

Washington, October 8, 2004

Dear Mr. Chairman,

I respectfully submit the following statement for the hearing record of the Subcommittee on National Security, Emerging Threats and International Relations October 5 hearing on the United Nations Oil for Food Program. During the hearing, France's policy and conduct regarding this program were unfairly criticized.

As was agreed at the hearing on October 5, please find below the response of the French Government to these unjustified allegations.

1 - Background

A. All member states of the United Nations, particularly those on the 661 Committee, had a central responsibility in the implementation of the sanctions decreed in 1990 and in management and follow-up of the "oil-for-food" program after it was set up in 1995/1996.

It goes without saying that the United Nations cannot be satisfied with a situation in which the embargo against Iraq was repeatedly circumvented over the years. That concern existed moreover from the outset of the program established in SCR 986 of April 14, 1995 on the basis of a US draft. The monitoring mechanism was not agreed until over a year later, in May 1996, in the form of a memorandum of agreement. It required many working meetings for the missions of member states of the 661 Committee, including the US mission which succeeded in getting almost all its demands met, to arrive at a memorandum of understanding between the UN and Iraq and an extremely detailed and restrictive procedural document, endorsed by Washington.

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B. Although it was not a top priority, the 661 Committee was committed to preventing financial fraud that was difficult or even impossible to identify. UN scrutiny of contracts prior to being forwarded to the 661 Committee included inter alia analysis by a customs expert, who was, for a moment, a British national, whose task was to verify in particular the honesty of the prices. Certainly at the time, attention, especially in the 661 Committee, was focused as a matter of priority on eventual dual-use goods supplied to Iraq in the context of the program (or that Baghdad sought to obtain outside that framework).

Even though during the embargo financial fraud by Saddam Hussein's regime was under surveillance (especially as the money siphoned off could be used for the acquisition of military or dual-use goods), it should be borne in mind that no contract was rejected by the Committee solely on the basis of any financial irregularities. The delays and other rejections, usually the action of a single state on the Committee (the United States), were nonetheless sufficiently significant to represent a total value of \$5 billion in May 2002. In fact, over-billing for goods was practically and technically difficult to identify.

We should all acknowledge that many allegations of fraud were discussed but to date no irrefutable proof has been produced. A case in point, the Essex tanker affair (one of the few cases to have been specifically discussed in the Committee) : the culpability of the various protagonists has never been proved.

In any case, each of the contracts that went forward under the program had the consent of all the member states on the 661 Committee, including therefore the United States (and the United Kingdom).

C. The "oil-for-food" program did not produce smuggling. While the transactions agreed under the program served as "support" for embezzlement and criminal offenses in violation of resolutions, such actions existed before the program was established and continued to exist outside it.

The legitimate and important question raised by the Subcommittee on National Security, Emerging Threats and International Relations (i.e., What were the structural weaknesses of the program which allowed Baghdad to get around the embargo?) has many other dimensions in addition to the implementation of the program. The General Accounting Office report mentions the figure of over \$10 billion in illegal revenue. It should be noted, however, that nearly \$6 billion came from oil smuggled out of Iraq, which happened outside the UN program and the responsibility of the Office of Iraq Program.

In mistaking the target, one limits the scope of answers to questions that the international community must ask about the best way to put an embargo in place, to ensure compliance by member states and to make it an effective political instrument for the attainment of collectively defined goals.

2 – France's role in the Oil for Food Program

A. France continually monitored compliance with the sanctions.

France cannot leave unanswered the direct and repeated charges made against it. Without proof, through conflation and insinuation, France is accused of letting mercantile interests influence its position on the program's management and, beyond that, on the entire question of Iraq, and also of having covered up criminal actions by French companies.

In a national capacity, the French authorities always paid attention to applying UN sanctions and the legal framework of SCR 986 (1995) for transactions that took place under the oil-for-food program. Steps were swiftly taken to monitor compliance. Stringent measures were put in place, and special units set up in the ministries concerned, with the Permanent Mission of France to the United Nations acting as a filter in the forwarding of contracts to the Office of Iraq Program.

More broadly, the legal framework arising from the resolutions (and European Union regulations adopted to this end) was recalled both at trade meetings in which officials of the state participated and also through letters to importers and exporters, especially under the responsibility of the Ministry of Economy and Finance.

In the same spirit the French authorities always gave a positive answer to any request for cooperation in the context of customs inquiries into any violations of the UN-imposed embargo between 1990 and 2003.

This firmness was not just general and a matter of principle; it was applied in practice. In the case of the Essex affair, France, in a national capacity, chose, in spite of the absence of proof, to quickly remove from the list of companies authorized to make approved purchases of Iraqi oil a company allegedly implicated in a violation. It also shared the initial results of the inquiry with the customs authorities concerned (specifically American) and with the members of the Committee. On the contrary, still on this dossier, another intermediary (British) implicated in the same affair was not suspended from the list of buyers; meanwhile the request for explanation sent by the 661 Committee to the US (since the cargo's final destination was an American buyer and the US market), went unanswered.

