Committee for final reviewing

⁵² Goldstone, Volcker & Pieth, 'Manipulation of the Oil-for-Food Programme by the Iraqi Regime', (2005). Pg. 125-173,

⁵³ Goldstone, Volcker & Pieth, 'Manipulation of the Oil-for-Food Programme by the Iraqi Regime', (2005). Pg. 261, 360.

⁵⁴ Goldstone, Volcker & Pieth, 'Manipulation of the Oil-for-Food Programme by the Iraqi Regime', (2005). Pg. 257-259.

⁵⁵ Goldstone, Volcker & Pieth, 'Manipulation of the Oil-for-Food Programme by the Iraqi Regime', (2005). Pg. 311.

⁵⁶ Goldstone, Volcker & Pieth, 'Manipulation of the Oil-for-Food Programme by the Iraqi Regime', (2005). Pg.300

⁵⁷ Goldstone, Volcker & Pieth, 'The Management of the United Nations Oil-for-Food Programme: Volume II - Report of Investigation: Programme Background', (2005). Pg. 27-28

and approval. Once the paperwork was in order, the goods could be transported to Iraq where it would be subjected to inspection before entering Iraq. Once the inspectors had certified the goods, the company would be paid from the escrow account.⁵⁸

2.4 The Organization and Role of the 661 Committee

The 661 Committee, named after UN Resolution 661, was created by the Security Council to monitor and enforce the international sanctions imposed on Iraq following the invasion of Kuwait.⁵⁹ As the committee was an extension of the Security Council, it was made up by diplomatic representatives from each country who at the time had a seat in the Security Council. This included the five countries with permanent seats: China, France, Russia, the United Kingdom and the United States, as well as representatives of the 10 rotating member-states. To chair the Committee, the members chose a permanent representative of the country chosen to hold the chairmanship, most often a non-permanent Western European country. The committee operated under a “no-objection rule” which meant that the Committee could take no action or approve anything without the full consent of each member. Before the creation of the Oil-For-Food Programme, the committee only met arbitrarily to consider exceptions to the sanctions regime.⁶⁰ Exceptions that would demand the 661 Committee’s approval included, for instance, donations to the civilian population of Iraq by a humanitarian organization.⁶¹

With the adoption of the Programme in 1996, the role of the committee was fundamentally changed. In the guidelines, the 661 Committee was assigned the key-role of reviewing and approving the billion dollar transactions of oil and humanitarian contracts that were to pass under the Programme. For oil contracts, the committee’s main role was to review and approve the pricing mechanisms proposed by Iraq to ensure that the oil was sold at market prices. They did this by appointing expert oil overseers who negotiated and approved the pricing mechanisms with SOMO. Only contracts where prices and terms corresponded with the pricing formula were approved. They would also review a number of contracts

⁵⁸ Goldstone, Volcker & Pieth, 'Manipulation of the Oil-for-Food Programme by the Iraqi Regime', (2005). Pg. 253-254.

⁵⁹ Meyer, Califano & Volcker, (2006), pg. 1-2.

⁶⁰ Meyer, Califano & Volcker, (2006), pg. 23-25.

⁶¹ Goldstone, Volcker & Pieth, 'The Management of the United Nations Oil-for-Food Programme: Volume II - Report of Investigation: Programme Background', (2005). Pg. 17.

between Iraq and oil purchasers.⁶² As will be explained in the next chapter, the 661 Committee failed to oversee the oil transactions effectively as Iraq, from November 2000, started to manipulate the Programme by demanding oil purchasers to pay illegal surcharges to Iraq's embassies, front companies or Iraqi controlled bank accounts abroad. However, in contrast to other manipulation schemes by Iraq, representatives from the United Kingdom and United States were able to combat this scheme and eventually put a stop to it.⁶³ For humanitarian contracts, the 661 Committee's role for the first three years of the Programme was to review and approve the contracts between Iraq and various contractors of humanitarian goods. When reviewing the humanitarian contracts, the 661 Committee worked closely with UNSCOM, its successor, UNMOVIC (United Nations Monitoring, Verification and Inspections Commission), and IAEA and used their input and expertise to reject contracts that were suspected of containing dual-use or contraband items.⁶⁴ With the growth of the Programme, the 661 Committee delegated much of its responsibility for monitoring the contracts to the UN Secretariat, specifically the Office of the Iraq Programme, with the creation of a fast-track procedure in 1999. The fast-track procedure authorized the OIP to approve certain humanitarian contracts, mostly foodstuffs and medicine, without the 661 Committee's involvement. This "fast track procedure" or "green list" was in May 2002 replaced with a "goods review list" which inversed the procedure. Now only contracts that included items on the "goods review list" had to be submitted to the 661 Committee for review.⁶⁵ Despite the introduction of the "fast track procedure" and later the "goods review list," some countries, specifically the United States and the United Kingdom still reviewed all contracts that were to pass under the programme.⁶⁶

⁶² Meyer, Califano & Volcker, (2006), pg. 23-24.

⁶³ Meyer, Califano & Volcker, (2006), pg. 84-87.

⁶⁴ Goldstone, Volcker & Pieth, 'The Management of the United Nations Oil-for-Food Programme: Volume II - Report of Investigation: Programme Background', (2005). Pg. 16-18

⁶⁵ Goldstone, Volcker & Pieth, 'The Management of the United Nations Oil-for-Food Programme: Volume II - Report of Investigation: Programme Background', (2005). Pg. 153-154.

⁶⁶ Goldstone, Volcker & Pieth, 'The Management of the United Nations Oil-for-Food Programme: Volume II - Report of Investigation: Programme Background', (2005). Pg. 154-156.

2.5 The UN Secretariat and the organization and role of the Office of the Iraq Programme

After Iraq's invasion of Kuwait and the imposition of sanctions against the country, the UN Secretariat was assigned the role of assisting the Security Council by overseeing the international sanctions against Iraq. Specifically, Resolution 661 tasked the Secretary-General to report on the progress of the implementation of the sanctions regime and provide the 661 Committee with the necessary assistance. As was the case with the 661 Committee, the responsibilities of the UN Secretariat expanded dramatically with the adoption of the Oil-For-Food Programme in 1996. In Resolution 986, where the guidelines for the Oil-For-Food Programme were outlined, the Secretariat were given the following responsibilities:

1. To review and approve Iraq's distribution plan for goods imported under the Programme.
2. To review the humanitarian contracts submitted for the 661 Committee's approval.
3. To observe and monitor the goods that entered Iraq under the Programme.
4. To report every 90- and 180-days to the Security Council on the implementation of the Programme.
5. Take the actions necessary to ensure the effective implementation of Resolution 986.

In addition, the Secretariat was also responsible for selecting the escrow bank and the accountants to audit the bank as well as appointing the inspection companies responsible for monitoring and certifying the goods entering Iraq and the oil shipped from Iraq.⁶⁷

In its first year of existence the Programme was managed jointly by the United Nations' Department of Political Affairs (DPA) and the Department of Humanitarian Affairs (DHA). The DPA handled the sanctions issues while the DHA was tasked with the management responsibilities.⁶⁸ As mentioned earlier, on October 15 1997, 10 months after being elected Secretary-General, Kofi Annan created the Office of the Iraq Programme as a way to manage the Programme through one entity and appointed Benon Sevan as its Executive Director.⁶⁹

⁶⁷ Goldstone, Volcker & Pieth, 'The Management of the Oil-For-Food Programme: Volume III – Report of Investigation: United Nations Administration, Part 1', (2005). Pg. 2-3.

⁶⁸ Goldstone, Volcker & Pieth, 'The Management of the Oil-For-Food Programme: Volume III – Report of Investigation: United Nations Administration, Part 1', (2005). Pg. 4-5.

⁶⁹ Goldstone, Volcker & Pieth, 'The Management of the United Nations Oil-for-Food Programme: Volume II - Report of Investigation: Programme Background', (2005). Pg. 21-22.



Figure B. Source: Richard J Goldstone, Paul A Volcker & Mark Pieth, ‘The Management of the Oil-For-Food Programme: Volume III – Report of Investigation: United Nations Administration, Part 1’, in *UN Documents and Publications* (New York: United Nations, 2005). Pg. 20: Chart A

As Figure B shows, OIP was divided into three divisions: The Contract Processing and Monitoring Division (CPMD), the Programme Management Division (PMD) and the United Nations Office of the Humanitarian Coordinator in Iraq (UNOHCI). The CPMD’s main responsibility was to review and scrutinize the contracts that were submitted from the companies’ Permanent Mission before forwarding them to the 661 Committee for final review and approval. The PMD and UNOHCI were tasked with managing the Programme from New York and Iraq respectively, while also assisting and advising the Executive Director on policy matters. With the growth of the Programme and the 661 Committee’s delegation of much of the contract reviewing process to the OIP, the number of staff members in each division grew substantially.⁷⁰

⁷⁰ Goldstone, Volcker & Pieth, ‘The Management of the Oil-For-Food Programme: Volume III – Report of Investigation: United Nations Administration, Part 1’, (2005). Pg. 10-18.

Chapter 3: Manipulation of the Oil-For-Food Programme and kickbacks on humanitarian contracts

3.1 Corruption, oil surcharges and the kickback scheme

Although Iraq did not start the systematic demand for surcharges and kickbacks until a few years into the Programme, it was clear from the beginning that the Saddam regime did not intend to approach the Oil-For-Food Programme with honest intentions. Even as negotiations between the United Nations and the government of Iraq took place, Saddam started looking for ways to manipulate the Programme. The most notorious of their schemes was the attempt to bribe Secretary-General Boutros Boutros-Ghali through intermediaries with around \$15 million. Saddam had hope that the payment would make Boutros-Ghali more willing to shape the Programme more to Iraq's liking. There is no evidence that Boutros-Ghali received any payments from either Iraq or any of the intermediaries involved and it appears that the bribing attempts did little to influence the outlining of the Programme. However, many of the intermediaries were close associates with Boutros-Ghali and several of them did accept money from the Iraq regime. Some of them were also partly owned companies who did business under the Oil-For-Food Programme.⁷¹ Other forms of early manipulation by the Iraq regime was the politicization of oil allocations and humanitarian contracts. As mentioned in previous chapters, as Iraq was free to do business and grant oil allocations to whomever they chose, they used this freedom to grant oil allocations and humanitarian contracts to countries, companies and individuals they felt were opposed to the sanctions regime or supportive of their cause. They would also discontinue granting contracts and oil allocations to contractors from companies they felt did not do enough to lift the sanctions.⁷²

⁷¹ Meyer, Califano, and Volcker, (2006). pg. 7-20.

