

INDEPENDENT INQUIRY COMMITTEE  
— INTO —  
THE UNITED NATIONS OIL-FOR-FOOD PROGRAMME

THE MANAGEMENT OF  
THE UNITED NATIONS OIL-FOR-FOOD PROGRAMME

Volume IV - Report of Investigation

United Nations Administration, Part II

The Cost of Administering the Programme  
Assessment of Programme Oversight  
Management of Programme Funds  
Performance of the UN-Related Agencies  
Programme Financial Statistics  
Major Recommendations with Proposals for Implementation  
Glossary

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September 7, 2005  
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# MANAGEMENT OF THE OIL-FOR-FOOD PROGRAMME

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### THE COST OF ADMINISTERING THE PROGRAMME

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## I. INTRODUCTION AND SUMMARY

In its First Interim Report, the Committee detailed its forensic accounting analysis of expenditures from the account established by Resolution 986 for “various operational and administrative costs of the United Nations associated with implementation” of the Programme (“ESD Account” or “2.2 percent Account”). This analysis included a detailed review of transactions contained in the Programme’s general accounting ledger as well as of the relevant underlying documentation. The First Interim Report addressed the administrative costs of the United Nations, OIP, and UNOHCI that were funded from the ESD Account, and it explicitly set aside the administrative costs funded from other accounts and the administrative costs of the nine agencies involved in administering the Programme (“UN-related Agencies” or “the Agencies”). The Committee found generally that the ESD expenditures of the United Nations, OIP, and UNOHCI were properly supported and that ESD funds were, in almost all cases, Programme-related.<sup>1</sup>

This Chapter expands on the prior analysis and reports generally on the Programme’s costs for administering humanitarian relief throughout Iraq. For this purpose, the Committee analyzed the remaining expenditures from the ESD Account, which related to the Agencies’ work. In addition, the Committee analyzed the expenditures from the accounts used to fund humanitarian purchases—for the fifteen governorates in central and southern Iraq (“ESB Account”) and the three governorates in northern Iraq (“ESC Account”)—to determine whether they bore any administrative costs.<sup>2</sup>

Payments to the Agencies for administrative costs totaled approximately \$608 million; in comparison, administrative costs of the United Nations, OIP, and UNOHCI totaled \$250 million.<sup>3</sup> The majority of the \$608 million was for the Agencies’ direct expenses (such as employee compensation). Of the \$608 million in total payments, \$475 million was funded from the ESD Account, and \$133 million was funded from the ESC Account.

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<sup>1</sup> See “First Interim Report,” pp. 195-218. Chapter 4 in this Volume addresses the UN-related Agencies’ delivery of humanitarian aid in northern Iraq.

<sup>2</sup> This Chapter addresses only the administrative costs of the Programme’s humanitarian component. However, the Programme also incurred administrative costs for the non-humanitarian features of Resolution 986, including those charged to the ESE Account (for the United Nations Monitoring, Verification and Inspection Commission (“UNMOVIC”)) and to the CWA Account (for the United Nations Compensation Commission (“UNCC”)). Programme financial statements (2002-2004) (detailing ESE expenses); “Financial Report and Audited Financial Statements for the bi-ennium ended 31 December 1997,” A/53/5, Statement XI (1998) (detailing CWA expenses); “Financial Report and Audited Financial Statements for the bi-ennium ended 31 December 1999,” A/55/5, Statement XII (2000) (same); “Financial Report and Audited Financial Statements for the bi-ennium ended 31 December 2001,” A/57/5, Statement XII (2001) (same).

<sup>3</sup> See “First Interim Report,” p. 203 (Table A).



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The Agencies were permitted also to bill for Programme Support Costs (“PSC”), which were intended to reimburse the Agencies for overhead or indirect expenses. PSC charges for the Programme were based on a percentage of total expenditures by the Agencies, including both administrative expenditures and the cost of humanitarian goods purchased for Iraq. In total, nearly \$102 million was paid to the Agencies for indirect administrative costs. Unlike the Agencies, the United Nations, OIP, and UNOHCI did not charge for PSC.<sup>4</sup>

In addition to the \$608 million in payments for administrative costs relating to the Agencies’ implementation of Resolution 986, the United Nations paid the Agencies for work mandated by the Security Council in the spring and summer of 2003, following the war in Iraq. Resolutions 1472, 1476, and 1483 tasked the United Nations with prioritizing and amending certain Programme contracts that had been entered into by the Government of Iraq, as well as procuring, shipping, and delivering certain essential medicines and foodstuffs to Iraq soon after the fall of Saddam Hussein.<sup>5</sup> Because of the size and scope of this work, the United Nations enlisted the Agencies’ assistance. The United Nations itself did not charge any fees for its own efforts beyond the resources already approved from the ESD Account. However, the United Nations did pay the Agencies an additional \$179 million, over the course of eight months, for administrative fees relating to the implementation of these three resolutions. This \$179 million was funded from the ESB Account.

In total, the Committee’s staff has identified over \$1.2 billion in administrative costs relating to the humanitarian aspects of the Programme. These costs consisted of direct costs incurred by the United Nations, OIP, UNOHCI (\$250 million), the UN-related Agencies (\$506 million) and fees paid to contractors for banking and inspection services (\$178 million); PSC charged by the Agencies for indirect costs (\$102 million); and fees paid to the Agencies for work performed under Resolutions 1472, 1476 and 1483 (\$179 million). This total amount is far more than the \$940 million reflected in the Committee’s earlier analysis of the ESD Account. These observations raise questions regarding the reasonableness, justification, and transparency of administrative costs incurred by and fees paid relating to the Programme.

