

REPORT ON PROGRAMME MANIPULATION

EXPLANATION OF COMMITTEE TABLES

PREFACE

With its Report on Programme Manipulation, the Committee publishes eight statistical tables on oil and humanitarian transactions under the Programme. Tables 1 through 5 focus on the oil transactions during the Programme and contain the following information: (1) general data on contracts executed by oil purchasers, such as total value of executed oil contracts and quantity of lifted barrels; (2) information on Iraqi oil allocation recipients and oil contracts used for execution of allocations; (3) data on known underlying financiers for purchases of Iraqi oil under the Programme; and (4) information on surcharge payments associated with certain contracts under the Programme.

Tables 6 through 8 focus on humanitarian goods purchases (including transactions involving oil spare parts). These tables contain the following information: (1) general data on humanitarian contracts executed by the Government of Iraq, such as the value of executed contracts and description of purchased goods; and (2) information on illicit payments made in connection with humanitarian contracts, including payments made in the form of after-sales-service fees and inland transportation fees.

I. NOTICE TO COMPANIES

A. OIL PURCHASERS

Based upon its review of SOMO records, the Committee identified 139 companies whose purchases of oil were associated with a surcharge paid to the Government of Iraq during the Programme. The Committee sent notice letters to 127 companies stating that they would be represented on a table showing that unauthorized payments were made in connection with their contracts under the Programme. The companies were invited to respond and submit any evidence corroborating or refuting the information. The Committee received 26 responses.¹

B. HUMANITARIAN GOODS SUPPLIERS

Prior to the publication of this Report, the Committee sent notifications to 2,253 suppliers who had contracts for which the Committee had evidence of actual or projected illicit payments. The letters advised each company that it would appear in a table accompanying the Committee's report. The companies were invited to respond and submit any evidence corroborating or refuting the information. Some companies responded to the Committee's notification, but many did not.

The Committee made every effort to obtain the most current mailing and contact information for the identified companies, using information from United Nations contract and Treasury files as well as from other documents obtained during the investigation. Where necessary, publicly

¹ Due to an administrative error, twelve companies were not sent notifications.

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available database systems were searched for contact information. In those cases where mail was returned to the Committee as “undeliverable,” the Committee conducted additional searches for the contact information. For a small number of companies, the Committee was unable to successfully mail notices where current information was unavailable or the company was apparently no longer in existence.

As a result of its mailings, the Committee received 293 responses from companies.

C. SUMMARY OF RESPONSES

The table below summarizes the responses received by the Committee from the oil and humanitarian companies based on the following categories:

Category Definitions:

- A: Company admits that it knowingly made illicit payments to the Government of Iraq or its agents.
- B: Company denies that it made payments to the Government of Iraq or its agents in violation of the Programme.
- C: Company acknowledges payments were made or may have been made but denies knowing at the time that its agents or employees made illicit payments.
- D: Company acknowledges that payments were made or may have been made, but contends that payments were made with the belief that they were authorized under the Programme or for actual services performed by legitimate private contractors.
- E: Company acknowledges receipt of the Committee’s letter and takes no position or has expressly requested that its response not be disclosed.
- F: Company did not respond.
- G: Company was not noticed by the Committee or subsequent information was identified and it was no longer appropriate to list the company.

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Table A – Categories of Responses to Mailings

Category	Oil Entities		Humanitarian Entities	
	Number of Entities	% of Total	Number of Entities	% of Total
A – Admits payment	1	0.7%	26	1.2%
B – Denies payment	18	12.9%	152	6.7%
C – Admits payments but denies knowledge at the time	–	0.0%	10	0.4%
D – Admits payments but believed authorized at the time	2	1.4%	41	1.8%
E – Takes no position	5	3.6%	64	2.8%
<i>Subtotal of responses</i>	26	18.6%	293	12.9%
F – Does not respond to IIC	101	72.7%	1,785	79.2%
G – Company not noticed	12	8.6%	175 ²	7.8%
Total	139	100.0%	2,253	100.0%