⁷² Goldstone, Volcker & Pieth, 'Manipulation of the Oil-for-Food Programme by the Iraqi Regime', (2005).

The imposition of mandatory surcharges on all oil contracts was initiated in the autumn of 2000. The State Oil Marketing Organization's (SOMO) Accounting Department would send an invoice with all oil shipments containing information on how much the company owed in surcharges. The surcharge, which would amount to between \$0.10 and \$0.50 per barrel, was for each phase decided by a committee composed by a number of Iraqi ministers. The companies would pay the surcharges to an Iraqi controlled bank account in either Jordan or Lebanon.⁷³ When large oil companies refused to pay surcharges, lesser known trading firms and front companies stepped in, eager to increase their market share of Iraqi oil.⁷⁴ As opposed to most other Iraqi manipulation attempts, the 661 Committee, or more specifically the United States and United Kingdom were able to stop the surcharge policy. What the representatives of the United Kingdom and the United States started to do in October 2001, was delaying the approval of the oil pricing mechanisms by a month and then see if the prices corresponded with actual market values. This led to massive protests from Russia and China, but due to the no-objection rule the Committee operated under, they were unable to approve the pricing mechanisms without the US and the UK's consent. The one month delay meant that the surcharges became less profitable for Iraq and, more importantly, it meant that many oil traders refused to accept surcharges due to the increased uncertainty that they would be compensated on the market, leading to a huge drop in Iraqi oil exports. By adopting what has been known as the "retroactive pricing policy," Iraq was forced to abandon the surcharge policy in the autumn of 2002.⁷⁵

The kickbacks on humanitarian contracts evolved from a practice Iraq adopted in May 1999 to cover the costs of transporting humanitarian supplies inland from the port of Umm Qasr. Instead of asking the United Nations for these costs to be compensated from the escrow account, Iraq demanded that companies paid these transportations fees directly to an Iraqi controlled bank account abroad, to a front company owned and controlled by Iraq or in cash directly to a bank in Baghdad. Approximately one year after they started to demand transportation fees, Iraq began including kickbacks on all humanitarian contracts. The kickbacks were to be paid in addition to the transportation fees, which were increased at the same time. In October 2000, the government fixed the minimum rate of the kickbacks at 10

Pg.15-17

⁷³ Goldstone, Volcker & Pieth, 'Manipulation of the Oil-for-Food Programme by the Iraqi Regime', (2005). Pg. 18-21.

⁷⁴ Meyer, Califano, and Volcker, (2006). pg. 84.

⁷⁵ Goldstone, Volcker & Pieth, 'The Management of the United Nations Oil-for-Food Programme: Volume II - Report of Investigation: Programme Background', (2005). Pg. 146-151.

percent of the contract value. The official contract price presented to the OIP and the 661 Committee was then inflated to include the kickback and the transportation fees so that the supplier would be compensated from the escrow account. This meant that paying the kickbacks to Iraq did not hurt the company financially. The kickbacks were usually disguised as an “after sales service fee,” “inland transportation fee” or by simply increasing the unit price. To make sure that companies paid the kickback, Iraq did not accept the goods to enter the country before they received confirmation that the company had met with their obligations. Companies that refused to pay the kickbacks would then not be reimbursed from the escrow account.⁷⁶ In addition to demanding illegal payments, Iraq also manipulated the Programme by purchasing substandard goods, diverting goods to ministries for non-humanitarian use, selling goods to outside buyers and paying above-market price for certain goods.⁷⁷ As will be discussed later, the 661 Committee and the OIP did little to combat the kickback scheme, which allowed it to persist for the remainder of the Programme, allowing Iraq to extract more than \$1.5 billion in illegal surcharges. 3614 companies sold humanitarian goods to Iraq under the Programme, of these, 2253 of them paid some form of kickback to the regime.⁷⁸ Of all illicit income Saddam earned by manipulating the Oil-For-Food Programme, none of them stuffed Saddam’s pockets more than the kickbacks he received from the humanitarian contracts.⁷⁹

3.2 Security Council and the 661 Committee’s response to the kickback scheme

Before the adoption of the Oil-For-Food Programme, the United States proposed in an early draft of the 661 Committee’s procedures that the Committee selected and the Secretary-General appointed experts to examine whether the prices of the humanitarian contracts corresponded with actual market prices and if there was any indication of fraud in the contracts. The United States feared that Iraq would attempt to earn illicit payments outside of the Programme by manipulating the contract prices. These measures would equip the 661

⁷⁶ Meyer, Califano, and Volcker, (2006). pg. 106-116.

⁷⁷ Goldstone, Volcker & Pieth, 'Manipulation of the Oil-for-Food Programme by the Iraqi Regime', (2005). Pg.293-299.

⁷⁸ Goldstone, Volcker & Pieth, 'Manipulation of the Oil-for-Food Programme by the Iraqi Regime', (2005). Pg. 1.

⁷⁹ Goldstone, Volcker & Pieth, 'Manipulation of the Oil-for-Food Programme by the Iraqi Regime', (2005). Pg. 249.

Committee with the proper mechanisms to combat such attempts by the Saddam regime.⁸⁰ However, the United States' proposal was left out of the 661 Committee's guidelines and the IIC-reports states that they found no apparent reason as for why it was not included. Still, the proposal shows that at least the United States was aware of the possibility that Iraq would attempt to manipulate the Programme.⁸¹

The reasons behind the actions, or in most cases the inaction of the 661 Committee can be understood by the fact that it was a consensus-driven committee. As mentioned in the previous chapter, when creating the committee, the Security Council decided that the committee could not take any action without the full consent of each member. While this no-objection rule meant that any member could withhold the committee's approval of a contract for as long as they pleased, it also meant that any member could stall any attempts made by the committee to act against suspected corruption. Not only did the consensus-driven way the committee operated mean that it was extremely hard even to agree on a decision to do anything against violations of the sanctions regime, there was also no specific rule in place that obliged them to do so. They were not even required to investigate reports of such violations.⁸² The Chairman of the committee had little to no real authority and discussions were dominated by the representatives of the five permanent members. A former Chairman of the committee, interviewed by the IIC, states that the only real authority in the 661 Committee came from its permanent members. Another former Chairman mentions that he was once excluded from a sanctions-related meeting between the UN Secretariat and the permanent members of the 661 Committee.⁸³ The IIC-reports also suggest that only the United Kingdom and the United States bothered to extensively review the contracts, and the overwhelming majority of contracts being blocked or put on hold was imposed by those two countries.⁸⁴ Summarized, the Security Council created a consensus-driven committee to oversee and enforce the sanctions against Iraq that did not have to act on violations of the sanctions. This, coupled with the fact that three of its five permanent members were actively opposed to the

⁸⁰ Meyer, Califano & Volcker, (2006), pg. 172.

⁸¹ Goldstone, Volcker & Pieth, 'The Management of the United Nations Oil-for-Food Programme: Volume II - Report of Investigation: Programme Background', (2005). Pg. 153.

⁸² Meyer, Califano & Volcker, (2006), pg. 24-25.

⁸³ Goldstone, Volcker & Pieth, 'The Management of the United Nations Oil-for-Food Programme: Volume II - Report of Investigation: Programme Background', (2005). Pg. 20-21

⁸⁴ Goldstone, Volcker & Pieth, 'The Management of the United Nations Oil-for-Food Programme: Volume II - Report of Investigation: Programme Background', (2005). Pg. 154-155. Von Sponeck, (2006). Pg. 133.

sanctions themselves made it extremely hard for the committee to act as an effective watchdog on Iraq.

Compared to oil surcharges and oil smuggling, the issue of kickbacks on humanitarian contracts was rarely discussed in the Security Council. When discussing humanitarian contracts, the Security Council and the 661 Committee usually debated the reasons for contracts being blocked or put on hold. The withholding of contracts was almost without exception carried out by the United Kingdom and the United States, which meant they would face the brunt of the criticism in the committee meetings.⁸⁵ When the topic of kickbacks came up, the other permanent members of the committee brushed the allegations aside with the explanation that there was little evidence that Iraq was demanding kickbacks and that they needed concrete proof from Permanent Missions, not just arbitrary media reports and vague complaints from contractors.⁸⁶

Improprieties in the handling of the humanitarian contracts was reported in the media as early as in 1997. Al-Hayat, a London-based Arabic newspaper, was the first news source to mention that humanitarian suppliers had been approached by representatives of the Saddam regime and been asked to pay up to 10 percent kickbacks in order to facilitate the deal.⁸⁷ Nearly two years later, the New York Times mentioned reports of the kickback scheme briefly at the end of an article concerning the Programme.⁸⁸ Representatives from both the United States and the United Kingdom expressed their concern to the media that Iraq was seeking to earn illicit income outside of the United Nations escrow account. However, it would take until March 2000 for the issue to be raised in a Security Council meeting and an official 661 Committee meeting. Later in 2000, the allegations were brought up again by the United Kingdom and in November, France learned that Iraq had made it an official policy to demand a 10 percent kickback on all humanitarian contracts. France did not share this information with the rest of the 661 Committee, however. Amid increasing media attention, the Security Council and the 661 Committee started to address the kickbacks allegations more frequently in the early months of 2001. In February, the United States and the United

⁸⁵ Meyer, Califano & Volcker, (2006), pg. 171.

⁸⁶ Goldstone, Volcker & Pieth, 'The Management of the United Nations Oil-for-Food Programme: Volume II - Report of Investigation: Programme Background', (2005). Pg. 162-165.

⁸⁷ Goldstone, Volcker & Pieth, 'The Management of the United Nations Oil-for-Food Programme: Volume II - Report of Investigation: Programme Background', (2005). Pg. 157.

