

September 7, 2005

Statement on Behalf of Benon V. Sevan
On the Report of the IIC

The Independent Inquiry Committee's (IIC) latest report, as it relates to Mr. Sevan's role in the management of the Office of the Iraq Programme (OIP), makes accusations that are misguided, unsubstantiated, and false. The Committee alleges that Mr. Sevan failed to "maintain and support" Programme responsibilities as the head of the OIP. As every significant participant in the Programme has long acknowledged, Mr. Sevan ran the largest and one of the most successful humanitarian efforts in UN history, under nearly impossible circumstances, with complete evenhandedness, and with extraordinary and demonstrable success. Anyone knowledgeable about the Programme will also attest that Mr. Sevan was tireless and relentless in his pursuit of the mission of the Programme.

For six years, the Security Council and the 661 Committee were briefed verbally and in writing, on an almost daily basis on every aspect of the Programme, including problems relating to pricing, surcharges, kickbacks, and oversight. Mr. Sevan reported regularly to the Secretary-General and almost on a daily basis to his Deputy, Ms. Louise Frechette. Mr. Sevan was unusually outspoken, and did not hesitate to express his views, whether Member States, including Iraq, liked them or not. We invite the media, as well as all others concerned to ask the members of the Security Council and its 661 Committee, as well as those who ran the Programme on the ground in Iraq, about the quality and transparency of Mr. Sevan's management. We also invite the media to ask the four Chairmen of the 661 Committee with whom Mr. Sevan worked from 1997 until the end of the Programme in November 2003 for their own assessment of his performance—Ambassador Antonio Monteiro of Portugal (1997-1998), Ambassador Peter van Walsum of the Netherlands (1999-2000), Ambassador Ole Peter Colby of Norway (2001-2002), and Ambassador Gunter Pleuger of Germany (2003-2004).

With \$35 million spent or nearly spent, the IIC has little to show for its efforts and now returns to its familiar stratagem of blaming Mr. Sevan for design and policy decisions taken by others. Mr. Sevan did not run the Programme in a clinically controlled environment. On the contrary, the Programme had to be implemented within the context of a comprehensive sanctions regime, an explosive political environment, and the competing as well as conflicting political interests of Member States, including Iraq. The IIC has totally failed to understand, let alone appreciate, the very basis of the Programme and its mandate, as well as its procedures, which were established by the Security Council and its 661 Committee. While many Member States considered the Iraqi regime a pariah, Mr. Sevan and his colleagues had to implement the Programme in full compliance with the Programme's mandate and procedures, as well as the Memorandum of Understanding (MOU) between the UN Secretariat and the Government of Iraq on the implementation of Security Council Resolution 986 (1995). In accordance with the MOU, nothing in that "Memorandum should be construed as infringing upon the sovereignty or territorial integrity of Iraq." (S/1996/356, para. 3).

The Structure of the Programme

As agreed by the Security Council, the Government of Iraq was fully responsible for the implementation of the Programme in the 15 governorates in the center and south of Iraq, including the entire planning and contracting cycle for the utilization of funds allocated for that purpose—the ESB (59 per cent) account. The Government of Iraq was authorized to select its own suppliers and negotiate contracts, including their terms, for supplies and equipment for the 15 governorates, as well as for the bulk purchase of food and medical supplies for the whole country, including the three northern governorates.

The main responsibilities of the United Nations in the 15 governorates were observation and monitoring of the distribution of supplies delivered to Iraq under the Programme in an equitable and efficient manner, monitoring the utilization of oil spare parts and equipment, and providing the necessary assurances to the Security Council that supplies and equipment delivered to Iraq under the Programme were utilized for their authorized purposes. Contrary to the implication of the IIC's report, the OIP did not have responsibility for monitoring or investigating possible sanctions violations; this responsibility was reserved explicitly and through long-standing practice to the Security Council, its 661 Committee, and the Member States.

In the three northern governorates of Dahuk, Erbil, and Sulaymaniyah, the Programme was implemented by the UN on behalf of the Government of Iraq. Apart from items under bulk purchase arrangements, procurement of all other supplies and equipment required for the North was carried out by the UN Secretariat and the nine UN agencies and programmes concerned.

In addition, independent oil inspection agents (Saybolt) monitored the export of oil from terminals at Mina-al-Bakr and Ceyhan, Turkey, the two Security Council authorized sites. Likewise, all imports authorized under the Programme were inspected and authenticated by independent inspection agents (at the beginning by Lloyds and then by Cotecna), at entry points authorized by the Council. Other imports to Iraq outside the Programme were not subject to UN inspections.

Suppliers submitted their applications for contracts to the Office of the Iraq Programme (OIP), through their respective permanent missions to the United Nations. Inquiries concerning contracts, either by the suppliers or OIP, were made through the permanent missions.