The majority of the oil and humanitarian companies noticed did not respond to the Committee. Responses received by the Committee are indicated in Tables 1 and 7. Although the majority of companies that did respond denied that illicit payments had been made, more than 75 admitted to payments, albeit with certain caveats as described in the table above.³

II. OIL TABLES

The Committee presents its information concerning the oil purchases under the Programme in five tables:

² Of the 175 companies, documentation for 27 led to the conclusion that they should not be included in the table. For the remaining 148, there was insufficient time to notify them before the publication of the Report.

³ Table 1 lists all 139 oil entities, including those that did not receive a notice from the Committee. This is due to the fact that the evidence of surcharges paid was based on SOMO records that were largely corroborated by bank account documentation and embassy receipt records. Table 7, however, does not list the 175 humanitarian companies that the Committee was unable to notice because some number of the companies' illicit payments were solely based on projections.

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Table 1—“Oil Allocations and Sales Summary by Contracting Company”—presents a list of oil allocations and oil sales by contracting company for oil sold under the Programme.

Table 2—“Oil Sales Summary by Contracting Company and Contract”—presents a list by contracting company for oil sold under the Programme.

Table 3—“Summary of Oil Sales by Non-Contractual Beneficiary”—details Iraq’s oil allocations to individuals and entities other than the named contracting party.

Table 4—“Known Underlying Financiers”—provides a list of the underlying financiers that the Committee identified during its investigation.

Table 5—“Surcharge Payments Associated with a Contracting Company”—provides a list by company of the surcharges that were paid in connection with certain contracts.

A. SOURCES OF EVIDENCE

The information in these tables is broadly based on four sources:

- Databases and records maintained by the United Nations, specifically, the Office of Iraq Programme (“OIP”) and the United Nations Treasury department and hereinafter is collectively referred to as “United Nations OFFP records.”
- Records of the Government of Iraq, primarily from the Ministry of Oil and the State Oil Marketing Organization (“SOMO”). These records include ledgers of oil surcharge payments, lists of allocations for each phase, letters from the executive director of SOMO to the Minister of Oil seeking approval for allocations with handwritten approvals by the Minister of Oil, and records from Iraq’s embassies in Austria, Greece, Egypt, Italy, Malaysia, Russia, Syria, Switzerland (Permanent Mission to the U.N. in Geneva), Turkey, Vietnam, and Yemen.
- Records from various financial institutions involved in the financing aspects of the oil transactions, as well as financial institutions that received deposits of oil surcharges.
- Records provided by certain entities involved in the purchase of oil from Iraq.

B. DESCRIPTION OF TABLES AND METHODOLOGIES

1. Table 1: Oil Allocation and Sales Summary by Contracting Company

Table 1 (hereinafter referred to as the “Committee oil summary table”) presents an alphabetical list of the companies that were allocated oil; and, to the extent the oil was lifted, it provides details of the amount lifted and the amount paid. This list provides summary information from

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Iraq's Ministry of Oil regarding the total oil allocated to the contracting company, the names of non-contractual beneficiaries associated with the one or more contracts executed by the contracting party, and surcharges associated with the contracts executed by the contracting company. It should be emphasized that the fact that a company is listed on this table does *not* mean that company—as opposed to another third party with a financial interest in the transaction—paid the surcharges associated with its contracts.

2. Table 2: Oil Sales Summary by Contracting Company and Contract

Table 2 (hereinafter referred to as the “Committee oil company table”) presents a second alphabetic list of the contracting companies purchasing oil, this time providing details by contract of the barrels lifted, the value of contracts, and surcharges associated with certain contracts. This list updates the information on companies purchasing oil, published by the Committee in October 2004, and also provides summary information from Iraq's Ministry of Oil regarding surcharges levied, paid and outstanding.