⁸⁸ Barbara Crossette, 'High Oil Prices May Bring Windfall for Iraq', in *New York Times*, 10/8-2001, <<http://www.nytimes.com/1999/08/10/world/high-oil-prices-may-bring-windfall-for-iraq.html>>, [accessed 30/4-16]

Kingdom requested the OIP to report on the allegations. While the OIP did not produce the report the US and UK were asking for, they answered that they had received no official complaint from a Permanent Mission, neglecting to mention the numerous complaints they had received from companies distributing goods under the Programme.⁸⁹

Both the United States and the United Kingdom made efforts to act on the suspected manipulation. Especially after the New York Times published an article early in March 2001. The article claimed that UN aides knew that “Iraq [was] running a payoff racket” and explained in detail how the kickback scheme unfolded.⁹⁰ Following the publishing of the article, the United States, with United Kingdom’s support, presented a proposal for the rest of the committee on how to address the allegations and combat the scheme. The proposal called for “(1) UN missions to instruct their companies not to pay kickbacks, referencing in UN contract approval letters that kickback payments were illegal, (3) warning of the illegality of kickbacks on OIP’s website, and issuing a press release about the committee’s anti-kickback initiative.”⁹¹ The proposal that would not have changed any procedures, only made it clear to suppliers that paying kickbacks was illegal, was not adopted by the 661 Committee. In April, the United Kingdom sent a letter to the OIP containing fifteen contracts that were either clear evidence of including an illegal surcharge or highly suspected of including one. Due to humanitarian concerns, the contracts had been approved, but the United Kingdom still wanted the OIP to force Iraq to put an end to the practice. The OIP did not officially respond to the letter, but representatives of the United Kingdom explained to the IIC that in informal meetings, the OIP claimed they had no authority to crack down on the kickback scheme.⁹²

In 2001 and 2002, the OIP presented the 661 Committee with 70 contracts they had identified as overpriced. Of those 70 contracts, the vast majority of them were approved immediately by the 661 Committee, and while a few were withheld, all except one were blocked because it included suspected contraband or dual-use items. Although the OIP had identified the contracts as overpriced, in most cases they failed to specify why and how they were deemed overpriced. Some of the contracts also included clarifications from the suppliers

⁸⁹ Meyer, Califano & Volcker, (2006), pg. 172-175.

Goldstone, Volcker & Pieth, 'The Management of the United Nations Oil-for-Food Programme: Volume II - Report of Investigation: Programme Background', (2005). Pg. 158-163.

⁹⁰ Barbara Crossette, 'Iraq Is Running Payoff Racket, U.N. Aides Say', in *New York Times*, 2001, <<http://www.nytimes.com/2001/03/07/world/iraq-is-running-payoff-racket-un-aides-say.html>> [accessed 26/4-16]

⁹¹ Meyer, Califano & Volcker, (2006), pg. 175.

⁹² Goldstone, Volcker & Pieth, 'The Management of the United Nations Oil-for-Food Programme: Volume II - Report of Investigation: Programme Background', (2005). Pg. 166-167.

on the pricing issues. However, many of them were vague or even indicative of fraud and the OIP did not present the 661 Committee with an evaluation on whether or not they deemed the suppliers' answers to be reasonable. It should also be mentioned that the OIP had already approved several of the contracts they identified as overpriced via the "green list." Even though the OIP provided little information to the 661 Committee for why the contracts were suspected of including illegal payments, the committee never asked OIP for more information or clarification on their pricing assessment.⁹³

3.3 The UN Secretariat and the Office of the Iraq Programme's response to the kickback scheme

The Secretariat and the Office of the Iraq Programme were also fully aware of the kickback scheme at the same time, if not before the 661 Committee. However, they too failed to take decisive action against it. There is only one documented occasion where Executive Director Benon Sevan addressed the question of the kickback scheme on his own initiative to the Government of Iraq, the Secretary-General, the 661 Committee or the Security Council. In a meeting with the Iraqi Minister of Trade in January 2002, Sevan inquired whether the Iraqi government had made it an official policy to demand a 10 percent kickback on the humanitarian contracts. The Iraqi minister answered the inquiry vaguely and Sevan did not press the question.⁹⁴ At this point, Sevan and the OIP was fully aware of Iraq's kickback policy. Throughout the Programme, the OIP received both formal and informal complaints from several companies that Iraq was demanding kickbacks on humanitarian contracts. The earliest evidence of the OIP receiving warnings of the kickback scheme was in December of 1999, when the Canadian Wheat Board notified its Permanent Mission that Iraq, in a side-agreement, had demanded that the company deposited \$700,000 to a bank account in Jordan to cover inland transportation costs. Chief of Contracting Processing, John Almström, answered the Canadian Mission that payments to Iraq outside of the escrow account were illegal. Almström, however, did not relay this information to Sevan. The OIP, in turn, did not alert the 661 Committee. One month later, the Permanent Mission of Austria informed the

⁹³ Goldstone, Volcker & Pieth, 'The Management of the United Nations Oil-for-Food Programme: Volume II - Report of Investigation: Programme Background', (2005). Pg. 168-175.

⁹⁴ Goldstone, Volcker & Pieth, 'The Management of the Oil-For-Food Programme: Volume III – Report of Investigation: United Nations Administration, Part 1', (2005). Pg. 113.

OIP that an Austrian medical company, Marquette Hellige, had been paying after-sales service fees to an Iraqi company equalling 15 percent of the contract value. Chief Customs Expert, Felicity Johnston, expressed her concern that the company had done business with Iraq outside of the Programme and informed her superior, John Almström that “such payments are almost certainly an infringement of resolution 986 and [the OIP] may need legal advice.”⁹⁵

The CPMD was not the only division who received warnings of the Iraqi kickback scheme. In the summer of 2000, J. Christer Elfverson, head of the Programme Management Division, was informed of the kickback policy through the Swedish automotive industrial manufacturer, Scania. As opposed to Almström and Johnston, Elfverson wanted to make the 661 Committee aware of the information presented to him immediately. Sevan, however, told Elfverson that it was not OIP’s job to alert the 661 Committee, and that such company complaints should be issued through the company’s Permanent Mission. Elfverson would continue to present Sevan with evidence of manipulation by Iraq, even detailed information such as the negotiation process between Iraq and the companies. He would also claim that they were mandated to bring any report of irregularities to the attention of the 661 Committee and that failing to do so would raise questions about the management of the Programme if the information surfaced through other channels. Sevan, however, repeated his earlier statement that complaints should be taken through the companies’ respective governments and Permanent Missions.⁹⁶

Following increased company and media attention to the kickback allegations in the spring of 2001, the CPMD instituted changes to their procedures of contract review. The changes included tightened standards and limited pricing studies. The increased scrutiny of the contracts led to mounting evidence of fraud in the contracts. Chief Customs Expert Johnston collected all the contracts that were marked as fraudulent in a single file. By the fall of 2001, she was convinced that Iraq was running an official kickback policy on all humanitarian contracts submitted to the Programme. Like Elfverson, she attempted to get her superiors to inform the 661 Committee of the manipulation of the Programme. On October 22 2001, she presented a “Note to file” (the “Johnston note”) to the head of the CPMD, Farid Zarif, where she summarized the evidence the OIP had received that the Iraqi government

⁹⁵ Goldstone, Volcker & Pieth, ‘The Management of the Oil-For-Food Programme: Volume III – Report of Investigation: United Nations Administration, Part 1’, (2005). Pg. 73-77.

⁹⁶ Goldstone, Volcker & Pieth, ‘The Management of the Oil-For-Food Programme: Volume III – Report of Investigation: United Nations Administration, Part 1’, (2005). Pg. 77-80.

were demanding kickbacks as part of the contract agreements. The file even included documented proof of written side-agreements between the Government of Iraq and the companies. Johnston wanted Zarif to review the note with Sevan and then forward it to the 661 Committee. In addition, she also prepared a memorandum for Deputy Secretary-General Louise Fréchette and two letters to Iraq's Permanent Representative for Sevan's signature. However, according to Zarif, Sevan refused to forward the information to the 661 Committee or sign the letters and the memorandum.⁹⁷

Not only did OIP-staff urge the Executive Director to inform the 661 Committee of the evidence they had compiled on the kickback scheme, as discussed earlier in this chapter, members of the 661 Committee also requested that the OIP presented the information they had regarding the allegations of Iraqi manipulation. In the early months of 2001, Sevan, Zarif and Chief of Office, Stephani Scheer, were questioned on what they knew of the alleged 10 percent commission on the contracts. The answer from Sevan, Zarif and Scheer was that they had received no official complaints from any Permanent Mission, not mentioning the fact that they had received numerous complaints from various contractors at that point. The representative from the United Kingdom also requested that the OIP present a report on the information they had gathered of the kickback allegations. Scheer answered that the OIP would look into providing what little information that they had. However, there is no evidence to suggest the OIP ever intended to prepare the report the United Kingdom requested.⁹⁸

Although the OIP never raised the issue of the kickback scheme with the UN Secretariat, the Secretariat seems to have been fully aware of its practice in early 2001. In a brief note before a meeting with the Government of Iraq in February 2001, the topic of kickbacks is mentioned as part of Kofi Annan's suggested talking points. According to the IIC-reports, when they questioned Annan why he did not inquire about the alleged kickbacks during the meeting, he explained that he considered that Sevan, who was also present in the meeting, were to lead the discussions of such "technical" nature, while he himself lead the "political" discussions. A month later, following the highly detailed New York Times article, Annan did not instruct Sevan to report the information they had on the kickback scheme to

⁹⁷ Goldstone, Volcker & Pieth, 'The Management of the Oil-For-Food Programme: Volume III – Report of Investigation: United Nations Administration, Part 1', (2005). Pg. 91-111.

⁹⁸ Goldstone, Volcker & Pieth, 'The Management of the Oil-For-Food Programme: Volume III – Report of Investigation: United Nations Administration, Part 1', (2005). Pg. 82-84.

either the Secretariat or the 661 Committee, but commented that in the future, he would like to be forewarned.⁹⁹

⁹⁹ Goldstone, Volcker & Pieth, 'The Management of the Oil-For-Food Programme: Volume III – Report of Investigation: United Nations Administration, Part 1', (2005). Pg. 85-90.