Success of the Programme

Throughout his tenure as Executive Director of the Programme, Mr. Sevan appealed to all concerned to focus their attention, over and above all other interests, on the humanitarian dimension, and to spare no effort in meeting the dire humanitarian needs of the Iraqi people. Mr. Sevan does not apologize for this emphasis. Irrespective of the political and other constraints, and irrespective of the views of Mr. Volcker and his group, the Programme made a real difference in the lives of the Iraqi people. As long as sanctions remained in place, there was no alternative to the Programme in alleviating

the humanitarian situation in Iraq and mitigating the unintended consequences of the comprehensive sanctions regime imposed on Iraq.

In a statement at the 4868th meeting of the Security Council on 20 November 2003, the President of the Council, Ambassador Ismael A. Gaspar Martins of Angola expressed, on behalf of the Council, “deep gratitude to the Secretary-General, the Office of the Iraq Programme, to United Nations personnel who worked on the ground in Iraq, and to all other United Nations agencies and structures involved,” and applauded “their commitment and professionalism.” (For the full text of the statement see document S/PRST/2003/24.) In a statement to the Council on the same date, the Secretary-General described the Oil-for-Food Programme as comprising the “most complex and most unusual tasks [the Security Council] has ever entrusted to the Secretariat” and paid “tribute to the international staff who have worked on the Programme, and particularly to its Executive Director, Benon Sevan. He has served the Organization in this, as in many previous capacities, far beyond the call of duty.” (For the verbatim record see document S/PV.4868.)

After Mr. Sevan’s briefing of the Council on 28 October 2003, Ambassador John Negroponte of the United States, the President of the Security Council (and now President Bush’s Director of National Intelligence), speaking in his national capacity, stated:

First and foremost, I would like to thank the Executive Director of the Iraq Programme, Benon Sevan, for not only his useful update but the outstanding work that he and his staff have done both in New York and in the region over the years in the implementation of the Programme. Their efforts have been nothing short of outstanding. We respect them for the excellent work that has been carried out by the oil-for-food programme. As has been the case throughout the life of the United Nations oil-for-food programme, the Office of the Iraq Programme’s personnel continue to demonstrate exceptional professionalism and thoroughness in their work, despite the obstacles and challenges that they face daily, and they deserve our commendation as well as our gratitude for their unique efforts. (S/PV.4851)

Commentators have agreed that “the Oil for Food Program, and the UN staff involved, were in fact tremendously successful at raising the quality of life for the Iraqi population.” Prof. Joy Gordon, Testimony Before House Comm. on Gov’t Reform, Subcom. on Nat. Sec. 2 (Apr. 12, 2005). They have also noted that the Coalition Provisional Authority (CPA), which succeeded the OIP, was unable to achieve even a remotely comparable positive impact on the Iraqi population, managed to reverse much of the Programme’s progress, and failed to account for billions of dollars. In sum, the Programme succeeded in an extraordinarily ambitious mission against all odds, and its performance vastly exceeded that of its successors.

Flaws in the Programme

The most critical flaws in the Oil-for-Food Programme resulted not from poor administration but from the very design of the Programme at the outset by the Security Council. It was the Security Council that agreed to allow Saddam Hussein to choose his own contractors to sell oil and buy food. It should not have been surprising to anyone

that Saddam would choose his contractors based on his own political interests. Mr. Sevan brought this and other fundamental design issues to the Council's and the Secretary-General's attention at the outset of the Programme and discussed them with the key decision-makers frequently thereafter. Like it or not, the Saddam Hussein regime was the recognized government of the Republic of Iraq, and Mr. Sevan had to deal with that regime as representative of a sovereign Member State and as the contracting party on both the oil and the humanitarian sides of the Programme. And, like it or not, it was Mr. Sevan's responsibility to administer the Programme as best he could within the parameters established—not to complain about political decisions already taken in respect of its design.

Allocation of Oversight Responsibility

There is a widespread misconception that OIP was responsible for monitoring and investigating sanctions violations. To the contrary, this role was entirely reserved to the Security Council. See, e.g., Prof. Joy Gordon, Testimony Before House Comm. on En'y & Comm., Subcom. on Overst. & Invstgs. 2-3 (May 16, 2005) (“[I]n recent months there has been growing recognition of the extent to which the Oil for Food Program, as well as much of the oversight, was in fact in the hands of the members of the Security Council and its 661 Committee - including the United States - not the Secretariat.”). The OIP did not command an army, a navy, a police force, or an investigative agency. It had neither the capacity nor the authority to undertake official investigations of sanctions violations. Such matters were the responsibility of the Security Council, its 661 Committee, and the Member States. The OIP brought matters to the attention of the Security Council, the 661 Committee, and Member States pursuant to clear and declared policies, and it was for those parties to act or not to act. That conflicting political interests and pressures within those bodies often caused inaction on their part cannot and should not be blamed on OIP.