3. Table 3: Summary of Oil Sales by Non-Contractual Beneficiary

As described in Chapter 2 of the Report, the Government of Iraq distributed oil allocations to particular countries, and in the names of particular individuals and entities. A number of these beneficiaries were not the parties that executed contracts for the purchase of oil, which are listed in Tables 1 and 2. Rather, they are beneficiaries who usually sell their rights to the oil. Table 3 (hereinafter referred to as the “Committee oil beneficiary table”) is based on Ministry of Oil records and presents an alphabetic list of oil allocations made in the names of individuals and entities other than the named contracting party, or “non-contractual beneficiary”. This table contains the name of the non-contractual beneficiary, the country under which the allocation was granted, the name of the contracting party, and details of oil allocated and lifted by contract number. In instances when no contract was executed, the contracting company is listed as “no contracting company per SOMO.”

4. Table 4: Known Underlying Oil Financiers

Many of the letters of credit executed under the Programme were financed by companies that did not appear on the SOMO contracts or the documentation made available to the United Nations. The Committee has focused on identifying the underlying financiers of the oil purchases during the surcharge period. Based on the various records obtained, the Committee has identified the underlying financiers for approximately 75% of the letters of credit issued to purchase oil during the surcharge period. Table 4 (hereinafter referred to as “Committee oil financier table”) provides a listing of the underlying financiers that the Committee was able to identify.⁴ The table provides each underlying purchaser, the letter of credit, the name of the contracting party, the barrels lifted, and the value of the oil financed. Much of this information was provided by banks

⁴ In selected instances, the table lists the financing company even where it is also the also the contracting company. Committee oil financier table, Bayoil.

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in Switzerland, which included letter of credit customer files and bank account statements. Additional information was provided by company financial records regarding their oil purchases.

5. Table 5: Surcharge Payments Associated with a Contracting Company

Table 5 (hereinafter referred to as “Committee oil surcharge table”) provides a listing of the contracting company and contract associated with surcharge payments. This table lists information from internal SOMO documents that record levied and collected surcharges (“SOMO surcharge records”); (2) transaction histories of bank accounts used by SOMO to receive surcharge payments; and (3) Iraqi records of receipts for cash deposits made at various Iraqi embassies in cities worldwide. The SOMO surcharge records comprehensively identify the amounts of surcharges levied and paid and the oil contracts for which surcharges were paid. The Committee has corroborated more than ninety-eight percent of these listed transactions by cross-reference to further bank account documentation and embassy receipt records. It should be emphasized that the fact that a company is listed on this table does *not* mean that company paid the surcharges associated with its contracts.⁵

III. HUMANITARIAN TABLES

Tables 6, 7, and 8 provide information on humanitarian goods transactions. When reviewing the information presented in these tables, it is important to note that the Committee has not been able to obtain a complete set of records of kickback levy and payment data from all Iraqi ministries that were involved in the purchase of humanitarian goods under the Programme. Accordingly, these tables reflect a distinction between “projected” kickback figures and “actual” kickback figures. A “projected” kickback figure indicates that the evidentiary basis for the conclusion that there was a kickback paid is Iraq’s uniform policy of requiring the payment of kickbacks during certain time periods until July 2003 when the Coalition Provisional Authority reduced all contracts to eliminate estimated kickback amounts. An “actual” amount reflects the fact that the Committee has acquired contract-specific payment data from the relevant ministry, from a banking institution, or from the supplier itself or its collection/shipping agent.

A. SOURCE OF EVIDENCE

As discussed at length in the Report on Programme Manipulation, the Committee’s findings as they relate to the imposition and collection of illicit kickbacks and fees are based on the collection

⁵ SOMO levied more in surcharges than it was eventually paid. Surcharges valued at \$263 million were levied on 169 companies that contracted for the purchase of oil. Of these 169 companies, 138 ultimately made payments in connection with 309 contracts. The remaining thirty-one companies succeeded in lifting oil without remitting funds to Iraq. Ninety of the companies that lifted oil paid surcharges only in part rather than the full amount levied. A few companies paid surcharges totaling \$588,800 on contracts that were never executed. These companies are not listed in Table 5.