Chapter 4: The Security Council and the humanitarian contracts

4.1 Why did the 661 Committee fail to act on the manipulation of the humanitarian programme?

As established in the previous chapters, the 661 Committee was fully aware of the fact that Iraq was demanding kickbacks on the humanitarian contracts. They were also aware of the fact that any payments to Iraq outside of the United Nations escrow account was both a violation of the Programme and the sanctions regime the committee was created to enforce. While the United Kingdom and the United States attempted to address and stop the kickback scheme, their efforts to do so were not sustained and waned quickly in face of opposition. Due to the consensus-driven way the 661 Committee operated, it is understandable that the United Kingdom and the United States themselves could not get the rest of the committee to agree on comprehensive procedures to stop the kickback scheme. However, each member had the authority to reject or withhold any contract they pleased and the UK and the US exercised that right several times throughout the Programme, but almost exclusively for contracts that either included or were suspected of including contraband items.¹⁰⁰ Several explanations for why the 661 Committee failed to take any action against the corruption of the Programme have been given in the IIC-reports, *Good Intentions Corrupted* and *Backstabbing for Beginners*. All of them will be presented and evaluated next.

In *Backstabbing for Beginners* Michael Soussan describes the situation in the 661 Committee as a “multibillion-dollar diplomatic bazaar” where Russian, Chinese and French representatives traded harsh rhetoric and condemnation of Saddam Hussein and the Iraq regime in Security Council resolution and official 661 Committee-documents for US and

¹⁰⁰ Meyer, Califano & Volcker, (2006), pg. 176.

British representatives' approval of lucrative contracts.¹⁰¹ This claim by Soussan is hard to confirm, as the 661 Committee's official meeting records are not open to the public. When interviewed, Mark Califano could not remember any particular examples of that sort of trade happening, but he would not rule out the possibility. However, to be able to direct contracts to specific companies it would require exercising influence through the OIP, he explained.¹⁰² With the increasing delegation of much of the reviewing and approval of contracts to the OIP, this requirement would become of further importance.¹⁰³ Califano did not remember seeing any of that kind of behaviour from any of the Committee's members, but mentioned that such agreements could have been done informally in person.¹⁰⁴ Without a more thorough investigation, it is not possible to confirm or deny Soussan's claim. However, with the sources available, it seems a bit overblown. Russian and Chinese diplomats might have agreed to tough rhetoric towards Saddam in Security Council-resolutions and OFFP-related documents to keep the Programme operational, but there is no proof that American or British diplomats threatened to decline their companies' contracts if they did not comply.

The IIC-reports themselves presents five possible explanations for why the 661 Committee did so little to combat the kickback scheme. The explanations are as following:

1. Lack of proof.
2. Absence of company complaints.
3. Focus on dual-use.
4. Reliance on the Office of the Iraq Programme.
5. Disagreement on appropriateness on investigation.¹⁰⁵

Concerning the first explanation, at first glance, it is quite hard to take the claim of ignorance seriously, considering that meeting records referenced in the reports and statements to the media by the Committee's members show that they in fact knew that manipulation of the Programme did occur. However, several representatives who served on the 661 Committee has claimed that most of the evidence presented was media reports, not proof that corruption was taking place.¹⁰⁶ Considering the history of the 661 Committee, and how hard it

¹⁰¹ Soussan, (2008). Pg. 307-308.

¹⁰² Interview with Mark Califano on the Oil-For-Food Programme, (New York, 9/2-2016).

¹⁰³ Meyer, Califano & Volcker, (2006), pg. 172-173.

¹⁰⁴ Interview with Mark Califano on the Oil-For-Food Programme, (New York, 9/2-2016).

¹⁰⁵ Goldstone, Volcker & Pieth, 'The Management of the United Nations Oil-for-Food Programme: Volume II - Report of Investigation: Programme Background', (2005). Pg. 176.

¹⁰⁶ Mostly Russian, but also German, Dutch, Australian, American and British gave these statements. Goldstone, Volcker & Pieth, 'The Management of the United Nations Oil-for-Food Programme: Volume II - Report of Investigation: Programme Background', (2005). Pg. 176-177.

was for its members to agree to do anything, it is not surprising that it would take one hundred percent concrete evidence that Iraq was demanding kickbacks for the Committee to act.

As for the second explanation, members of the 661 Committee also claimed that they had not received complaints from their native companies that did business under the Programme. This was especially true for the permanent members Russia and China, but also other member states. The other three permanent members did receive complaints from their companies, which is one of the reasons why the United States presented the rest of the Committee with the proposal to inform all humanitarian suppliers that paying kickbacks was a violation of the Programme rules and the sanctions regime.¹⁰⁷ Since company-complaints would have to be forwarded to the members of the 661 Committee through their respective Permanent Mission this helps explain the absence of company complaints for some of the members. The Permanent Missions are subject to the countries' foreign ministry, and as Mark Califano explained, foreign ministries do not often have an interest in enforcing corruption laws. As he explained, they will monitor such activities for intelligence purposes, not report them to their enforcement authorities.¹⁰⁸

The third explanation is probably the most guiding one, especially for the United Kingdom's and the United States' actions. While the consensus-driven way the 661 Committee functioned prevented it from coming to an agreement to take action against the kickback scheme or even agreeing that manipulation of the Programme was going on, contraband or dual-use items were something that was clearly prohibited under the sanctions regime. An American official testified to the IIC that because maintaining the sanction regime consumed so much of their attention, they had little time and energy to focus on the price of the contracts. It should be mentioned that even though very few, if any, of the contracts were blocked due to pricing concerns alone, that does not mean that none of the contracts that were identified as overpriced were blocked. As another member of the 661 Committee explained, there was a lot of overlap. Just because the official reason for the rejection of the contract was that it contained suspected dual-use items, it might also have been identified as overpriced, but contraband carried more weight as a reason for withholding the contract.¹⁰⁹ Mark Califano also emphasized the focus on dual-use items as the most probable explanation as for why the

¹⁰⁷ Goldstone, Volcker & Pieth, 'The Management of the United Nations Oil-for-Food Programme: Volume II - Report of Investigation: Programme Background', (2005). Pg. 177-179.

¹⁰⁸ Interview with Mark Califano on the Oil-For-Food Programme, (New York, 9/2-2016).

¹⁰⁹ Goldstone, Volcker & Pieth, 'The Management of the United Nations Oil-for-Food Programme: Volume II - Report of Investigation: Programme Background', (2005). Pg. 180.

661 Committee failed to take action against the kickback scheme. As approving contraband was clearly understood as a violation of the sanctions regime, no member could oppose withholding contracts that were suspected of containing dual-use items without facing significant public pressure and criticism. He also points out that the overriding goal for the United States was to contain Saddam, and although they recognized that overpriced contracts created significant issues, because it was not their main objective in the sanctions committee, they let it slide.¹¹⁰ John Ruggie, former Assistant Secretary-General and chief advisor for strategic planning to Kofi Annan later stated to the US congress that:

“It seems reasonable to infer that the U.S. and Britain held their noses and overlooked pricing irregularities in order to keep the sanctions regime in place and to put all their efforts into preventing dangerous technologies from getting into Saddam’s hands.”¹¹¹

What the United States and the United Kingdom in retrospect have been criticised for with this approach, is that by approving overpriced contracts and allowing the kickback scheme to continue unopposed, they helped funding the oppressive Iraqi regime. Saddam could possibly use the illicit funds to do black-market purchases of goods and weapons he would not have been able to obtain through the Programme anyway.¹¹² Although no evidence manifested of such purchases by the Iraqi regime, the mechanisms to be able to facilitate such trades were in place. Through the Oil-For-Food Programme, Saddam received over a billion dollars in foreign currency, which could easily have been used to pay for weapons and material for military purpose without any paper trail if the international oversight and the sanctions regime had, at any point, been relaxed.¹¹³

Several members interviewed by the IIC stated that they relied on the OIP to do price assessments and that it was their responsibility to determine whether a contract was reasonably priced or not. OIP’s operations will be discussed in the next chapter, but it is correct that the OIP had the main responsibility to evaluate if the prices of the contracts corresponded with market values and had the authority to withhold any contract. However, as will be explained in the next chapter, the OIP did not feel they had the authority to reject such contracts on pricing concerns alone. Therefore, you had one organization with the responsibility to identify pricing irregularities, but who lacked the authority to withhold the

¹¹⁰ Interview with Mark Califano on the Oil-For-Food Programme, (New York, 9/2-2016).

¹¹¹ Meyer, Califano & Volcker, (2006), pg. 177.

¹¹² Goldstone, Volcker & Pieth, 'The Management of the United Nations Oil-for-Food Programme: Volume II - Report of Investigation: Programme Background', (2005). Pg. 180-181.

¹¹³ Interview with Mark Califano on the Oil-For-Food Programme, (New York, 9/2-2016).

contracts on those grounds, and you had a committee who had that authority, but did not view it as their responsibility to stop overpriced contracts. It should be noted that although this does explain the approval of the contracts OIP had identified as overpriced, the 661 Committee never requested OIP to withhold overpriced contracts.¹¹⁴

As for the final explanation, given the consensus-driven way the 661 Committee operated, coupled with the fact that three of the permanent members of the committee were publicly opposed to the sanctions, the Committee had huge problems even agreeing that Iraq were manipulating the Programme, let alone facilitate an investigation into the kickback scheme. It was also claimed by several members of the committee that the OIP did not have the resources to conduct such an investigation. The IIC-reports emphasizes Russia as the country who would most often dismiss reports and oppose further investigation.¹¹⁵ Califano also states that Russia typically was indifferent to the details of the humanitarian contracts, and since they had a permanent seat on the committee, they would not allow any sort of investigation to manifest.¹¹⁶ Coincidentally, Russian companies, organizations, political parties and individuals benefitted by far the most from dealings with the Iraq regime by contracting 30 percent of all the oil sales¹¹⁷ and was the largest humanitarian supplier with over 11 percent of the Iraqi purchases.¹¹⁸

4.2 The humanitarian factor

A reason for why members of the 661 Committee did not take action against the kickback scheme that has only been mentioned briefly in the reports and the books is the concern for health and well-being of the people in Iraq.¹¹⁹ The Programme after all, was created to save the lives of the civilian population of Iraq, which suffered tremendously under the heavy UN

¹¹⁴ Goldstone, Volcker & Pieth, 'The Management of the United Nations Oil-for-Food Programme: Volume II - Report of Investigation: Programme Background', (2005). Pg. 181-182.

¹¹⁵ Goldstone, Volcker & Pieth, 'The Management of the United Nations Oil-for-Food Programme: Volume II - Report of Investigation: Programme Background', (2005). Pg. 182-183.

¹¹⁶ Interview with Mark Califano on the Oil-For-Food Programme, (New York, 2016).