B. France sought better monitoring of compliance with the embargo by UN member states.

While many have suggested that Washington and London were the sole capitals interested in compliance with the embargo, France consistently floated compromise proposals and sought to promote balanced solutions, taking into account the need to ensure compliance with the sanctions, the humanitarian situation in Iraq and the negative effects of a strategy bent on limiting to the maximum the possibility of implementing the program. This was the case especially in the dossier on setting oil prices (cf. below). To that end, France helped maintain the integrity of the "oil-for-food" program.

That was the spirit in which France approached the discussions in both the sanctions committee, as the reports of the official meetings show, and the Security Council. For instance, France promptly expressed support for the ideas of the US Secretary of State for "smart sanctions" and during the discussions encouraged a consensus in the Security Council to permit the unanimous adoption of SCR 1409 based on a US draft.

With regard to oil prices, France thought that the retro-pricing imposed by Washington and London automatically led to a drop in Iraq oil exports, and therefore to gradually squeezing the humanitarian program at a time when oil market prices were volatile (as they were during 2002). France repeatedly indicated to its partners its willingness to discuss a new mechanism and floated several ideas for this: shortening the validity period of UN-imposed prices, the obligation to pick up the cargo designated in the contract; criteria for reputation and integrity that would allow authorized buyers to be selected to take part in the oil-for-food program.

C. Steady Decline in French-Iraqi Trade

First, the proportion of French contracts in the program fell steadily; it was only 6% in the second half of 2000, no more than 2.5% the following year, and less than 2% in 2002. In 2001 our trade with Iraq represented only 0.2% of French exports, and 0.3% of imports. So we dispute critics claiming that, as the program developed, France stood to gain from maintaining the status quo; neither our share of imports from Iraq nor what this trade represented to our economy supports that argument.

As for exports of Iraqi oil, for reasons having to do with refining techniques in France, a very small percentage of oil from Iraq was destined for France, whereas almost half went to North American markets and buyers.

D. American companies involvement

A distinction should be made in considering these contracts between those signed by French companies, those signed by subsidiaries of foreign companies in France that preferred to operate from France, and those dealing with the resale of goods produced abroad. Many American companies followed that practice, such as Flowserve Pumps (formerly Ingersoll Dresser Pumps), Dresser Rand, Fisher Rosmount, Baker International in the oil-related sector, and General Electric. All in all, such contracts add up to \$552 million (including \$130 Million for Halliburton and its subsidiaries). See list of companies attached.

3 - The Volcker Commission will clear up the allegations surrounding the program and the United Nations.

It is not the place of the French authorities to comment on the repeated charges leveled against the United Nations. We observe, however, that a high-level independent commission of inquiry, led by a former chairman of the Board of Governors of the Federal Reserve Bank of the United States, was appointed by the UN Secretary General in order to get to the bottom of what are at this stage simple allegations.

France supported the initiative, and said it would cooperate fully with the commission. Mr. Volcker was received in Paris on October 7 and all the officials he met confirmed to him that his aides would have access to classified documents regarding the management of the program and could meet with French diplomats directly responsible for the dossier at our permanent mission in New York, as the commission had requested.

4 - Additional comments

- the rule of unanimity, sharply criticized by some as an obstacle to the adoption of US proposals also served the US, for example for delaying contracts (Cf. above) and imposing the mechanism of retroactive oil pricing;

- the action of the multinational interception force, the fleet placed under US command tasked with monitoring maritime traffic in the Gulf to prevent smuggling, also monitored traffic linked to the implementation of the program. France, several times, suggested it should be coordinated with the UN (661 Committee and the Office of the Iraq Program) under whose authority it was placed under SCR 665. These requests were not acted on. France also regretted that its activity should be concentrated on the southern shore of Iran, to the detriment of the rest of the area.

- BNP Paribas, or rather its US subsidiary, subject to OFAC control and responsible for 59% of the funds, was not the only bank involved in the management of the program. JP Morgan Chase Bank managed the rest of the oil revenues, of which 13% was intended for implementation of the program in the three provinces in the North (beyond Saddam Hussein's control) and in which a number of problems were apparently observed. 25% of the oil revenues was earmarked for the UN-run compensation process (in the framework of which a number of errors and duplications were committed which could also legitimately raise questions of an ethical and accounting nature).

- an examination of the oil-for-food program, to be complete, should also focus on the period after November 21, 2003, the date on which the UN entrusted its responsibilities to the Coalition Provisional Authority responsible for the management of the Development Fund for Iraq. In fact, a recent audit by the firm KPMG on behalf of the International Advisory and Monitoring Board (in which are represented such major institutions as the UN, IMF and World Bank: cf. WWW.IAMB.info) revealed many cases of poor management: on the credit side (inadequate controls on oil production, unequal application of procedures for signing contracts, high personnel turnover) and under debits (inadequate accounting procedures, barter operations, failure to respect bidding procedures).

I sincerely hope that these facts clearly answers the questions raised about France's policy and attitude regarding the United Nations Oil For Food program.

With my respectful regards,

Sincerely,

Jean-David LEVITTE