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and analysis of an extensive body of evidence. Much of the evidence comes from contemporaneous documentation and data provided by the various Iraqi contracting ministries, including financial ledgers, internal correspondence, and database records. Other evidence is in the form of bank records and deposits, as well as information provided by the suppliers that participated in the transactions, their agents and shipping companies.

In many instances, this body of evidence not only demonstrates that a kickback was levied with respect to a contract, but also provides confirmation of the amount of the solicitation and its payment. Moreover, the information supplied by one source is often corroborated by other information and evidence. For example, ministry financial ledgers are supported by internal ministry correspondence. In addition, bank statements of paying suppliers as well as those of the Government of Iraq reflect transfers in and out of bank accounts consistent with the kickback schemes. In other instances, the corroboration is provided through company responses to the Committee's notification of adverse findings as well shipping and agent records.

The specific sources of information presented in the table are:

1. Side agreement with the Government of Iraq – document outlining a bilateral contractual relationship with a supplier for the payment of kickbacks.
2. Ministry correspondence/documents – letters, memos, facsimiles, unilateral promises to pay, and invoices/receipts from Iraqi Ministries.
3. Company correspondence/documents – letters, memos, facsimiles, and invoices/receipts on company letterhead.
4. Other documents – letters, memos, facsimiles, and invoices/receipts from other parties, such as agents or shipping companies.
5. Ministry financial data – Iraqi Ministry spreadsheets and accounting records and ledgers.
6. Banking Records – account statements, receipts, and advices relating to the following:
 - a. Housing Bank for Trade and Finance (Jordan), Central Bank of Iraq accounts
 - b. Jordan National Bank (Jordan), Alia Company for Transport and General Trade accounts
 - c. Al-Rafidain Bank (Jordan), Central Bank of Iraq accounts
 - d. Fransabank SAL (Lebanon), Central Bank of Iraq accounts
 - e. Jordan National Bank (Jordan), Arrow Trans Shipping Company accounts

The Committee's evidence confirmed the existence of the policy requiring the payment of kickbacks. Where the Committee did not have access to certain Ministry and banking information, the amount of illicit kickbacks and fees paid for many of the suppliers was projected based on Government of Iraq directives, other available evidence, and historical trends. The basis for and components of the projections are more fully described in the notes to Table 8.

B. EVIDENCE AND QUANTIFICATION OF ILLICIT AFTER-SALES-SERVICE AND TRANSPORTATION FEES

In its Programme Management Report, issued in September 2005, the Committee presented estimates of total after-sales-service fees and inland transportation fees collected by the former regime. The estimated amounts then reported were \$1.056 billion in after-sales-service fees and

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\$527 million in transportation fees and were largely based on projected data. Since the release of that Report, the Committee has obtained additional information and data from the Government of Iraq and various banks providing levied and actual payments of after-sales-service fees and transportation fees. As a result of this new information, the Committee revises the following: (1) the estimate of after-sales-service fees and transportation fees levied and paid for particular suppliers where the amounts for that supplier had been previously estimated; (2) the assessment and recovery rates used by the Committee for after-sales-service fees levied and paid in projecting amounts where no actual data was available; and (3) the estimate of total after-sales-service fees levied and paid for all suppliers to \$1.024 billion. The new information did not cause a revision to the Committee's estimate of total transportation fees collected.⁶

Some of the evidence obtained by the Committee details the distribution of illicit payments between after-sales-service fees and inland transportation fees, an example of which is provided in Chapter 3, Section IV.B. In other instances, the Committee had evidence of illicit payments but no clear indication as to the exact proportion attributable to after-sales-service fees versus inland transportation fees. In such cases, ten percent of the uninflated disbursement amount was assumed to be associated with after-sales-service fees; and the balance was apportioned to inland transportation fees. This approach was based on the review of evidence discussed in Section III.A.