¹¹⁷ Goldstone, Volcker & Pieth, 'Manipulation of the Oil-for-Food Programme by the Iraqi Regime', (2005). Pg. 22.

¹¹⁸ Goldstone, Volcker & Pieth, 'Manipulation of the Oil-for-Food Programme by the Iraqi Regime', (2005). Pg. 262

¹¹⁹ The IIC-reports mentions that the representatives from the United Kingdom always weighed the humanitarian impact before placing a contract on hold.

Goldstone, Volcker & Pieth, 'The Management of the United Nations Oil-for-Food Programme: Volume II - Report of Investigation: Programme Background', (2005). Pg. 166 & 175.

sanctions. The United States and the United Kingdom was often criticised for rejecting or withholding contracts containing vital supplies by several actors including Iraq, the OIP, several other UN agencies and different media outlets.

Already in May 1997, a few months after the Programme had been implemented, Iraq sent a letter to the Secretary-General complaining that over 150 humanitarian contracts had been put on hold or rejected by the United States during the first phase of the Programme. By the time of the letter, only 217 of the 570 contracts had been approved by the 661 Committee. According to Iraq's Permanent UN Representative, Nizar Hamdoon:

“The United States of America has put holds on many contracts without giving any reason for doing so. When reasons have been given, they have been unconvincing and unsubstantiated claims: the medicines requested did not appear on the distribution plan, the number of emergency vehicles was greater than needed, or the quantities of medicines in the contracts exceeded the quantities requested, and so forth time. Meanwhile, however, the Permanent Mission of Iraq to the United Nations has been gathering all the evidence necessary to prove that the contents of the contracts complied with the Memorandum of Understanding and the distribution plan.”¹²⁰

This letter from the Iraqi representative was answered with a press release from the Security Council where they informed that the 661 Committee had adopted several measures to “expedite and streamline” the process of reviewing and approving the humanitarian contracts.¹²¹ The Secretary-General also expressed his concern of the delays in the processing of the humanitarian contracts in his report of the Programme in June 1997 and he voiced his support for the measures adopted by the Security Council.¹²²

However, Iraq would continue to send complaints to the UN Secretariat and the Security Council. In June and July, two detailed letters from the Iraqi Foreign Minister, Mohammed Said Al-Sahaf, were sent to the Secretary-General. The letters described which contracts the United States' representative in the 661 Committee had blocked, which reasons had been given and Iraq's objections to those reasons. For instance, the United States had blocked seven medical contracts because they included free merchandise or free medical samples. This was, according to Al-Sahaf, “standard commercial practice in all countries of the world” and to reject contracts on those grounds showed that “the United States of America

¹²⁰ United Nations Archives (UNA), S-1092-0138-04-00011, *Letter dated 16 May 1997 From the Permanent Representative of Iraq to the United Nations Addressed to the Secretary-General*, 16/5-97.

¹²¹ UNA, S-1092-0138-04-00009, *Letter Dated 20 May 1997 From the Permanent Representative of Iraq to the United Nations Addressed to the Secretary-General (Annex)*, 20/5-97.

¹²² UNA, S-1092-0138-04-00001, *Report of the Secretary-General Pursuant to Paragraph 11 of Resolution 986 (1995)*, 2/6-97.

is pursuing a policy of impeding the smooth implementation of the Memorandum of Understanding and disrupting the processing of contracts in the 661 Committee.”¹²³ Al-Sahaf also urged the Secretary-General to intervene.¹²⁴ Appealing for Kofi Annan to stop the United States from rejecting humanitarian contracts would be a common occurrence in the subsequent letters from Iraq. In November of 1997, Al-Sahaf in another letter complaining about holds on contracts, suggested the adoption of three fundamental principles to the Programme. These suggestions were not unlike what would be later known as the “fast track procedure” or the “green list.”¹²⁵ The number of complaints decreased as the Programme grew, but they never ceased to arrive. For instance, in July 2000 the speaker of the Iraqi National Assembly, Dr. S’adoon Hammadi, in a letter to the Secretary-General still accused the United States and the United Kingdom of committing indirect genocide.¹²⁶

As mentioned, not only Iraq criticised the United States and the United Kingdom for delaying the approval of the humanitarian contracts, Secretary-General Kofi Annan frequently urged the 661 Committee to limit the amount of withheld contracts and speed up the approval process. In October 2000 he wrote a letter to the president of the Security Council expressing his “very serious concern” that over \$2 billion worth of contracts were still on hold despite the 661 Committee’s efforts to expedite the process.¹²⁷ He also issued a press release in June 2001 where he stated that the level of holds being put on contracts were “unacceptably high.”¹²⁸ Annan would also frequently express his concern for the humanitarian situation in Iraq and the number of contracts on hold in the Secretary-General’s 90- and 180-day reports on the Programme.

Executive Director of the OIP, Benon Sevan, also criticised the number of holds being put on vital humanitarian contracts. Following a visit to Iraq in 1997, he commented on the abysmal situation of the civilian population of Iraq in a press briefing and recommended

¹²³ UNA, S-1092-0138-03-00028, *Letter Dated 12 June 1997 From the Permanent Representative of Iraq to the United Nations Addressed to the Secretary-General*, 12/6-97.

¹²⁴ UNA, S-1092-0138-03-00028, *Letter Dated 12 June 1997 From the Permanent Representative of Iraq to the United Nations Addressed to the Secretary-General*, 12/6-97.

UNA, S-1092-0138-03-00020, *Letter Dated 12 July 1997 From the Permanent Representative of Iraq to the United Nations Addressed to the Secretary-General*, 15/7-97.

¹²⁵ UNA, S-1092-0138-02-00037, *Letter Dated 29 November 1997 From the Permanent Representative of Iraq to the United Nations Addressed to the Secretary-General*, 29/11-97.

¹²⁶ UNA, S-1092-0111-03-00014, *Letter dated July 12 2000 from the Speaker of the Iraqi National Assembly to the Secretary-General*, 13/7-2000

¹²⁷ UNA, S-1092-0111-02-00008, *Letter dated 3 October 2000 from the Secretary-General addressed to the President of the Security Council*. 3/10-2000.

¹²⁸ UNA, S-1092-0096-01-00010, *Secretary-General urges swifter approval of applications for contracts submitted under humanitarian programme for Iraq*. 4/6-01.

streamlining the process of reviewing and approving the humanitarian contracts.¹²⁹ In March 2001, he made an introductory statement to one of the Secretary-General's periodic reports reiterating the Secretary-General's "grave concern over the unacceptably high level of holds being placed on applications," he would also comment on the number of contract applications on hold in his weekly updates of the OIP.¹³⁰

In 1999, the Security Council wanted to carry out a special assessment on the humanitarian situation in Iraq. In response, all UN representatives in Baghdad¹³¹ signed a joint report which documented that despite the Programme being active for more than two years, the humanitarian situation had seen little improvement. The report mentioned "the inadequacy of available resources for the maintenance of minimum standards of physical and mental life for Iraqi citizens," "the serious deficiency in life chances for Iraqi youth," "the additive effect of years of shortage and severely restrictive conditions of life" and "signs of depletion of abilities of average citizens to cope in honest and dignified ways." The report also underlined that even without the holds placed on humanitarian goods, the Programme could "only meet a small fraction of the priority needs of the Iraqi people."¹³²

The United States and United Kingdom would also draw heavy criticism from media and humanitarian organizations for their role in maintaining the international sanctions, both before and after the adoption of the Oil-For-Food Programme. In a response to the suffering of the Iraqi children endured at the hands of the sanction, The Center for Economic and Social Rights (CESR), which claimed that the sanctions regime were both a human rights violation and broke the Geneva Convention, in 1996 stated;

"It is hard to think of a more grave breach of child rights in modern history than the suffering and death of hundreds of thousands of children under the age of five caused by a political dispute between "their" government and the international community."¹³³

Sometimes they even received criticism or were suspected of dishonest intentions when they authorized expansions to the Programme so that more oil could be sold and more

¹²⁹ UNA, S-1092-0138-02-00034, *Press Briefing on Iraq*, 3/12-97.

¹³⁰ UNA, S-1092-0096-03-00023, *Note to the Deputy Secretary-General – Report of the Secretary-General pursuant to paragraph 5 of resolution 1330 (2000) (S/2001/186): Introductory statement by Benon Sevan*. 7/3-01

¹³¹ From UNOCHI, UNICEF, WFP, United Nations Development Programme and more.

¹³² Von Sponeck, (2006). Pg. 101-103.

¹³³ CESR, (1996), Pg. 37

supplies could be bought. For instance, after the United States proposed to lift the ceiling on oil sales in 1999, the news magazine, *The Times* commented on Britain's support of the proposal:

“Since Iraq cannot meet existing UN oil sales quotas because of the low price of crude, the practical effect would be small. But the political effect would be huge: Britain would be free of claims that it is punishing the Iraqi people, while Baghdad could claim success in ridding itself of the embargo.”¹³⁴

Whether or not these complaints had any noticeable effects on the 661 Committee's actions remains unknown, but according to the IIC-reports, members of the committee claimed they approved contracts they probably should not due to humanitarian concerns or simply keeping the Programme and the sanctions regime operational. For instance, a British representative claimed that the United Kingdom always weighed the humanitarian impact before placing a contract on hold and, as previously mentioned, in their letter to the OIP in April 2001, they stated that although they had identified several contracts as overpriced, they had approved them nonetheless due to humanitarian concern.¹³⁵

One fact to keep in mind is that the Oil-For-Food Programme did not have an immediate impact on the humanitarian situation of Iraq. After the implementation of the Programme, the conditions continued to deteriorate. It was only a few years into the Programme that the situation was reversed.¹³⁶ This was, as shown, heavily reported in both the media and official UN reports and memorandums. It is therefore possible that representatives of the 661 Committee would hesitate to withhold contracts containing vital humanitarian goods simply based on pricing concerns. Both the United States' and the United Kingdom's main policy in the 661 Committee was to keep Saddam Hussein from obtaining goods of military potential and their representatives did prevent illegal goods from being traded to Iraq. This meant that even though they allowed Iraq to earn illicit income through the Programme, in the end they could say they fulfilled the objective set by their home countries.

¹³⁴ Haddad & Islmael, (2003), Pg. 99.