Smuggling

It was the task of the Multinational Interception Force (MIF), which was led by and predominantly made up of the Fifth Fleet of the United States Navy, to police and prevent maritime oil smuggling during the Oil-for-Food Programme. The OIP had neither the capacity nor the responsibility for policing or preventing oil smuggling.

United Nations independent oil inspection agents were stationed only at the Mina al-Bakr oil loading terminal and the Zakho pipeline-metering stations in Iraq and Ceyhan, in Turkey, as authorized by the Security Council. However, the OIP through its independent oil overseers did report information received on apparent smuggling through the port of Khor al-Amaya to MIF through the United States Mission to the United Nations. On several occasions Mr. Sevan personally called the United States Mission, requesting that information received through the UN oil inspection agents be transmitted to MIF. It is now known that the U.S. Government intentionally permitted smuggling to Turkey and Jordan, thus enabling Saddam Hussein to receive billions of dollars in illicit income in violation of UN sanctions. The overwhelming share of Saddam's illicit income came from maritime and overland smuggling tacitly sanctioned by the United States. This was an area over which the OIP had literally no purview. Nevertheless, Mr. Sevan raised the issue of oil shipments outside the Programme to Jordan and Turkey as well as to Syria explicitly before the 661 Committee and the Security Council.

Surcharges

When the OIP and its Oil Overseers became aware of credible evidence of Iraqi oil surcharges, they brought the information promptly to the attention of the 661 Committee, which eventually imposed a “retroactive pricing” mechanism that eliminated the surcharges (albeit at the expense of strangling the Programme and impairing the humanitarian situation). The imposition of retroactive pricing was delayed by lack of consensus within the Security Council and the 661 Committee, but this delay cannot, and should not, be attributed to any action or inaction by Mr. Sevan or the OIP. OIP did not have an enforcement function or enforcement authority in respect of sanctions, nor was it charged with investigating suspected sanctions violations.

Kickbacks

In its discussion of OIP’s reporting of information regarding kickbacks to the 661 Committee, the IIC fundamentally confuses the decision not to convey information through a formal channel with the decision not to convey the information at all. At no time did Mr. Sevan or OIP withhold significant information from the 661 Committee. Committee staff were in OIP offices on an hourly basis and were kept closely abreast of all significant developments.

As noted above, the design of the Programme allowed Saddam Hussein to negotiate and contract directly with contractors for humanitarian supplies and equipment. The OIP and its customs officers reviewed all contracts for overpricing, and the 661 Committee and each of its members also received a copy of every contract. On at least 70 occasions, the OIP reported suspiciously priced contracts to the 661 Committee, which alone had the power to take action. In each instance, the Committee declined to act. OIP was unwilling to convey unsubstantiated rumors regarding kickbacks from the contractors and asked that contractors put their allegations in writing to their respective UN missions. The 661 Committee was fully aware of this policy and raised no objections. The 661 Committee was also contemporaneously aware of the kickback-related information through its members and staff who were in almost daily contact with OIP. The reports of kickback demands in 2000 and early 2001 were handled in this manner and were also discussed informally with 661 Committee members. As with the 70 contracts, however, there was simply no political will on the Security Council or 661 Committee to address the issue. The problem of kickbacks cannot credibly be laid at the feet of Mr. Sevan or the OIP.

The Programme Management Division (PMD)

The IIC’s allegation that Mr. Sevan “marginalized” PMD is misguided and reflects the IIC’s post hoc efforts to denigrate his performance—a performance uniformly acclaimed by those who observed it in real time. PMD was a small office of six professional UN staff members, including its Director, with secretarial support, at Turtle Bay, some 8,000 miles from the Programme’s core operations in Iraq. With the Programme expanded well beyond its initial emphasis on the provision of food and medicine, both in terms of funding as well as its scope, covering 24 economic and social sectors, and involved in the rehabilitation of infrastructure, it was essential to establish clear lines of communication and reporting, as well as very close coordination between

OIP at Headquarters and the field. In Iraq there were over 900 UN international staff, in addition to over 4,000 Iraqi national staff.

The United Nations Office of the Humanitarian Coordinator in Iraq (UNOHCI), was an integral part of the OIP, headed by the UN Humanitarian Coordinator who reported directly to Mr. Sevan. The Humanitarian Coordinator headed a team of over 170 UN international staff, in addition to hundreds of national staff. In order to streamline and enhance the implementation of the Programme, Mr. Sevan decided to delegate operational authority to the Programme's key managers on the ground, led by Mr. Tun Myat, then Assistant Secretary-General and the UN Humanitarian Coordinator in Iraq. Under the new arrangements, PMD's responsibilities involved advising the Executive Director and supporting the field on programme related matters. Mr. Sevan insisted that PMD should concentrate on carrying out its core responsibilities, taking into full account the realities on the ground as well as at Headquarters.