1. Quantification of Illicit Payments of After-Sales-Service Fees

The imposition of after-sales-service fees began in Phase VIII and was to be applied by each contracting ministry to each and every humanitarian contract entered into from that point forward. The rate to be imposed was generally ten percent of the contract's value. As discussed in the Report on Programme Manipulation and previous Reports, the Committee found compelling evidence indicating that the order was strictly enforced, even on Iraqi insiders and front companies. Therefore, even in the absence of direct evidence of participation—such as a signed side agreement—the Committee finds sufficient evidence that, from Phase VIII on, all suppliers were required to pay a kickback in order to obtain or execute a humanitarian contract under the Programme.

As described in Tables 7 and 8, evidence of an illicit payment of after-sales-service fees is both actual and projected. From Phase VIII onward, a total of 3,554 contracts, or slightly over 50% of the total contracts, had actual data available pertaining to the after-sales-service fees amounts levied and paid, the latter of which totaled \$495 million. After-sales-service fees levied and paid for the remaining 3,204 contracts were projected by the Committee based on historical data trends and Iraqi policy records. The amounts paid totaled \$588 million. Based on a comparison of actual levied to actual paid data, the historical trends show that the regime did not collect about ten percent of the after-sales-service fees levied. Accordingly, the Committee reduces its estimate of projected after-sales-service fees collected by ten percent to arrive at total after-sales-service fees collected.

⁶ "Programme Management Report," vol. I, p.103

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Table B– Estimation of ASSF Paid/Collected (All Amounts in Millions of USD)

	# of Contracts	ASSF Paid
Where Amounts Are:		
Actual	3,554	\$494,558,040
Projected	3,204	\$587,885,415
Total	6,758	\$1,082,443,455
Less Estimate of 10% Shortfall on		
Projected Amounts		\$(58,788,542)
Adjusted Total		\$1,023,654,913

2. Quantification of Illicit Payments of Inland Transportation

The imposition of inland transportation fees began in 1999 during Phase VI, and was to apply to each and every humanitarian contract with goods delivered through Umm Qasr. The rate to be imposed was determined by a rate table and was based on the weight, number of containers or other characteristic of the shipment. It was not based on a flat percentage of the contract's value.⁷

Although there is evidence corroborating the imposition of inland transportation fees, there is little or no data readily available allowing for the estimation of the fee amount. Since the fees imposed were not based on a flat percentage of the contract's value, but instead varied due to multiple factors such as container size and product packaging specifications, it was not always possible to determine the applicable rate. For example, a contract for vegetable ghee specified in metric tons might have inland transportation fees imposed based on the number of 20-foot and 40-foot containers needed to ship the goods, whereas a contract for sheets of wood could have fees levied based on numbers of crates, without an indication as to how many sheets constitute a crate. The lack of specific shipping information foreclosed conducting a computation or good

⁷ As noted in the Report on Programme Manipulation, there is evidence indicating the imposition of inland transportation fees on some shipments delivered through land border crossings. However, there is no compelling evidence to indicate that the imposition was wide-scale or formalized, as was the imposition of fees for goods delivered through Umm Qasr; therefore, the Committee has not included any quantification of them.

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faith estimate of inland transportation fees for many contracts. The Committee notes such cases in Tables 7 and 8 by indicating that a fee was assessed, but without specifying a dollar amount.⁸

As the Committee noted in its Report on Programme Management, the total amount of inland transportation fees estimated to have been collected by the Iraqi regime is \$527 million, of which \$225 million represented actual data. No new information has been obtained since the release of that report to cause the Committee to amend its estimate of total inland transportation fees collected by the Government of Iraq.

