

STATEMENT BY
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UNITED STATES MISSION TO THE UNITED NATIONS
BEFORE THE
SENATE HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS
COMMITTEE,
PERMANENT SUBCOMMITTEE ON INVESTIGATIONS
ON THE
UNITED NATIONS OIL-FOR-FOOD PROGRAM
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Mr. Chairman, distinguished members of the Committee, I welcome the opportunity to appear before you to discuss the UN's Oil-for-Food Program and to answer your questions on various aspects of the management and execution of the Program.

Mr. Chairman, I want to reiterate three key points regarding the context in which the Oil-for-Food Program was established and implemented. First, I want to emphasize that the U.S. was often fighting an uphill battle -- the very establishment of the Program was the result of arduous negotiations among 15 Security Council members-- some of whom were arguing for the complete lifting of sanctions. As a result of this political context, the ability of the United States and the United Kingdom to take measures to counter or address non-compliance during the life of the Program was often countered by other members' desire to, in fact, ease sanctions on Iraq.

Second, sanctions have always been an imperfect tool, but, given the U.S. national goal of restricting Saddam's ability to obtain new materials of war, sanctions offered an important and viable approach, short of the use of force, to achieve this objective.

Third, the United States made decisions and took actions relating to the Oil-for-Food Program and the comprehensive sanctions on Iraq also to achieve overarching national security goals within the larger political and economic context of the region.

Mr. Chairman, given this general context, I would like to attempt to outline some of the issues relating to the responsibility for implementing the Program and for the sanctions in general.

The Oil-for-Food Program was established to address the serious humanitarian crisis that Saddam Hussein had inflicted on the Iraqi civilian population while concurrently maintaining strict enforcement of sanctions on items that Saddam Hussein could use to re-arm or reconstitute his WMD and other military programs.

We believe the system the Security Council devised by and large met these two specific objectives. The Oil-for-Food Program did have measurable success in meeting the day-to-day needs of Iraqi civilians. The daily caloric intake of Iraqi citizens increased and health standards in the country improved. And, as Mr. Duelfer testified before this Committee on November 15 last year, "UN sanctions curbed Saddam's ability to import weapons, technology and expertise into Iraq".

Investigations over the past year have uncovered significant sanctions-busting activities that arose both from Saddam Hussein's manipulation of the Program, and from his and others' abuse of the sanctions regime for financial gain.

In the end, the Oil-for-Food Program reflected three factors:

- A collective international desire to assist and improve the lives of Iraq's civilian population;
- A desire by the United States and others to prevent Saddam from acquiring materials of war and from posing a renewed regional and international threat;
- And, a decision by some companies, member states and individuals to pursue their own financial interests at the expense of the international community.

Mr. Chairman, this final point about actors who colluded with Saddam in breaching sanctions and violating the rules of the Oil-for-Food Program leads me to the issue of responsibility.

The United Nations, first and foremost, is a collective body comprised of its 191 members. A fundamental principle inherent in the UN Charter is that all member states will uphold decisions taken by the Security Council. The effectiveness of the sanctions regime against Iraq and the integrity of the Oil-for-Food Program depended completely on the ability and willingness of member states to implement and enforce the sanctions. In this regard, member states held the primary responsibility for ensuring that their national companies and their citizens complied with the states' international obligations. Through the Treasury Department, the United States, for instance, took measures to establish a vetting process for U.S. companies seeking to do business in Iraq.

We also implemented a comprehensive process to review contracts for humanitarian goods going to Iraq in order to ensure that dual-use items were not being supplied to Iraq through the Oil-for-Food program.

In addition to the responsibilities of member states, the Security Council also established a subsidiary body of the Security Council, the 661 Committee, to monitor the sanctions on Iraq and, once it was established, the Oil-for-Food Program. The 661 Committee discussed issues related to violations of the sanctions between 1990 and 2003 and issues related to the Oil-for-Food Program between 1995 and 2003. Action, however, could only be taken to address these issues if there was the political will and a consensus of all the members of the Committee to do so. Although the United States and the United Kingdom repeatedly raised concerns within this context, and often offered solutions to mitigate abuses, consensus within the 661 Committee continually proved elusive as we faced opposition from one or more members of the Committee.