Mr. Sevan, who was responsible for the overall management and implementation of the Programme in accordance with the decisions of the Security Council, established clear lines of responsibility, authority, and accountability, both at Headquarters and in the field. He delegated full authority to Mr. Myat for the management and implementation of the Programme in the field. The entire field staff was placed under his supervision. UNOHCI coordinated the activities of the UN observation mechanism operating in the centre/south of Iraq. It also coordinated the implementation of the Programme, including the approval of projects, in the three northern governorates of Iraq where the UN implemented the Programme on behalf of the Government of Iraq. The reorganization of the observation mechanism and its organization of work were reported by Mr. Sevan to both the Council and the 661 Committee.

We invite the media and all others concerned to speak to Mr. Myat and Mr. Ramiro Lopes Da Silva, who succeeded Mr. Myat at the completion of his assignment, as well as Mr. Tesfaye Maru, the Deputy UN Humanitarian Coordinator, who was posted in the Erbil, covering the three northern governorates, and ask whether they were better positioned than those in PMD, far away in New York, to direct operations in Iraq. The IIC's contention that this delegation of authority was improper and that Headquarters staff in New York should have been given a stronger hand in directing Programme operations in Iraq only reflects the broad chasm between the Committee's theories of management and the reality on the ground in Iraq. In fact, Mr. Sevan, who ran the OIP for the entire six years of its operation, considers that the strong delegation of authority to the field and restriction of intermeddling from Headquarters was fundamental to the Programme's success.

The Contracts Processing and Management Division (CPMD)

The IIC's charge that Mr. Sevan deprived CPMD of resources and expertise necessary to carry out its functions is simply wrong. Mr. Sevan cannot recall a single instance in which CPMD was denied resources it requested, including experts. We invite the media to talk to Mr. Farid Zarif, Director of CPMD, and ask him whether he or any of his colleagues within CPMD felt that Mr. Sevan was starving CPMD of resources or limiting its functions. Moreover, even enormous additional expenditures on experts in the more than 24 economic and social sectors covered by the Programme would have provided only marginal operational benefits, and there would still have been no way to detect contracts overpriced by 5-10% in this unique spot market. By the end of the

Programme on 21 November 2003, in addition to the \$272 million previously transferred from savings achieved in the UN administrative and operational costs for the purchase of humanitarian supplies, there remained additional savings of some \$400 million. This was possible only because Mr. Sevan, in cooperation with the UN Controller, consistently took a tough line on spending and cost effectiveness. If there had been a cost-effective means to achieve better results in the scrutiny of humanitarian goods contracts, Mr. Sevan would not have hesitated to authorize the necessary expenditures. As Mr. Zarif and his staff have made clear to the IIC, no such means existed, and all prudent and necessary expenditures were fully and promptly authorized by OIP. To date, the United Nations has transferred more than \$10 billion of Programme funds to the Development Fund for Iraq.

Management requires hard decisions between competing views typically backed by different factions with strong feelings about one approach or another. When a management decision is taken, there are inevitably winners and losers. Having failed to find any major management failure in the OIP itself, the IIC has adopted a policy of providing a platform to some losers in disputes over a number of OIP management decisions, including some internal auditors who failed to understand and appreciate not only the mandate but also the political environment within which the Programme had to be implemented. In particular, they failed to understand that it was essential to respond in a timely manner to the need for fast and effective relief in a humanitarian crisis. As the ongoing tragedy in New Orleans demonstrates, there is a cost to overly bureaucratizing a crisis relief effort. The people of Iraq desperately needed humanitarian relief in real time. Thanks to the Programme, they received it.

The Oil-for-Food Programme was a mammoth undertaking in which real Programme failure was a real and ever-present possibility, with the gravest imaginable human consequences. Fortunately, Mr. Sevan and his dedicated colleagues in OIP and the other UN agencies and programmes did not fail. The data speaks for itself. See, e.g., Prof. Joy Gordon, Testimony Before House Comm. on En'y & Comm., Subcom. on Overst. & Invstgs. 2-3 (May 16, 2005) (child malnutrition halved, surgical operations up 40%, polio eliminated, other communicable diseases substantially reduced, water, sanitation, and electricity significantly improved). Professor Gordon summarized the position as follows: "The fundamental goal of the Oil for Food Program was to improve the lives of the Iraqi population through the import of critical humanitarian goods, and that was unquestionably achieved." Id.

Mr. Sevan stands ready, as he always has been, to accept any fair criticism of his management of the OIP. The IIC, however, has not adduced fair or plausible criticisms to date. Mr. Sevan is proud of his service to the Programme, and even more proud of the collective effort and sacrifice of the national and international staff whose contribution made the Programme's success possible in exceptionally difficult circumstances.

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