C. DESCRIPTION OF TABLES AND METHODOLOGIES

1. Table 6: Humanitarian Goods Purchased by the Government of Iraq by Supplier

Table 6—“Humanitarian Goods Purchased by the Government of Iraq by Supplier”—presents an alphabetical list of all suppliers of humanitarian goods under the Programme for contracts for which goods were delivered and paid for as of May 31, 2005. This list largely reflects the information published in tables by the Committee on October 21, 2004, but has been updated to reflect revised information where applicable pertaining to the supplier’s name and other descriptive information. Under the column heading “Evidence of Illicit Payments,” the table identifies those suppliers who had Programme contracts on which illicit payments were made to the Government of Iraq. The Committee emphasizes that the identification of a particular company’s contract as having been the subject of an illicit payment does not demonstrate that the company had knowledge at the time that it was making an illicit payment or that it, as opposed to an agent or secondary purchaser with a financial interest in the transaction, made or authorized the payment. The table distinguishes the evidence of participation by indicating whether it is based at least in part on actual, contract-specific payment data (“A”) or was entirely based on projections (“P”) derived from Iraq’s uniform policy of requiring all contractors to make payments during certain contracting time periods.⁹

⁸ While projections of inland transportation fees by individual contracts were generally not possible given the peculiar nature of how the fees were assessed, and the lack of specific detailed information on which to base the estimate, based on actual data available, it is known that inland transportation fees ranged from 0.01% to 20.82% of a contract’s value.

⁹ Because the Government of Iraq sometimes required that illicit payments be made upon the execution of a contract, some companies paid the kickback upfront on contracts that were ultimately cancelled without the goods being delivered. The Committee has identified twelve entities which have been found to have paid illicit kickbacks, but did not have any deliveries of contracted goods and, thus, did not receive any payments from the Escrow Account under the contract. Because Table 6 only lists suppliers with contracts delivered, the twelve entities are not listed in this table; rather, they are listed as part of Tables 7 and 8. Additionally, these tables reflect contracts procured by the Government of Iraq primarily for the Central and Southern Governorates. Although these items include some bulk commodities and oil spare parts a portion of which was allocated to the Northern Governorates, the tables do not include any contracts

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2. Table 7: Actual and Projected Illicit Payments on Contracts for Humanitarian Goods Summary by Supplier

Table 7 presents only those suppliers that had contracts for which there is evidence of collection of illicit after-sales-service fees and/or inland transportation fees by the former Government of Iraq. For each supplier, the table presents a summary total of only the contracts executed by the supplier for which direct or indirect evidence of participation was found. The table also quantifies, where possible, the aggregate dollar amount of the solicitation and payment. The table also provides the nature of any response from each company to the Committee's letter of notice.¹⁰

3. Table 8: Actual and Projected Illicit Payments on Contracts for Humanitarian Goods Summary by Supplier and Contract

Table 8 expands on the information provided in Table 7, listing by supplier each individual contract for which a kickback payment was made and providing an estimate of the amounts imposed and paid. The amounts are based on either actual or projected data. The table identifies the type of evidence relied upon and indicates whether the amounts are based on actual data or were projected by the Committee. Although a printed version of Table 8 is not included in the report due to its length, it can be found on the Committee's official website.¹¹

procured for the North by any of the UN-related Agencies. Finally, the term "supplier" is used to represent the company which directly contracted with the Government of Iraq for the supply and delivery of humanitarian goods. This company may have been an agent, middleman, trading company or Iraqi front company, and may not have been the ultimate supplier of the goods contracted.

¹⁰ This includes twelve companies not listed as part of Table 6—Capex Spain, Core Health Care Limited, Eastman Kodak S.A., Emtamitas Energy and Construction Inc., Energopromstroy 1, Four Stars Energy Srl, Grunenthal Pharma Ag, International Conversion Foundation, Isd Intur-Deka Trade Limited Company, Newbridges, Rego Gollwitzer Gmbh & Co. Kg, and Rhodia Silicones—who paid fees, but did not have their goods delivered.

¹¹ Independent Inquiry Committee, <http://www.iic-offp.org/documents.htm>