Accordingly, this Chapter addresses the following questions:

1. Were adequate procedures and controls in place to establish, review, and approve budgets and to make other financial decisions relating to the Programme?
2. Were amounts paid to the Agencies for PSC and for administrative fees relating to the Agencies’ activities under Resolutions 1472, 1476, and 1483 reasonable?
3. Were administrative costs funded from the proper accounts as provided for in the relevant Security Council resolutions?

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<sup>4</sup> Ibid.; Jean-Pierre Halbwachs interview (Dec. 1, 2004).

<sup>5</sup> S/RES/1472, paras. 2-4 (Mar. 28, 2003); S/RES/1476, paras. 1-2 (Apr. 24, 2003); S/RES/1483, para. 16 (May 22, 2003).

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Part II of this Chapter reviews the methodology applied in reviewing the Programme's administrative costs. Part III discusses the budgeting process employed under the Programme and notes the absence of any involvement by the Advisory Committee on Administrative and Budgetary Questions ("ACABQ"). Part IV then details the Programme's administrative costs relating to: (1) Resolution 986; (2) Resolutions 1472 and 1476; and (3) Resolution 1483. Part V reviews the accounts from which the United Nations funded these administrative costs and identifies instances in which the United Nations charged the ESB and ESC Accounts (i.e., accounts designated for humanitarian purchases) rather than the ESD Account (i.e., the account designated for the United Nations' administrative expenses).

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**II. METHODOLOGY**

Consistent with the work described in its First Interim Report, the Committee's further analysis of administrative costs and fees benefited from unfettered access to Programme-related treasury, banking, and accounting information, from the United Nations and the UN-related Agencies.

This review has treated the Agencies as "subcontractors" to OIP—similar to other parties involved in administering the Programme—though the Agencies have varying relations to the United Nations. Although part of the United Nations system, the Agencies' work in the Programme was arranged through memoranda of understanding, which, among other things, established the compensation rate. Because of their relative independence from the United Nations Secretariat, the Agencies do not keep common books and records with the United Nations, generally do not share audit reports with the Secretariat, and are accustomed to working on a hire-for-fee basis.

Rather than performing a detailed review of the accounting records and supporting documentation at each of the UN-related Agencies, the Committee conducted an exhaustive review of all payments to the Agencies, including the accounting treatment and source of funding for these payments. This review included extensive interviews of representatives of the Agencies and the United Nations as well as a detailed analysis of: (1) monthly cash forecast reports submitted by the Agencies to OIP; (2) cash disbursements recorded in the United Nations' accounting ledgers; and (3) budgets of the Agencies as approved by the United Nations Controller.

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**III. BUDGETING FOR PROGRAMME ADMINISTRATIVE COSTS**

**A. PROGRAMME BUDGETING PROCESS**

The United Nations Controller, Jean-Pierre Halbwachs, played a particularly important role in the budgeting process for the ESD Account. He stated that, because the budgets were to be approved by his office exclusively and did not fall under the purview of ACABQ or any other budgetary review body, he paid close attention to them.<sup>6</sup>

In fact, the budgeting process for the ESD Account appears to have been quite rigorous. Each of the Agencies prepared budgets, which the UNOHCI budget officers in Iraq reviewed and then forwarded to OIP. The OIP staff further reviewed the budgets and consolidated them with the budgets of the United Nations, OIP, and UNOHCI, which then were submitted to the Controller's office. The Controller's office then further reviewed the budgets and made additional changes as it deemed necessary. Mr. Halbwachs personally rendered final approval for all ESD budgets. Once approved, these budgets were entered into the United Nations accounting system ("IMIS"). As described further in Subsection IV.A.1 of this Chapter, payments to the Agencies were made on monthly expenditure reports filed with OIP and forwarded to the Accounts Division.<sup>7</sup>

The Committee's staff reviewed the approved budgets for details on how the Agencies spent ESD funds. The budgets show that the Agencies' administrative costs included, among other things, international and local staffing, premises costs, purchase and rental of transportation, communications, and equipment and supplies. As shown in Table 1 below, staffing costs were by far the largest component of costs, accounting for over eighty percent of total budgeted administrative expenditures. Staffing costs included salaries, benefits, travel, and expenses for local staff working in Iraq as well as for staff working out of the Agencies' headquarters.<sup>8</sup>

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<sup>6</sup> Jean-Pierre Halbwachs interview (Jan. 25, 2005).

<sup>7</sup> Johannes Huisman interview (June 30, 2005); "Audit of budget practices for the SCR 986 (1995) 2.2 per cent account," AF2001/35/1, paras. 8-12, (Aug. 26, 2002); Accounts Division Escrow Account Policies and Procedures, paras. 30, 64-66 (Mar. 1, 2001). Mr. Huisman was a Programme budget supervisor in the Controller's office between 2002 and 2003. Johannes Huisman interview (June 30, 2005).

<sup>8</sup> Controller's office memoranda to OIP (Jan. 27, Sept. 11, and Oct. 21, 1997; Feb. 9, July 8, and Dec. 31, 1998; July 12, 1999; Jan. 31, July 20, and Sept. 11, 2000; Jan. 2 and Aug. 3, 2001; Jan. 18 and Dec. 18, 2002) (detailing approved budgets of the Agencies).