The Security Council also authorized the UN Secretary-General and the UN Secretariat, under Security Council Resolution 986 in 1995 and subsequent resolutions, to implement and monitor the Oil-for-Food Program. The Office of the Iraq Program (OIP) staff was hired to devise a system whereby oil revenues under the Program could be used to pay for humanitarian supplies for Iraq. To be clear, Mr. Chairman, the Secretariat, the OIP, and the UN Agencies were given the authority and had the power to implement the Program only within the mandate given to them by the Security Council. They were not empowered to monitor or enforce implementation by member states of the overall sanctions on Iraq or act as a border patrol.

To make the division of responsibilities clear, Mr. Chairman, let me offer two examples. The first regards oil flowing out of Iraq. The former Iraqi regime, through its State Oil Marketing Organization (SOMO) proposed prices for various markets and grades of crude for review by the UN Oil Overseers, and for approval by the 661 Committee. The Oil Overseers and Committee members verified that the purchase price of the petroleum and petroleum products is reasonable in the light of prevailing market conditions. The UN contracted monitoring company, Saybolt (a Dutch entity), provided on-site independent inspection agents who kept 661 Committee members informed of the amount of petroleum exported from Iraq. Saybolt inspectors also monitored the arrival of oil industry spare parts under the Oil-for-Food Program. A UN escrow account administered by Banque Nationale de Paris (BNP) received payments for such liftings. Oil flowing out of Iraq through other means - smuggling, trade protocols and the voucher system - was outside the mandate of the UN Secretariat. Member states were responsible for monitoring these activities.

My second example concerns goods coming into Iraq. Again, there was a clear division of responsibility. While the Iraqis retained the authority to contract with specific suppliers under the Oil-for-Food Program, the 661 Committee was tasked with ensuring that the contracted goods were appropriate for export to Iraq under the conditions set out in UNSCR 986. Once a contract was approved by the Committee and the goods shipped under the Oil-for-Food Program, the UN's inspection agents, Lloyds Register (British) and later Cotecna (Swiss), were responsible for authenticating the arrival of these goods into Iraq. Separately, it was the

responsibility of member states to prevent sanctioned goods from entering Iraq.

Mr. Chairman, I offer these examples to illustrate exactly where responsibility lay. There were, in hindsight, substantial problems related to all of these areas of responsibility. Some member states did not take their international obligations seriously and either directly or indirectly facilitated Saddam's sanctions-busting activities. The 661 Committee was mired in a political debate with regard to Iraq that often impeded it from taking action against violators of the embargo. And as the recent Volcker Independent Inquiry Committee Interim Report indicates, there are serious charges that UN Secretariat officials may have allowed Saddam to further undermine the system.

I stated earlier that the United States made every effort to address violations within the 661 Committee, even though we were often impeded by other Committee members.

Violations with respect to the Oil-for-Food Program manifested themselves in two key areas: manipulation of oil pricing, and kickbacks on Oil-for-Food Program humanitarian contracts.

In late 2000, UN Oil Overseers reported that Iraqis were attempting to impose excessive price premiums on oil exports. The 661 Committee, led by the United States and United Kingdom, agreed to a statement on December 15, 2000, making clear that additional fees above the selling price approved by the 661 Committee were not acceptable.

Despite circulation of this message to all companies approved to lift Iraqi oil, evidence of the illicit surcharges continued through the spring of 2001. The United States, working in close coordination with the British delegation in New York, raised the issue of excessive oil price premiums in a series of more than 40 formal and informal 661 Committee and Security Council meetings during that period.