¹³⁵ Goldstone, Volcker & Pieth, 'The Management of the United Nations Oil-for-Food Programme: Volume II - Report of Investigation: Programme Background', (2005). Pg. 166 & 175.

¹³⁶ Garfield and Diaz, (2003). Pg. 8.
Haddad & Islmael, (2003), Pg. 95-96.

Chapter 5: The Office of the Iraq Programme and the Humanitarian Contracts

5.1 The Role of Benon Sevan

What I have indicated in my previous chapters concerning the operations of the Office of the Iraq Programme, is that the leadership of Benon Sevan was a major contributor to the mismanagement and inappropriate activity by the office and perhaps the fundamental reason as for why the OIP were unable to stop the kickback scheme. Sevan did, after all, compromise his position by being involved in corrupt activity. According to the IIC-reports, Sevan influenced Iraq to direct oil allocations to the African Middle East Petroleum Company (AMEP), which employed two of his close associates, Fakhry Abdelnour and Ephraim “Fred” Nadler. This in itself is highly inappropriate behaviour for the leader of a humanitarian programme, but it is also highly suspected that he was paid at least \$147,184 for helping AMEP obtain the oil allocations, which is outright corruption.¹³⁷ Whether Sevan had to repay the Saddam regime in any way is doubtful,¹³⁸ however his actions suggests that he worked to expand the Programme, expedite the reviewing process and relax the sanctions. He would frequently lobby the Security Council to reduce the number of holds on contracts and streamline the process of reviewing and approving the humanitarian contracts.¹³⁹ One of his most famous statements was to the Security Council in September 2000, when he complained of the number of contracts on hold:

¹³⁷ Meyer, Califano, and Volcker, (2006). pg. 181-201.

¹³⁸ Gordon, Joy, (2007), Pg. 65.

¹³⁹ UNA, S-1092-0112-03-00011, *Note to the Deputy Secretary-General – Oil Spareparts and Equipment – Draft letter from the Secretary-General addressed to the President of the Security Council.* 14/1-00.

“I am sure some of you will now tell me: “Benon, come on, not again, you sound like a broken record!” Well, so be it. As the Executive Director of the Iraq Program, I feel duty bound to draw the attention of the Council to the unacceptably high level of holds placed on applications.”¹⁴⁰

In addition to complain about the number of holds, he also lobbied the Security Council to authorize that Iraq could use funds from the escrow account to purchase oil spare parts. First in 1998 and two years later, after the spare parts program had been approved, to expand the funds available.¹⁴¹ Additional programs Sevan urged the 661 Committee to implement was the allocation of funds to the Iraqi housing sector¹⁴² and to use money from the escrow account to pay for Iraqi citizen’s trip to Mecca to perform Hajj.¹⁴³ He would also lobby the Security Council to be more lenient on suspected dual-use items and put more trust into the United Nations’ capabilities to make sure they were used as outlined in the distribution plan. In his introductory statement to the Secretary-General’s report on the Programme in March 2001, he states:

“I should like to appeal to the Security Council and its Committee to endorse urgently the recommendation of the Secretary-General in order to strengthen the credibility of the humanitarian objectives of the programme undertaken pursuant to resolution 986 (1996) as well as allowing the programme to be implemented effectively. We have the capacity and the necessary monitoring and observation mechanisms in place to monitor oil spare parts and humanitarian supplies arriving in Iraq to provide the assurances to the Council and its Committee that supplies arriving in Iraq under the programme are indeed being utilized for authorized purposes.”¹⁴⁴

Now, supporting these policies does not mean that the oil allocations from Iraq influenced Benon Sevan’s positions in any way. Sevan was far from the only one to advocate that Iraq should be allowed to use escrow money to buy oil spare parts and fund Iraqi citizens who were going to perform Hajj. Both Kofi Annan¹⁴⁵ and several members of the Security

¹⁴⁰ Haddad & Ismael, (2003). Pg. 101.

¹⁴¹ Meyer, Califano, and Volcker, (2006). pg. 201-209 & 217-219.

UNA, S-1092-0112-03-00011, *Note to the Deputy Secretary-General – Oil Spareparts and Equipment – Draft letter from the Secretary-General addressed to the President of the Security Council*. 14/1-00.

¹⁴² UNA, S-1092-0111-06-00032, *IRAQ – Clearance and signature of letter from the Secretary-General addressed to the President of the Security Council*, 8/6-00.

¹⁴³ UNA, S-1092-0112-02-0028, *Note to the Deputy Secretary-General – Re: Hajj*, 24/2-01.

¹⁴⁴ UNA, S-1092-0096-03-00023, *Note to the Deputy Secretary-General – Report of the Secretary-General pursuant to paragraph 5 of resolution 1330 (2000) (S/2001/186): Introductory statement by Benon Sevan*. 7/3-01

¹⁴⁵ UNA, S-1092-0112-03-00011, *Note to the Deputy Secretary-General – Oil Spareparts and Equipment –*

Council were supporters of these policies. Nor was he the only one who complained about the number of holds being placed on humanitarian contracts. However, there are other aspects of Sevan's management of the OIP that could imply the oil allocations did influence his actions. As mentioned in the previous chapter concerning the OIP, from the start of the initiation of Iraq's kickback scheme, the OIP got numerous complaints from various companies that Iraq was demanding money under the table as part of the contract agreement. Sevan never attempted to notify the 661 Committee of this practice and, as explained above, even stopped other OIP staff members from alerting the Committee, the Security Council or the UN Secretariat.¹⁴⁶ His reasoning behind not raising the allegations for the 661 Committee was that it was outside of the mandate of the OIP. Their mission, according to Sevan, was "to get food and medicine to the Iraqi people," not to enforce corruption laws and that the companies should take the issue through their countries' Permanent Missions instead. Head of the Programme Management Division, J. Christer Elfverson, also claimed that Sevan viewed the kickbacks as part of the Iraqi culture and that it was none of Elfverson's business to address it.¹⁴⁷ The most blatant example of Sevan not allowing OIP staff to notify the 661 Committee was the so-called "Johnstone note." As mentioned previously, the "Johnstone note" summarized the mounting evidence the OIP had received of the kickback scheme. Sevan was presented with letters and memorandums to the 661 Committee, the Deputy Secretary-General and the Iraqi ambassador to the UN prepared for his signature containing documentation of the evidence, but refused to sign or forward any of them. According to head of the CPMD, Farid Zarif, Sevan did not view the issues the "Johnstone note" documented with "the same degree of urgency" as Zarif.¹⁴⁸ He also explained that Sevan was "very hesitant" and "very reluctant" to raise "embarrassing issues" with the Government of Iraq. Compared to himself, Zarif also described Sevan as "extremely cautious."¹⁴⁹ Kofi Annan also stated that Sevan "absolutely" should have forwarded the information the "Johnstone note" contained to the 661 Committee.¹⁵⁰

Draft letter from the Secretary-General addressed to the President of the Security Council. 14/1-00.

¹⁴⁶ Meyer, Califano, and Volcker, (2006). pg. 201-203.

¹⁴⁷ Goldstone, Volcker & Pieth, 'The Management of the United Nations Oil-for-Food Programme: Volume III – Report of Investigation: United Nations Administration Part 1', (2005). Pg. 77-78

¹⁴⁸ Goldstone, Volcker & Pieth, 'The Management of the United Nations Oil-for-Food Programme: Volume III – Report of Investigation: United Nations Administration Part 1', (2005). Pg. 93-95.

¹⁴⁹ Goldstone, Volcker & Pieth, 'The Management of the United Nations Oil-for-Food Programme: Volume III – Report of Investigation: United Nations Administration Part 1', (2005). Pg. 110.

¹⁵⁰ Goldstone, Volcker & Pieth, 'The Management of the United Nations Oil-for-Food Programme: Volume III – Report of Investigation: United Nations Administration Part 1', (2005). Pg. 111.

In addition to not informing the 661 Committee of the kickback scheme, Sevan would also trivialize allegations when the committee asked him to report on them. He also never informed the Secretary-General or any high-ranking UN official of the evidence that had been presented to him of Iraq's kickback scheme.¹⁵¹ For instance, in March 2001, after the New York Times had written their comprehensive article on the kickback scheme, Sevan wrote a memorandum to Annan's Chef de Cabinet, Iqbal Riza. In the memorandum he stated that "there is nothing new about the allegations reported in the New York Times. Such reports have been widely published in the press during the past few months." This, of course, was true, and Sevan wrote that they had received "a few phone calls from contractors complaining about [Iraq demanding kickbacks on humanitarian contracts]." However, Sevan claimed they had "no hard proof" and that the companies had been asked to take the complaints through their Permanent Mission and that it was up to them to bring forth the allegations to the 661 Committee. He also stated that the OIP did not deal directly with the companies who did business under the Programme.¹⁵² These statements run contradictory to the OIP's operations, as the office frequently communicated with the various companies who did business under the Programme. The assumption that the OIP could not take action against alleged manipulation without "hard proof" from any UN missions is also wrong.¹⁵³

Michael Soussan also inferred that Sevan was responsible for what both he and Goldstone and Califano has described as a toxic work environment in the Office of the Iraq Programme. According to Soussan, he isolated the different departments of the OIP and pitted them against each other in a "turf war" which "allowed him to cover his tracks and kept [the staff members of the OIP] busy blaming each other, every step of the way."¹⁵⁴ Examples of this practice is Sevan marginalizing the Programme Management Division, the division based in New York responsible for overseeing the Programme's field operations in Iraq. Sevan moved the offices of the division to another building from where the Executive Office and the CPMD were located and denied the division to communicate directly with the 661 Committee.¹⁵⁵ Both *Good Intentions Corrupted* and *Backstabbing For Beginners* suggest that

¹⁵¹ Meyer, Califano, and Volcker, (2006). pg. 202 & 217.

¹⁵² Goldstone, Volcker & Pieth, 'The Management of the United Nations Oil-for-Food Programme: Volume III – Report of Investigation: United Nations Administration Part 1', (2005). Pg. 89-90. Figure: Benon Sevan note to S. Iqbal Riza (Mar. 7, 2001) (including handwritten comments by Secretary-General Annan and Mr. Riza)

¹⁵³ Goldstone, Volcker & Pieth, 'The Management of the Oil-For-Food Programme: Volume III – Report of Investigation: United Nations Administration, Part 1', (2005). Pg. 81.