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Table 1 – ESD Budgets of the Agencies for Phases I to XIII<sup>9</sup>

Description	WFP	FAO	UNDP	UNICEF	WHO	HABITAT	UNOPS	UNESCO	ITU	Total
Staff Costs	\$ 107,813,377	\$ 102,858,247	\$ 70,020,411	\$ 62,701,380	\$ 63,981,968	\$ 60,270,557	\$ 34,381,264	\$ 31,293,906	\$ 12,614,015	\$ 545,935,125
Office Equip./Data Processing	4,911,100	5,447,294	2,544,816	2,550,901	2,425,331	3,313,203	1,797,734	1,963,770	623,133	25,577,284
Supplies and Services	2,803,350	4,216,707	2,995,558	4,418,600	2,026,562	1,701,810	2,719,080	1,222,060	221,516	22,325,242
Transport Operations	3,709,198	5,363,617	2,203,367	1,388,246	2,362,447	2,428,396	1,339,114	1,710,387	777,309	21,282,082
Program Support Costs	3,438,252	3,590,691	2,406,775	2,140,706	3,019,305	2,113,926	1,273,989	1,099,504	436,681	19,519,829
Premises and Accomodation	3,516,089	2,702,937	1,776,652	1,137,699	782,841	1,689,561	1,510,411	913,637	99,906	14,129,734
Communications	1,248,673	2,686,760	1,761,713	1,886,411	1,435,139	860,747	655,959	935,917	117,241	11,588,559
Air and Surface Freight	-	67,329	63,768	43,346	-	199,917	62,742	59,153	102,876	599,131
Other	98,400	44,400	36,000	54,000	13,200	-	-	34,800	-	280,800
Contractual Services	117,600	18,000	5,400	21,600	18,000	-	-	-	-	180,600
	\$ 127,656,038	\$ 126,995,983	\$ 83,814,460	\$ 76,342,888	\$ 76,064,793	\$ 72,578,116	\$ 43,740,294	\$ 39,233,134	\$ 14,992,677	\$ 661,418,385

The final review performed by Mr. Halbwachs and his office often resulted in the reduction of requested budget amounts. For example, Mr. Halbwachs's review of the 2002 consolidated budget resulted in the rejection of over \$19 million out of the total requested amount of \$155 million. Reductions were made in categories such as the Agencies' local and international staffing posts, vehicles, and office equipment. In reviewing the Programme's budgeting controls, the Internal Audit Division ("IAD") of the United Nations Office of Internal Oversight Services ("OIOS") noted that "overall, OIP and the Controller have been successful in containing administrative costs for the UN agencies."<sup>10</sup>

## B. THE ROLE OF ACABQ

ACABQ was established in 1946 primarily to review and report to the General Assembly on the general budget of the United Nations and certain specialized agencies. As detailed in its mandate, the major functions of ACABQ are:

- (a) [T]o examine and report on the budget submitted by the Secretary-General to the General Assembly;
- (b) [T]o advise the General Assembly concerning any administrative and budgetary matters referred to it;
- (c) [T]o examine on behalf of the General Assembly the administrative budgets of the specialized agencies and proposals for financial arrangements with such agencies;

<sup>9</sup> Ibid.

<sup>10</sup> Ibid.; Benon Sevan memorandum to Jean-Pierre Halbwachs (Dec. 21, 2001); Jean-Pierre Halbwachs memorandum to Benon Sevan (Jan. 18, 2002) (regarding "Administrative and operational requirements funded from the Iraq escrow account – 1 January 2002 – 31 December 2002"); "Audit of budget practices for the SCR 986 (1995) 2.2 per cent account," AF2001/35/1, para. 20 (Aug. 26, 2002).

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- (d) [T]o consider and report to the General Assembly on the auditors' reports on the accounts of the United Nations and of the specialized agencies.

In addition to ACABQ's work on the United Nations' general budget, it reviews a variety of other special programs, including the International Criminal Tribunal for the Former Yugoslavia, the International Criminal Tribunal for Rwanda, and the United Nations Operation in Burundi.<sup>11</sup>

Although ACABQ possesses the ability and mandate to review specialized United Nations programs, ACABQ did not review any of the budgets or other financial matters relating to the Programme. Jules Corwin, Executive Secretary of ACABQ, explained that—other than the United Nations' general budget—ACABQ reviews only administrative and budgetary matters that are referred to it. Because ACABQ never was requested to review Programme budgets, Mr. Corwin noted that it never did so.<sup>12</sup>

The First Interim Report stated that, because its funds were extra-budgetary, the Programme's budgets were not subject to the review of ACABQ. However, since the First Interim Report, the Committee has learned that the General Assembly previously had mandated that “extrabudgetary posts at the D-1 level and above for which the approval of an intergovernmental organ is not required be subject to the concurrence of [ACABQ].” This requirement applied to positions created for the Programme at the rank of Director (D-1 and D-2), Assistant Secretary-General, or Under-Secretary-General.<sup>13</sup>

Nonetheless, documentary and other evidence indicates that ACABQ was excluded purposefully from Programme-related issues and that a mandated disclosure, regarding the creation of a senior post, was withheld from ACABQ. In July 1996, Yukio Takasu, then the United Nations Controller, wrote a memorandum to Yasushi Akashi, then Under-Secretary-General for Humanitarian Affairs, about the creation of an Assistant Secretary-General post under the Programme. Mr. Takasu advised that, “irrespective of the source of financing,” creation of such a post would have “to be reported to the ACABQ and the General Assembly,” which “would raise questions on the need for the post/position and would require justification of the functions.” He further asserted: “I am concerned that by appointing someone at that senior level we would be

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<sup>11</sup> United Nations, “ACABQ,” <http://www.un.org/docs/acabq> (recounting ACABQ's mandate); “First report on the Proposed programme budget for the bi-ennium 2004-2005,” A/58/7 (Aug. 5, 2003); Interim Budget for the United Nations Operation in Burundi for the period 21 April to 31 December 2004,” A/58/811 (May 24, 2004).

<sup>12</sup> Jules Corwin interview (July 19, 2005).