After months of stalemate within the Committee, the U.S. and British experts made creative use of the consensus rule governing decisions in the 661 Committee, by withholding support until the end of each month on oil pricing proposals submitted at the beginning of each month by SOMO, the Iraqi State Oil Marketing Organization. This retroactive price analysis gave the U.S. and British experts the opportunity to compare oil prices sought by SOMO to the actual market price of similar crude oils to determine if SOMO's prices reflected "fair market value" -- a requirement under Resolution 986 (1995). Beginning in October 2001, the United States and United Kingdom regularly employed the retroactive oil pricing mechanism to evaluate SOMO's suggested prices until the suspension of the Oil-for-Food Program in March 2003.

The retroactive oil pricing we imposed had its intended effect: by the spring of 2002, the UN Oil Overseers reported that oil price variations from market levels had been reduced from as much as 50 cents per barrel to an accepted industry variation of 3 to 5 cents per barrel.

Separately, allegations of kickbacks related to Oil-for-Food Program humanitarian contracts began to surface in late 2000. U.S. and British

experts raised this issue with 661 Committee experts and UN Office of the Iraq Program representatives in late 2000 and early 2001 and formally submitted proposals to address this issue during a 661 Committee meeting in March 2001. However, no documentary evidence was available at the time to support these allegations. Consequently, our proposals received no support. Committee members claimed that absent evidence indicating that such kickbacks existed, no action could be taken.

Important measures taken to address this issue occurred following the fall of the Saddam's regime, when the United States, through the Coalition Provisional Authority (CPA), was informed of the kickback scheme by Iraqi ministry representatives in Baghdad. With the fall of the Hussein regime in the spring of 2003, and with the subsequent authorities granted under UNSC Resolution 1483 (2003), CPA officials, in coordination with UN officials and the Iraqis, took steps to eliminate surcharges in remaining Oil-for-Food contracts.

In addition to efforts to eliminate or counter surcharges and kickbacks, the United States also took initiatives to provide members of the 661 Committee and the Security Council information and evidence of violations by the Saddam regime through various briefings. The United States briefed Security Council members in 2000 on the various ways the Saddam regime was diverting funds to benefit Iraq's elite, including through the use of diverted funds to build and furnish Saddam's palaces. The U.S. again briefed Security Council ambassadors in the spring of 2002 on Saddam Hussein's non-compliance with UN Security Council resolutions, and Saddam's attempts to procure WMD-related materials.

In March 2002 a U.S. interagency team briefed the 661 Committee on the former regime's diversion of trucks. U.S. Commanders of the Multinational Maritime Interception Force (MIF) in the Gulf also briefed the Committee each year starting in 1996 on the MIF's activities in combating the illegal smuggling of Iraqi crude oil.

Mr. Chairman, I know that an issue of concern to the committee is what our relationships were with Jordan and Turkey with respect to imports of oil from Iraq during the Oil for Food period and why we felt the need to treat these nations differently. Beginning in 1991 and extending through 2003, the annual Foreign Operations Appropriations Acts contained restrictions on U.S. assistance to any country "not in compliance with the UNSC sanctions against Iraq." The 2002 FOAA, as carried forward in the 2002 Supplemental, for example, contained such language in section 531. The restrictions under section 531 and its predecessors could be waived if the President determined and certified to the Congress that providing assistance was in the national interest.

In the case of Jordan, as we explained to then-Senate Foreign Relations Committee Chairman Biden in a letter dated October 2, 2002, the restriction had been waived each year since its enactment in 1991 by three successive Administrations.

Jordan was and remains a critical partner with the U.S. in bringing stability and a lasting peace to the Middle East. By ensuring that Jordan was not

strangled by a lack of a critical resource, the Jordanian Government was able to pursue policies of critical importance to U.S. national security in the region. The Jordanians made clear to us that their trade would not aid Saddam's weapons programs. We understood they were sending manufactured products to Iraq in exchange for oil. The U.S. determination and certification were solely in recognition of Jordan's lack of economically viable options. The UN Sanctions Committee, with USG support, "took note of" Jordan's imports of Iraqi oil and its lack of economic alternatives.