¹⁵⁴ Soussan, (2008). Pg. 303.

¹⁵⁵ Meyer, Califano, and Volcker, (2006). pg. 212-215.

this was done due to his dysfunctional relationship with the head of the division, J. Christer Elfverson.¹⁵⁶ As discussed in the previous chapter, Elfverson showed the willingness to bring the kickback allegations to the attention of the 661 Committee on numerous occasions, which Sevan vehemently opposed. The Scania-incident, mentioned in chapter 3, is an excellent example of this behaviour from Sevan. Both Elfverson and Soussan considered the behaviour of Sevan in this incident as “misconduct in service.”¹⁵⁷ The Scania-incident was not the only occurrence of Elfverson attempting to inform the 661 Committee of the kickback allegations, however, after a while, Sevan would simply ignore all of Elfverson’s attempts to make contact with him.¹⁵⁸

In addition to denying the OIP to notify both the Security Council and the UN Secretariat, Sevan would also reject any sort of auditing or investigation into the OIP’s operations. He blocked the Office of Internal Oversight Services’ (OIOS) Internal Audit Division from auditing the Programme in 2001, despite the division’s assessment of the Programme as a “high risk activity.” The Internal Audit Division did manage to audit both the CPMD and the PMD in 2003, but Sevan was “uncooperative and hostile toward the auditors to the point that his actions often bordered on abusive.”¹⁵⁹

Trivializing allegations and clear evidence of corruption and stymieing investigations into both the kickback scheme and the OIP’s operations does seem suspect, but that alone is not sufficient proof that the bribes Sevan received were the sole cause of his actions. There might be other reasons why Sevan undermined any suggestion that the OIP or any other should act on the manipulation attempts. He might have thought that any sort of reaction to the kickback scheme would put halt to the entire operation, either due to the Security Council shutting down the Programme or Iraq refusing to partake in the Programme now that they could not use it to earn illicit income. By the time the Iraqi regime made the kickback scheme an official policy and the OIP received warnings, the Oil-For-Food Programme had finally started to improve the humanitarian situation in Iraq.¹⁶⁰ A shutdown of the Programme would cause suffering and potential death to millions of civilian Iraqis who were now reliant on the

¹⁵⁶ Meyer, Califano, and Volcker, (2006). pg. 212-214.

Soussan, (2008). Pg. 201-205.

¹⁵⁷ Goldstone, Volcker & Pieth, ‘The Management of the Oil-For-Food Programme: Volume III – Report of Investigation: United Nations Administration, Part 1’, (2005). 77-78.

¹⁵⁸ Goldstone, Volcker & Pieth, ‘The Management of the Oil-For-Food Programme: Volume III – Report of Investigation: United Nations Administration, Part 1’, (2005). Pg. 38.

¹⁵⁹ Meyer, Califano, and Volcker, (2006). pg. 226-231.

¹⁶⁰ Garfield and Diaz, (2003). Pg. 13-33.

food baskets and the medical supplies the Programme provided. Sevan had, on many occasions visited Iraq and witnessed the deteriorating humanitarian conditions first hand. Soussan recollects a scene from their visit when they inspected a hospital where Sevan had begun to cry when a little girl dying of leukaemia had shown them a drawing she had made.¹⁶¹ Sevan would also comment on the “dismal” conditions in the hospitals and the “very high prices” of medical care in his press briefing on the OFFP following his trip to Iraq in 1997.¹⁶² Sevan could also have reasons to fear less drastic actions than a full shutdown of the Oil-For-Food Programme. He might suspect that the Security Council in the end, would not act on the allegations and that raising the issue in the 661 Committee would only waste time and cause further delay in the reviewing and approving of contracts. Like the 661 Committee, he might have refused to take action against the kickback scheme for humanitarian reasons or simply to keep the Programme operational.¹⁶³

When asked whether a non-corrupted leadership in the Office of the Iraq Programme would have been able to crack down on the manipulation attempts, Mark Califano answered that even if Benon Sevan had been a completely objective programme administrator, it would still have been incredibly hard to take decisive action against the kickback scheme due to a number of factors. First, he would still have to deal with the gridlock in the Security Council and the 661 Committee. Even the best programme administrators would still have found it tough to get the Security Council to do anything about the kickback scheme due to the consensus-driven way the 661 Committee operated. They would also have to administer and execute the Programme and continue to do so while waiting for the 661 Committee to come to an agreement, which according to Califano, would be “an impossible situation to be in.” The second reason is the human factor. All administrators are humans. Once you start running a programme, you commit yourself to it and you are personally invested in it. A non-corrupted programme administrator would still want to run a humanitarian programme successfully and would probably be extremely hesitant to basically shut down the programme on his own initiative due to pricing irregularities. To do this, Califano explained, carried the risk of being removed from the position. This would especially be true for a humanitarian programme such as Oil-For-Food where a halt in the programme operations could possibly have tragic consequences for thousands, if not millions of people. The third reason is the diplomatic and organizational factor. Since the Programme was run by the Secretariat, the Executive Director

¹⁶¹ Soussan, (2008). Pg. 62-67.

¹⁶² UNA, S-1092-0138-02-00034, *Press Briefing on Iraq*, 3/12-97.

¹⁶³ Interview with Mark Califano on the Oil-For-Food Programme, (New York, 9/2-2016).

of the Programme would most likely be an experienced UN official who had done a career in the UN, just like Benon Sevan. As Califano explained, “international mores, even in a diplomatic context, are flexible, and many people who operate the UN have lived in that world for a very long time.” Maybe as important, diplomats who work in the UN are removed from the oversight enforcement their country provides, while the UN had, and in many ways still has, a non-functioning disciplinary system. As long as the Executive Director came from the UN environment, they would most likely be quite tolerant of the behaviour they observed while administering the programme.¹⁶⁴

Michael Soussan presents somewhat of a synthesis of these three explanations in his book: To be able to rise to the top of the UN bureaucracy, it is more important to be able to dodge responsibility than to accept it. Taking responsibility means that you will have to make decisions. As a UN bureaucrat, you will have to answer for that decision to 15 bosses, the members of the Security Council, all with different worldviews. Making the wrong decision has the potential of ruining your career. Taking action against the kickback scheme involved making a decision, possibly offending some members of the Security Council in the process and now being accountable for the halt in shipments of food and medicine to Iraq. A bureaucrat fostered in the UN Secretariat would be conditioned to avoid making such decisions like the plague.¹⁶⁵

5.2 Other possible reasons for OIP’s failure to stop the kickback scheme

Even though Benon Sevan played an important role in undermining the OIP’s efforts and abilities to combat the kickback scheme, the above paragraphs show that his mismanagement was not the sole reason for the OIP’s failure to manage the Programme. More importantly, a different Executive Director would still have found it incredibly hard to get the OIP and the 661 Committee to take action against the manipulation of the Programme. In his biography, Kofi Annan is adamant that the UN Secretariat was unfit to carry out the task of administering a humanitarian programme of the scale and complexity of Oil-For-Food. As he said, the Security Council should never have asked the Secretariat to manage it, and that the Secretariat should never have accepted it. However, he also states that it does not excuse the United

¹⁶⁴ Interview with Mark Califano on the Oil-For-Food Programme, (New York, 9/2-2016).

¹⁶⁵ Soussan, (2008). Pg. 136.

Nations' mismanagement, and that once they had accepted to run the Programme, it was their responsibility to do so "competently and meticulously."¹⁶⁶ Not only did the UN have huge structural problems and a non-functioning accountability system, its very nature meant that it was poorly equipped to manage the Oil-For-Food Programme. The United Nations is, first and foremost, a diplomatic institution, it is not operational. Mostly diplomats, not administrators or executives work in the UN, and it was mostly diplomats who staffed the OIP. The purpose of the United Nations is to solve international conflicts and promote peace and cooperation among nation-states, not to manage a country's economy. As Califano said, having the United Nations Secretariat run the Oil-For-Food Programme was like trying to fit "a round peg in a square hole, the UN being the round peg in a hole it does not belong in."¹⁶⁷ Soussan also shared this sentiment in his book, explaining that the challenges the UN faced by managing the Programme made it easier to ignore the problems than actually dealing with them.¹⁶⁸

The fact that a man like Benon Sevan was allowed to mismanage the Programme to such an extent is a testament to the structural issues and the lack of accountability enforcement in the United Nations. As mentioned above, Sevan regularly met with with Secretary-General Kofi Annan and had daily interactions with Deputy Secretary-General Louise Fréchette, who were both aware of the kickback scheme that were unfolding under the Programme, but neither Annan or Fréchette pressed Sevan to combat the scheme or to inform the 661 Committee of the evidence they had. The Deputy Secretary-General had the authority of "overall supervision" of the Programme, however it was unclear whether she had the authority to direct or manage the OIP in any way.¹⁶⁹ According to Annan, the 661 Committee was in charge of the Oil-For-Food Programme and Sevan worked for the Committee, not the Secretariat. The Deputy Secretary-General was only responsible for overseeing the administration, to be what Annan called "an extra pair of eyes."¹⁷⁰ This meant that as far as Fréchette knew, she had the responsibility of oversight, but not the authority to take action against mismanagement, although she later contested that she had the responsibility of oversight as well when interviewed by the IIC.¹⁷¹ Soussan describes this as the core nature of

¹⁶⁶ Annan, Mousavizadeh & Jensen, (2012). Pg. 445.

¹⁶⁷ Interview with Mark Califano on the Oil-For-Food Programme, (New York, 9/2-2016).

¹⁶⁸ Soussan, (2008). Pg. 136.

¹⁶⁹ Goldstone, Volcker & Pieth, 'The Management of the Oil-For-Food Programme: Volume III – Report of Investigation: United Nations Administration, Part 1', (2005). Pg. 18-19.

¹⁷⁰ Goldstone, Volcker & Pieth, 'The Management of the Oil-For-Food Programme: Volume III – Report of Investigation: United Nations Administration, Part 1', (2005). Pg. 169-170.