<sup>13</sup> See “First Interim Report,” p. 201; ACABQ report, A/35/7 and Add. 1-32, para. 24 (1980) (recommending that ACABQ's concurrence be required); A/RES/35/217, sec. II, para. 2 (Dec. 17, 1980) (endorsing ACABQ's recommendation); United Nations, “Salary scale for the Professional and higher categories showing annual gross salaries and net equivalents after application of staff assessment (in United States dollars),” [http://www.un.org/Depts/OHRM/salaries\\_allowances/salaries/salaryscale/professional/base0105.xls](http://www.un.org/Depts/OHRM/salaries_allowances/salaries/salaryscale/professional/base0105.xls).

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asked by ACABQ to present cost estimates for the entire Iraq operation, which should be avoided.”<sup>14</sup>

The Iraq Steering Committee, of which both Mr. Akashi and Mr. Takasu were members, met on August 19, 1996 and discussed the possible submission of Programme budgets to ACABQ. The notes of that meeting indicate:

There was agreement within the Steering Committee that the Secretary-General need not submit to the General Assembly a budget on line items related to implementation of SCR 986. To do so would probably raise questions in ACABQ (e.g. why was Fulcheri appointed at the ASG level). Mr. Fareed noted that DHA had always previously submitted budgets from the Inter-Agency Humanitarian Programme to the [General Assembly]; on the other hand the Programme had not been financed by Iraqi funds in the past, nor had it operated under a Security Council mandate. (The question was asked whether the idea of submitting a budget to the GA had ever been discussed in the Steering Committee; no one, including [Ms. Buttenheim] could recall that it had.)<sup>15</sup>

As indicated in the meeting notes, Mr. Fulcheri—the individual about whom Mr. Takasu wrote in his July 1996 memorandum to Mr. Akashi—actually was appointed at the level of Assistant Secretary-General. According to Mr. Corwin, this appointment was not disclosed to ACABQ. Mr. Corwin further noted that, had the post been reported, ACABQ might have requested additional details in order to undertake a broader review of the Programme’s budgets. This appears to have been precisely the reason that the Iraq Steering Committee was reluctant to report to ACABQ in the first place.<sup>16</sup>

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<sup>14</sup> Yukio Takasu memorandum to Yasushi Akashi (July 5, 1996).

<sup>15</sup> Iraq Steering Committee meeting notes (Aug. 19, 1996) (emphasis in original).

<sup>16</sup> Ibid; Yukio Takasu memorandum to Yasushi Akashi (July 5, 1996); Gudrun Fosse note to Leon Hosang (Oct. 28, 1996); Jules Corwin interviews (July 19 and 27, 2005).

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## **IV. PROGRAMME ADMINISTRATIVE COSTS**

The Agencies received payments both for actual administrative expenditures (i.e., direct costs) and for estimated overhead or indirect costs. As detailed below, the payment to the Agencies for indirect costs was a matter of significant contention within the United Nations Secretariat.

### **A. ADMINISTRATIVE COSTS RELATING TO RESOLUTION 986**

#### **1. Direct Costs**

As described in Section III.A of this Chapter, the Agencies were paid from the ESD Account for their actual direct costs of implementing the Programme in northern Iraq. This included costs such as salaries, supplies, equipment, and transportation. In accordance with its own financial rules, policies, and procedures, each of the Agencies maintained the details of these expenditures and the related supporting documentation. Consistent with its arms-length approach to the Agencies, the United Nations did not require the Agencies to submit to OIP any of the supporting documentation or expenditure details relating to direct costs funded from the ESD Account. Instead, the Agencies were required to submit monthly standardized expenditure and cash forecast reports indicating total expenditures incurred as well as anticipated expenditures for the coming month. These reports served as the basis for monthly advance funding to the Agencies. The United Nations' accounting records therefore kept record only of the cash advance payments to the Agencies and the subsequent aggregate monthly expenditure amounts as reported by the Agencies.<sup>17</sup>

Because the United Nations did not receive expense details from the Agencies, particular importance was placed on the up-front budgeting process. The review and approval of the Agencies' budgets was considered by OIP and the Controller's office to be the main control mechanism to ensure that administrative expenditures were kept to reasonable levels. Mr. Halbwachs indicated that the organizations within the United Nations system typically trust their sister organizations and rely on clean audit opinions to satisfy themselves that the organizations are operating effectively. It was in this context that the decision was made to have Agencies report aggregate monthly expenditure amounts rather than submit details of their expenditures.<sup>18</sup>

In at least two instances, one of the Agencies may have charged questionable expenditures to the ESD Account. The first relates to a charge of approximately \$500,000 by the United Nations Development Programme ("UNDP") for vehicles and computer equipment. This equipment was

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<sup>17</sup> "Procedures on the Recording of Income related to the Sale of Iraqi Oil and Expenditures Related to the Purchase of Humanitarian Supplies and other Administrative Costs," paras. 33-36 (Feb. 27, 1997); Maurice Critchley interview (Nov. 8, 2004). UNICEF and WFP did not receive advance funding, but instead were reimbursed for actual expenditures. Jean-Jacques Graisse fax to Benon Sevan (Apr. 26, 1999); UNICEF-OIP memorandum of understanding (Nov. 17, 2000).

<sup>18</sup> Johannes Huisman interview (June 30, 2005); Jean-Pierre Halbwachs interview (Dec. 1, 2004).