As we explained in the October 2, 2002 letter, similar consideration was given to Turkey, a close ally of the United States, a NATO partner and host of Operation Northern Watch. Turkey cooperated closely with U.S. nonproliferation efforts against Saddam Hussein's regime. Our approach was to encourage Turkey to bring its trade with Iraq into conformity with UN Security Council resolutions.

Turkey claims that its cumulative losses from the Gulf War and ensuing UN sanctions against Iraq amount to about \$35 billion, and throughout the 1990s pushed for ways to expand its trade with Iraq. From 1991 to the start of Operation Iraqi Freedom, the United States worked with Turkey to discourage trade outside of the UN sanctions regime. For instance, the United States did not support a Turkish request for relief from sanctions under Article 50 of the UN charter. In addition, the United States sought to ensure that UN Security Council Resolutions did not legitimize trade with Iraq outside the OFF Program.

Throughout the 1990s and in the run up to Operation Iraqi Freedom, the United States consistently sought to stem the increase of illicit trade between Iraq and Turkey. For example, the United States strongly objected to Turkey-Iraq Joint Economic Commission meetings, opposed the opening of a second border crossing between Turkey and Iraq, and protested vigorously when the Turkish Trade Minister led a large delegation of business executives to Baghdad in late 2002. Throughout this period, we continued to press Turkey to regularize its trade with Iraq within the OFF Program.

Additionally, trade across the Iraq-Turkey border provided an economic outlet for Iraqi Kurds who were under constant threat from Saddam's regime and who shared our goal of opposing Saddam and are an important part of the new Iraq.

Based on our close and continuing cooperation with these governments, we determined that it was in our national interest to request a waiver on prohibitions of assistance.

The last issue that I would like to address is that of accusations of impropriety, mismanagement or abuse by UN personnel, contractors or agencies.

The recently released UN Office of Internal Oversight Services (OIOS) audits and the Independent Inquiry Committee's Interim Report paint a very disappointing and disturbing picture regarding this issue and we remain deeply concerned.

The lack of transparency on the part of the UN with regard to the OIOS audits has long been of particular concern. The United States Mission to the United Nations has continually sought access to the OIOS audit reports. These were initially denied, as access was deemed to be outside of General Assembly rules. Our staff worked tirelessly since this past summer to get these particular Oil-for-Food audits released, but both the UN Secretariat and the Volcker Committee declined.

Therefore, last fall, the United States put forward language for inclusion in a General Assembly resolution requiring that the UN make all OIOS audits available to UN member states upon their request. The General Assembly adopted this U.S. initiative during the evening of December 23. Within an hour, the United States formally requested copies of the OIOS audits covering the Oil-for-Food program. Two weeks later, the audits were made public.

Mr. Chairman, I convey this information to you because we at the United States Mission to the United Nations take our responsibility to make the UN a more transparent body very seriously and we intend to continue this initiative, in order to ensure adequate follow-up of auditors' recommendations.

The Oil-for-Food Program was a unique endeavor -- a humanitarian program on a scale that we never imagined for which there was no precedent. Although it provided essential sustenance to the Iraqi people, it was also manipulated by Saddam Hussein and his cronies to undermine the sanctions

regime and to further their nefarious political and personal agenda. Recent revelations have exposed problems in the UN's oversight of the Program.

Mr. Chairman, as we go forward, we will take the lessons that we have learned through the Oil-for-Food experience and apply them to future UN endeavors. We will continue to work to improve the UN's management capacity. We have a reform agenda in front of us now. The audit reports will also serve as another tool to improve our ability to monitor and correct problems at the UN.

Mr. Chairman, thank you for this opportunity to appear before this Committee. I now stand ready to answer whatever questions you and your fellow Committee members may wish to pose.