¹⁷¹ Goldstone, Volcker & Pieth, 'The Management of the Oil-For-Food Programme: Volume III – Report of

the management culture in the United Nations. Those with responsibility have no authority, and those with authority have no responsibility.¹⁷² However, Annan's notion that Sevan worked for the 661 Committee is contradictory to the creation of the OIP as one entity to manage the Secretariat's activities relative to the Programme. The OIP was a creation of the Secretariat and Sevan was appointed by Annan himself. The only person who could discipline or fire Sevan, was Annan.¹⁷³

The question of authority also extended to the operation of the Programme. Like the 661 Committee, the customs experts at OIP frequently withheld contracts because they contained contraband or dual-use items, but they rarely, if ever, rejected a contract on pricing irregularities alone. When interviewed by the IIC, the customs experts have stated that they did not feel that they had the authority to withhold contracts due to pricing concerns.¹⁷⁴ As mentioned in chapter 4, allowing contraband to pass through the Programme was something that was clearly prohibited in the Programme guidelines, and doing that would possibly bring massive public pressure. However, regarding overpriced contracts, the OIP would request that the supplier provided explanations for the pricing and if they received one they would include the explanation along with a customs report when forwarding the contract to the 661 Committee.¹⁷⁵ As I discussed in chapter 4, members of the 661 Committee felt that it was the OIP's responsibility to stop overpriced contracts. Soussan's view of the UN is again quite fitting: The OIP had the responsibility to stop overpriced contracts, but not the authority. The 661 Committee had the authority, but not the responsibility.

The public pressure and humanitarian concern should also be included when discussing why the OIP failed to stop the kickback scheme. We know that several members of the OIP, especially early in the Programme, were frustrated by the numbers of contracts on hold and the relative lack of progress. Denis Halliday and Hans von Sponeck both resigned in protest from the position of Humanitarian Coordinator in Iraq because of the abysmal situation in the country and the lack of progress in the Programme.¹⁷⁶ Halliday, especially, was very outspoken about the impact the sanctions had on the civilian population in Iraq.

Investigation: United Nations Administration, Part 1', (2005). Pg. 170.

¹⁷² Soussan, (2008). Pg. 139.

¹⁷³ Goldstone, Volcker & Pieth, 'The Management of the Oil-For-Food Programme: Volume III – Report of Investigation: United Nations Administration, Part 1', (2005). Pg. 169.

¹⁷⁴ Goldstone, Volcker & Pieth, 'The Management of the Oil-For-Food Programme: Volume III – Report of Investigation: United Nations Administration, Part 1', (2005). Pg. 28-29.

¹⁷⁵ Goldstone, Volcker & Pieth, 'The Management of the United Nations Oil-for-Food Programme: Volume II - Report of Investigation: Programme Background', (2005). Pg. 170-172.

¹⁷⁶ Haddad & Ismael, (2003). Pg. 95.

After a meeting with different Iraqi union-leaders in 1998, he relayed a message to the Secretary-General that “[dying from sanctions] is worse than war” and that “they would prefer to be killed by missiles and bombs.”¹⁷⁷ After resigning as Humanitarian Coordinator later that year, Halliday would contact the UN again in March 2000, this time to bring a documentary film to the attention of the Deputy Secretary-General. The documentary film was entitled *Paying the Price – Killing the Children of Iraq* and documented the impact the sanctions had on the civilian population. Like some humanitarian organizations, Halliday claimed that the sanctions violated both the Universal Declaration of Human Rights and the Geneva Convention.¹⁷⁸ Hans von Sponeck would also share his grievances while working as Humanitarian Coordinator in his book *A Different Kind of War*.¹⁷⁹ Staff members based in New York also seemed to be concerned that cracking down on the kickback scheme would lead to a dramatic stop in humanitarian shipments. Following the United States proposal in March 2001, Felicity Johnston advocated leaving out a part that stated that any payments to the Government of Iraq was unacceptable. Johnston argued that this could potentially put numerous contracts on hold, which would cause, for instance, food imports to come to a halt.¹⁸⁰

The United Nations clearly had huge structural challenges when it came to resisting corrupting influence in the Oil-For-Food Programme. One could definitely argue that making the UN Secretariat responsible for managing the Programme made it doomed to fail from the very beginning. First, the United Nations Secretariat is designed to coordinate and promote diplomatic relations, not operate the world’s largest humanitarian programme. Although the UN does manage humanitarian programmes such as UNICEF (United Nations Children’s Emergency Fund), WFP (World Food Programme) and the UNHCR (United Nations High Commissioner for Refugees), those are specialized agencies that are purely humanitarian affairs, they are not responsible for managing the economy of a country.¹⁸¹ Second, the UN Secretariat is an administration that is directed by the Security Council, it has very little real authority in itself. Any of the permanent members can veto the appointment or re-election of

¹⁷⁷ UNA, S-1092-0130-01-00011, *Letter to Secretary-General Kofi Annan from UN Humanitarian Coordinator in Iraq Denis J. Halliday*, 19/1-98.

¹⁷⁸ UNA, S-1092-0112-02-00013, *Letter to Deputy Secretary-General Louise Fréchette from Denis J. Halliday*, 20/3-00.

¹⁷⁹ Von Sponeck, (2006).

¹⁸⁰ Goldstone, Volcker & Pieth, 'The Management of the United Nations Oil-for-Food Programme: Volume II - Report of Investigation: Programme Background', (2005). Pg. 165.

¹⁸¹ Michael Soussan, 'RE: Master's Thesis about the Oil-For-Food Programme', Message to Erik Søgård. 6/5-16. E-mail.

the Secretary-General, making the Secretariat wholly subservient to the Security Council. This also manifested itself in the Oil-For-Food Programme. As mentioned above, the Secretariat and the Office of the Iraq Programme had, in reality, no power to enforce Programme rules, especially when it came to pricing concerns.

The actions of Executive Director Benon Sevan was also contributory to the failure of the OIP to oversee the Programme efficiently. However, as I have argued, his role was more a symptom of the structural ineptitude of the Secretariat rather than the sole cause for the inability of the OIP to enforce Programme rules. It is also important to remember that the OIP's mission was to manage and implement the Oil-For-Food Programme, the purpose of which was to import essential humanitarian goods to Iraq. After the Saddam regime initiated the kickback scheme in 2000, rejecting contracts on pricing irregularities would almost certainly put a large part of the operation to a halt. This would possibly lead to worsening conditions for the civilian population of Iraq, which the Programme was designed to help. Compared to taking a hard line against the manipulation attempts and be responsible for the increased suffering of millions of people, allowing the kickback scheme to continue could therefore be seen as the lesser evil.

Chapter 6: Conclusion

The Oil-For-Food Programme did, in the end, have a positive effect on the humanitarian situation in Iraq. If we only look at its results, the Programme was successful in alleviating the suffering of the Iraqi population. However, we cannot ignore corruption and fraud when discussing the success and failures of the Programme. The people of Iraq was, after all, the biggest loser in the corruption scheme. Saddam Hussein pocketed more than \$1.8 billion in illicit income through the Programme. Most of that money came straight out of the UN controlled escrow account. Money that was supposed to be used to purchase food, medicine and other goods for the civilian population of Iraq; instead, it was used to strengthen the authoritarian regime's grip on the country.

Both the United Nations Secretariat and the Security Council have to bear the responsibility for allowing the corruption scheme to go unchallenged. What became most apparent to me when researching the Oil-For-Food Programme was the responsible organs' unwillingness to take action against evidence of manipulation. In the introductory chapter to *Good Intentions Corrupted*, Paul Volcker comments on the "culture of inaction" that is rooted in the United Nations administration.¹⁸² In the 661 Committee, this culture manifested itself in the no-objection rule that directed the Committee. While this rule gave each member the power to enforce the international sanctions, it made it extremely difficult for the Committee to act as a collective body. Although the United Kingdom and the United States attempted to get the rest of the Committee to address the issue of kickbacks, the no-objection rule made it impossible for them to create a voting block and force the Committee to take action against the kickback scheme. The members of the 661 Committee had the authority to stop the contracts that were suspected of including kickbacks, but due to other priorities or not being willing to take responsibility, they never did. The Office of the Iraq Programme was also plagued by the "culture of inaction." The customs experts continued to approve contracts that were highly suspected of including kickbacks. Although several staff members attempted to

¹⁸² Meyer, Califano, and Volcker, (2006). Pg. xxiv.

Michael Soussan also discusses this management culture in *Backstabbing for Beginners*. Soussan, (2008), Pg. 136-138.

raise the 661 Committee's awareness of the kickback scheme, Executive Director, Benon Sevan quashed any attempt to alert the Committee. Sevan himself is certainly responsible for the failures of the OIP to manage the Programme responsibly, but, as I have argued in this thesis, he was merely a symptom of the overall dysfunctional management culture in the United Nations.

Was the Oil-For-Food Programme destined for corruption? Earlier, I made the argument that the decision to give the Secretariat the responsibility of management doomed the Programme before it could be implemented. When you consider everything I have discussed in this thesis, it is very hard to envision a scenario where the Programme would not be subjected to fraud and manipulation. The design of the Programme left Iraq with several opportunities to manipulate it to circumvent the sanctions regime and the management culture of the United Nations and the national interests of the countries in the Security Council made sure that they were able to do so unopposed.

An important debate that arises from the topic of the Oil-For-Food Programme is concerning the nature and purpose of the United Nations as an intergovernmental organization. It is essential to understand what the UN can and cannot do. As I have discussed several times in this thesis, the United Nations is an international organization designed to promote peace and international cooperation. The Secretariat was designed to be a conference support secretariat, not to be the executive branch of a world government. Although the UN does run some very successful humanitarian programmes such as UNICEF and the WFP, they are specialized humanitarian endeavours. The Oil-For-Food Programme was not only responsible for bringing food and medicine into Iraq, the Programme was also responsible for facilitating Iraq's oil export, the country's economic development and the rebuilding of its infrastructure. Sectors where member states, and more important, permanent members of the Security Council had vital national and economic interests. This begs the question whether it was fair to put the UN in the position to manage the Programme to begin with. The second Secretary-General of the United Nations, Dag Hammarskjöld said that; "The United Nations is what the member nations make it."¹⁸³ Since most member states were aware of, and even contributed to the corruption of the Oil-For-Food Programme, is it then fair to expect the UN to be able to combat the same corruption?¹⁸⁴

¹⁸³ Dag Hammarskjöld, *Hammarskjöld: The Political Man*, (United States: Funk & Wagnalls, 1968). Pg. 7.

¹⁸⁴ Michael Soussan, 'RE: Master's Thesis about the Oil-For-Food Programme', Message to Erik Søgård. 6/5-16. E-mail.

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