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purchased for use by UNDP's country office in Iraq and not specifically for Programme use. OIOS uncovered this issue in 2000 through its review of UNDP's internal audit reports, and OIP then addressed the matter with UNDP. The second instance relates to an ESD charge of approximately \$25,000, by the World Health Organization ("WHO"), for the purchase of a new Mercedes automobile to be used by WHO's country representative in Iraq. In response to complaints from the Government of Iraq, WHO agreed to export the vehicle from Iraq and ultimately sent it to its Syrian office. The Committee notes that WHO never credited the amount back to OIP, but has agreed to do so since the Committee's queries concerning this matter.<sup>19</sup>

The review of the Agencies' administrative operations and supporting documentation certainly would have been a daunting task. The question remains, however, why the United Nations Secretariat, including its oversight bodies—with the exception of OIOS, which audited the United Nations Human Settlements Programme ("UN-Habitat")—apparently did little to ensure that the actual expenditures reported by the Agencies were proper and related to the Programme. As described in the Committee's First Interim Report, OIOS and OIP unsuccessfully sought to undertake "horizontal audits" across all Agencies; OIP itself often had difficulty obtaining audit reports from the Agencies. These issues raise questions about the relationship between the United Nations and its agencies, particularly in the context of joint programs, in which both the United Nations and the agencies are implementing partners.<sup>20</sup>

## 2. Indirect Costs

### a. Background

Like many other programs undertaken by the United Nations and its agencies, the Programme was categorized as an "extra-budgetary" program. As suggested by the phrase, extra-budgetary programs receive their funding from sources other than the United Nations' general budget, which is funded by mandatory member state contributions. Historically, the majority of these organizations' activities have been funded by member state assessments. However, extra-budgetary funding has played an increasingly important role in the last several decades and, in the case of certain organizations within the United Nations system, has outpaced the level of the core contributions.<sup>21</sup>

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<sup>19</sup> "Review of Allegations of Irregularities in the Recruitment of Personnel in the UNDP Office in Iraq and Follow-up on OAPR Report No. IAS0042," paras. 53-70 (Nov. 29, 1999); Esther Stern memorandum to Benon Sevan (May 10, 2000); Benon Sevan memorandum to Bo Asplund (June 12, 2000); Bo Asplund letter to Benon Sevan (July 5, 2000); Samir Ben Yahmed e-mail to the Committee (July 11, 2005). The incidents referenced above are discussed in greater detail in Section IV.B of Chapter 4 of this Volume.

<sup>20</sup> "First Interim Report," pp. 171-72, 179-81.

<sup>21</sup> "Support Costs Related to Extrabudgetary activities in Organizations within the United Nations System," JIU/REP/2002/3, paras. 3, 8 (2002). WFP and UNOPS do not receive assessed member contributions and therefore do not have core budgets. Consequently, they operate on a full-cost recovery principle. See Nicolas Oberlin interview (June 2, 2005); Rolf Sprauten interview (May 19, 2005); Brendan Daly interview (Apr. 25, 2005).

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Although extra-budgetary projects—such as the Programme—are separately funded, such projects nonetheless rely on core organizational resources for successful execution. In an effort to recoup costs associated with implementing extra-budgetary activities, organizations within the United Nations system historically have charged a “programme support cost” (“PSC”) percentage on donor contributions. This percentage, which typically varies by organization and by project type, is intended to cover costs incurred by the organization at the headquarters level. Such costs include time expended by senior management, salaries and benefits for support staff related to procurement activities, accounting, human resources, treasury, audit, and other ancillary functions, as well as overhead costs such as rents, furniture, and utilities. Historically, the standard PSC benchmark within the United Nations system, subject to adjustment in specific cases, has been thirteen percent of direct costs for a particular program. The Agencies implementing the Programme in northern Iraq requested, and ultimately received, reimbursement for PSC as described below.<sup>22</sup>

The following Subsections deal specifically with the application of the PSC methodology to the Programme. The Committee notes that the application of the PSC methodology and the determination of PSC rates have been the subject of numerous discussions and reviews throughout the United Nations system, most recently in 2004 by the United Nations Chief Executives Board for Coordination and by the Joint Inspection Unit (“JIU”) in 2002.<sup>23</sup>

#### b. Approval of PSC Payments

The issue of paying PSC to the Agencies for their work on the Programme was a contentious one from the outset of the Programme. Mr. Halbwachs stated that, when he became the Controller in March of 1997, the Programme already was underway, and the Department of Humanitarian Affairs (“DHA”) already had been discussing the payment of PSC with the Agencies. As indicated in a March 1997 memorandum to Qazi Shaukat Fareed of DHA, Mr. Halbwachs was not convinced that PSC payments to the Agencies were appropriate in relation to the Programme. He noted that the Agencies were being reimbursed for direct administrative costs relating to the Programme, including “rental/maintenance of premises, communications, utilities and equipment,” and that “[t]hese are all elements of programme support.” Mr. Halbwachs felt that because the Agencies were being reimbursed for all direct administrative costs related to the Programme, additional payments for PSC were not necessary: “I do not therefore see why, over and above these stated requirements, agencies should receive programme support costs.”<sup>24</sup>

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<sup>22</sup> “Support Costs Related to Extrabudgetary activities in Organizations within the United Nations System,” JIU/REP/2002/3 (2002) (hereinafter “JIU Report on Support Costs”), paras. 12, 16, 30, 40.

<sup>23</sup> “Conclusions of the Seventh Session of the High-Level Committee on Management,” CEB/2004/3, paras. 22-24 (June 28, 2004); “JIU Report on Support Costs”; “Extrabudgetary Resources of the United Nations System,” JIU/REP/90/3 (1990);

<sup>24</sup> Jean-Pierre Halbwachs interview (Mar. 23, 2005); Jean-Pierre Halbwachs memorandum to Qazi Shaukat Fareed (Mar. 13, 1997).

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In his May 1997 response to Mr. Halbwachs's memorandum, Mr. Fareed clarified that PSC reimbursement was sought by the Agencies, in accordance with their financial rules and regulations, to cover costs that they would incur at headquarters. Several weeks later, Mr. Halbwachs communicated directly to Mr. Akashi, Under-Secretary-General for Humanitarian Affairs, again indicating that he did not support additional payments to the Agencies in the form of support costs. Mr. Halbwachs noted that: (1) such payments probably were not needed; (2) the amounts paid to date to cover expenses had not been accounted for; and (3) the payments might disturb the balance struck with the Government of Iraq on spending under the distribution plan versus allocations for administrative expenses.<sup>25</sup>

When interviewed, Mr. Halbwachs stated that his major concern was that the practice of paying PSC seemed to him to be at odds with the wording of Resolution 986 and the implementing rules which indicated that the ESD Account would bear the cost of "actual expenses." However, as defined under the Programme, PSC was not based on "actual expenses" but on an estimate of expenses. Mr. Halbwachs indicated that he was unaware of any detailed analysis justifying the requested reimbursement percentages. Indeed, the Secretariat of the United Nations itself did not charge its usual PSC rate, opting instead to fund directly from the ESD Account headquarter posts in areas such as Treasury, Accounting, and the Office of Legal Affairs.<sup>26</sup>

Mr. Halbwachs continued objecting to the payment of PSC until the summer of 1997 when in the course of two meetings, first with a United States ambassador and two members of the Secretariat and then with the Secretary-General, he was accused of being too "inflexible and rigid." Mr. Halbwachs was told that they had to make the Programme work, there were political and humanitarian imperatives at issue, and he was jeopardizing the Programme by holding out on the PSC issue. Despite his reservations, Mr. Halbwachs eventually approved the payment of PSC to the Agencies. He told the Committee that the approval was ultimately his decision alone, and that he based it on the urgency of the situation and his expectation that the Programme would continue only for a short time.<sup>27</sup>

Specifically, Mr. Halbwachs approved PSC payments on expenditures from the ESD and ESC Accounts as well as expenditures related to bulk purchases of food made from the ESB Account. This approval meant that PSC would be paid to the Agencies based both on administrative expenses and on the cost of the humanitarian goods purchased.<sup>28</sup>

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<sup>25</sup> Qazi Shaukat Fareed memorandum to Jean-Pierre Halbwachs (May 6, 1997); Jean-Pierre Halbwachs memorandum to Yasushi Akashi (May 29, 1997).

<sup>26</sup> Jean-Pierre Halbwachs interview (Mar. 23, 2005).

<sup>27</sup> Ibid. When asked, the Secretary-General did not recall meeting with Mr. Halbwachs about this issue. Kofi Annan interview (July 27, 2005).

<sup>28</sup> Jean-Pierre Halbwachs memorandum to Yohannes Mengesha (Aug. 6, 1997); Jean-Pierre Halbwachs interview (Mar. 23, 2005).

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#### c. PSC Paid

As indicated in Table 2 below, the PSC rates established generally were at three percent of expenditures incurred from the ESC and ESD Accounts and at a smaller percentage for bulk purchases made out of the ESB Account. Mr. Halbwachs has indicated that these rates had no firm basis and were not derived from any historical or statistical studies. They were agreed-upon rates that he felt, at the time, would be commensurate with the costs. Other than slight modifications for two of the Agencies, these rates were never revisited during the life of the Programme.<sup>29</sup>

Table 2 – Programme Support Cost Rates Paid to the Agencies as of 2000<sup>30</sup>

	ESC Account	ESD Account	ESB Account
WFP	3%	3%	0.35%
UNOPS	5%	3%	
WHO	3%	6%	
All Others	3%	3%	

In its June 30, 1999 external audit of the Programme, the United Nations Board of Auditors (“BOA”) took exception to the practice of paying PSC on expenditures from the ESC Account. BOA noted the following in its Management Letter dated February 3, 2000:

We believe, however, that the payment of additional three percent programme support costs against ESC is not appropriate, considering that all administrative and operational expenses incurred by the Specialized Agencies are budgeted and paid for under the ESD Fund. As a result of the charges made against the ESC Fund, available funds for the procurement of humanitarian supplies in Northern Iraq had been correspondingly reduced.<sup>31</sup>

<sup>29</sup> Ibid.

<sup>30</sup> Jean-Pierre Halbwachs memorandum to Yohannes Mengesha (Aug. 6, 1997). WHO originally received PSC on bulk purchases at a rate of 0.175 percent and a PSC rate of three percent on ESD expenditures. These rates were changed in 2000 to six percent on ESD expenditures and no PSC on bulk purchases. See Monthly expenditure reports of the Agencies (1997-2000) (detailing aggregate Programme expenditures). Until 1999, UNOPS received no funding from the ESD Account, but received PSC at a rate of five percent on ESC disbursements. After 1999, UNOPS received funding from the ESD Account and a three percent PSC rate on those disbursements. Neeta Tolani memorandum to Bock Yeo (June 10, 1998); Rolf Sprauten interview (May 19, 2005).

<sup>31</sup> “Management letter on the audit of the United Nations Escrow (Iraq) account and the Office of the Iraq Programme (OIP) for the Semester ending 30 June 1999,” para. 57 (Feb. 3, 2000).

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Mr. Halbwachs interpreted BOA's finding as a criticism of the source for funding PSC and not whether payment of PSC was appropriate in the first instance. Accordingly, Mr. Halbwachs responded that, subsequent to Phase VI, "the practice of charging support costs against the 13 percent account [(i.e., ESC Account) would] be discontinued." The funding for PSC expenditures ultimately was shifted from the ESC Account to the ESD Account (as described in Section V.A of this Chapter). However, the practice of paying PSC on ESC disbursements never was revisited and remained in effect for the duration of the Programme.<sup>32</sup>

Representatives of the Agencies have stated that the payment of PSC on expenditures paid from the ESD and ESC Accounts—as well as on bulk purchases from the ESB Account—was reasonable because costs related to certain indirect functions, such as senior management time, and procurement and contracts review committees, are directly related to the amount of program activity and hence the volume of expenditures incurred.<sup>33</sup>

As noted in Table 3 below, almost \$102 million was paid to the Agencies in the form of PSC for work performed during the Programme. These funds are in addition to the approximately \$506 million that the Agencies were paid to cover their direct administrative and operational costs relating to the implementation of Resolution 986. Almost \$17 million in PSC was paid to the Agencies in relation to expenditures incurred on the ESD Account and an additional \$85 million was paid in relation to expenditures incurred on the ESC and ESB Accounts.<sup>34</sup>

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<sup>32</sup> Jean-Pierre Halbwachs interviews (Mar. 23 and June 27, 2005); Jean-Pierre Halbwachs memorandum to Reynaldo Gamutan (Nov. 12, 1999). Mr. Gamutan was Senior External Auditor within BOA. *Ibid.* While the PSC continued to be paid on ESC expenditures, this audit finding ultimately resulted in a switch in the source of funding for PSC from the ESC Account to the ESD Account in June 2000. Funding sources for the PSC is addressed in Section V.A. of this Chapter.

<sup>33</sup> Samir Ben Yahmed interview (Apr. 25, 2005); John Haight interview (Apr. 20, 2005). Dr. Ben Yahmed serves as WHO's Director of the Department of the Iraq Programme, and Mr. Haight serves as Chief Accountant of the United Nations Educational, Scientific and Cultural Organization ("UNESCO"). Samir Ben Yahmed interview (Apr. 25, 2005); John Haight interview (Apr. 20, 2005).

<sup>34</sup> Monthly expenditure reports of the Agencies (1997-2003) (detailing aggregate Programme expenditures). Additional fees paid to the Agencies for work performed pursuant to Resolutions 1472, 1476, and 1483 after the invasion of Iraq in 2003 are not included in these figures. These fees are addressed in Sections IV.B and IV.C of this Chapter.

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Table 3 – Administrative Expenditures Paid to the Agencies for Resolution 986 as of December 2003 (in USD thousands)<sup>35</sup>

	Direct Costs <sup>1</sup>	PSC on ESD Expend.	PSC on ESC Expend.	PSC on ESB Expend.	Total PSC	Total Administrative Costs
WFP	\$96,568	\$2,897	\$2,969	\$5,495	\$11,361	\$107,929
FAO	\$90,938	\$2,728	\$13,763		\$16,491	\$107,429
UNICEF	\$68,208	\$2,042	\$11,880		\$13,922	\$82,130
UNDP	\$61,531	\$1,846	\$16,875		\$18,721	\$80,252
UN-HABITAT	\$62,823	\$1,885	\$13,242		\$15,127	\$77,950
WHO	\$50,653	\$3,039	\$7,422		\$10,461	\$61,114
UNOPS	\$37,699	\$1,357	\$9,126		\$10,483	\$48,182
UNESCO	\$28,773	\$863	\$3,383		\$4,246	\$33,019
ITU	\$8,890	\$267	\$871		\$1,138	\$10,028
<b>TOTAL</b>	<b>\$506,083</b>	<b>\$16,924</b>	<b>\$79,531</b>	<b>\$5,495</b>	<b>\$101,950</b>	<b>\$608,033</b>

<sup>1</sup> This total differs from the amount of payments to the Agencies made from the ESD Account, which totaled \$475 million and included \$50 million in PSC paid from the ESD Account as described in Section V.A. This amount also includes \$81 million in certain direct costs (categorized by OIP as “implementation costs”), paid from the ESC Account, as described in Section V.B.

Some of the Agencies have maintained that the PSC payments that they received actually might have been too low and may not have covered adequately the actual amount of indirect costs. The Agencies based this observation on the fact that the three percent PSC rate was, in the case of most of the Agencies, far lower than their standard support cost rates as approved by their governing bodies. During the Programme, those rates typically ranged from three to thirteen percent, depending on the particular agency and the type of project.<sup>36</sup>

Agency PSC rates are typically established and applied on an organizational level. While most United Nations entities have established a variety of PSC rates depending on the broad nature of their programs (e.g., emergency programs), PSC rates are not established at the individual program or activity level. In fact, in its 2002 report, the JIU noted that:

<sup>35</sup> Monthly expenditure reports of the Agencies (1997-2003) (detailing aggregate Programme expenditures).

<sup>36</sup> John Haight interview (Apr. 20, 2005); Samir Ben Yahmed interview (Apr. 25, 2005). FAO did provide the Committee with an analysis in support of cost rates for its emergency activities, of which it considered the Programme one. However, the analysis was not restricted to the Programme and did not take into account the level of FAO headquarters staff being paid for directly out of the ESD Account. Mina Dowlatchahi interview (June 3, 2005); FAO memorandum to the Committee (Aug. 2005) (responding to the Committee’s request for additional information about PSC under the Programme). Ms. Dowlatchahi is a Senior Programme and Budget Officer at FAO. Mina Dowlatchahi interview (June 3, 2005).

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For United Nations system organizations engaged in a relatively broad range of substantive and support activities, the merits of activity-specific cost assessment and support-cost rates must be balanced against the costs and other difficulties associated with administering a complex extra-budgetary support costs recovery system. Transparency also requires a measure of simplicity. In this context, a relatively straightforward series of clearly defined rates may be the most appropriate means of achieving this balance.<sup>37</sup>

In any event, neither the United Nations nor the Agencies were able to provide evidence suggesting that the aggregate amount of PSC paid was commensurate with the indirect administrative costs incurred specifically in relation to the Programme.

#### d. Funding for the Agencies' Headquarters Staff

As previously noted, staffing costs accounted for the majority of the Agencies' expenditures from the ESD Account. The Agencies' staffing costs related predominantly to staff located in Iraq working on project implementation and support. In addition to Iraq-based staff, however, all of the Agencies (except for WFP) were compensated also for certain staff working out of the Agencies' headquarters or satellite offices outside of Iraq. At the beginning of the Programme, the Agencies received no direct funding for headquarters staff. However, as the Programme grew in size and complexity, Mr. Halbwachs began approving direct funding for the Agencies' headquarters staff from the ESD Account. For example, the table below details the number and functional areas of the Agencies' headquarters-based staff funded from the ESD Account during 2002.<sup>38</sup>

Table 4 – Headquarters Staff of the Agencies Funded from the ESD Account (During 2002)<sup>39</sup>

	UNDP	WHO	WFP	Habitat	UNICEF	UNESCO	ITU	FAO	UNOPS	Total
Procurement	4	4		2	10	8	2	6	2	38
Finance/Accounting	2	3		3	5	1		3	1	18
Administrative	3	8		7	3	5	1	3		30
Prog. Mgmt/Specialists	9	7		12	4	2	1	9	6	50
Logistics	5	0			3	4		1		13
HR				2					1	3
Other	1	1		2				1		5
Total staff count	24	23	0	28	25	20	4	23	10	157

<sup>37</sup> “JIU Report on Support Costs,” paras. 40-47.

<sup>38</sup> “Audit of budget practices for the SCR 986 (1995) 2.2 per cent account,” AF2001/35/1, paras. 21-23 (Aug. 26, 2002); Qazi Shaikat Fareed memorandum to Jean-Pierre Halbwachs (May 6, 1997) (indicating that the Agencies' budget submissions did not include any headquarters staff). At the time, Mr. Fareed was Director of the United Nations Department of Humanitarian Affairs. Ibid.

<sup>39</sup> Benon Sevan memorandum to Jean-Pierre Halbwachs (Dec. 21, 2001); Jean-Pierre Halbwachs memorandum to Benon Sevan (Jan. 18, 2002); Budget submissions from the Agencies (2002).

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Many of the functions performed by these headquarters staff, and billed directly to the Programme as administrative expenses, are the same functions typically described to justify PSC charges. The Agencies told the Committee that while some of their headquarters staff indeed were paid for out of the ESD Account as direct costs, this was the case only for staff fully dedicated to the Programme (i.e., staff that worked one-hundred percent on Programme-related matters). The Agencies indicated, however, that many other headquarters-based individuals worked part-time on Programme matters. The related costs for these staff members were not funded directly out of ESD, but instead were offset by the PSC funding. Examples provided of these indirect staff costs include the Agencies' senior management and other personnel involved with contract approval committees, audit, information technology, and human resources.<sup>40</sup>

In its 2002 audit of the budgeting practices for the ESD Account, OIOS took exception to the level of the Agencies' headquarters staffing and noted that that "there was no indication that OIP had analyzed the situation to determine why such staffing levels were needed. In [OIOS's] view, OIP and the Controller should review the situation and reassess staffing requirements for the United Nations Agencies in order to prevent unnecessary expenditures."<sup>41</sup>

Inasmuch as the Agencies' justification for needing PSC payments was to cover headquarters costs, the Committee questions why the United Nations funded direct headquarters costs from the ESD Account. The fact that the Agencies were provided direct reimbursement for a growing number of headquarters costs over the course of the Programme, at the very least, should have prompted a review and possible modification of the PSC rates established early in the Programme. Only WFP used PSC to offset fully its headquarters costs and therefore not charge for direct headquarters costs. The Committee questions why the other Agencies received the full PSC payments in addition to funding for direct headquarters costs.

Due to their very nature, it is difficult if not impossible to ascertain the true level of indirect costs incurred by the Agencies relating to the Programme. The Committee notes the lack of justification for the amount as well as the absence of a systemic approach to estimating the PSC rate. Therefore, the Committee questions the reasonableness of the nearly \$102 million in PSC payments.

## **B. ADMINISTRATIVE COSTS RELATING TO RESOLUTIONS 1472 AND 1476**

In March 2003, following the fall of the Iraqi regime, Resolution 1472 tasked the United Nations with providing emergency humanitarian relief for the people of Iraq at the end of major combat

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<sup>40</sup> John Haight interview (Apr. 20, 2005); Oscar Fernandez-Taranco interview (May 18, 2005); Samir Ben Yahmed interview (Apr. 25, 2005). Mr. Fernandez-Taranco serves as a Deputy Regional Director of Arab States at UNDP. Oscar Fernandez-Taranco interview (Jan. 18, 2005).

<sup>41</sup> "Audit of budget practices for the SCR 986 (1995) 2.2 per cent account," AF2001/35/1, paras. 21-23 (Aug. 26, 2002).



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operations. Resolution 1472 required the United Nations to prioritize and amend Programme-related humanitarian contracts, previously entered into by the Government of Iraq, in order of urgency, for adequate medicine, health supplies, foodstuffs, and other materials and supplies for essential civilian needs. The United Nations enlisted six of the Agencies to help complete these tasks. The Agencies ultimately were responsible for renegotiating and amending contracts, establishing alternative routes for delivery, inspecting and authenticating humanitarian supplies, and arranging for the storage and subsequent delivery of the goods to Iraq. Some of the Agencies were tasked also with executing new contracts for essential food and medical items and were authorized to issue relevant letters of credit to effect payment. In April 2003, the Security Council adopted Resolution 1476, which extended the relevant provision of Resolution 1472 until June 3, 2003.<sup>42</sup>

The Executive office of OIP established various rates to compensate the Agencies for the tasks required of them under Resolutions 1472 and 1476. The Agencies were provided a rate of seven percent on the value of the contracts taken over or amended as well as a rate of seven percent to procure and deliver goods—with the exception of those projects for which the Agencies had agreed to a reimbursement rate of three percent. For contracts not completed by November 21, 2003 and therefore assigned to the Coalition Provisional Authority (“CPA”) for completion, the relevant fee was three percent. Additionally, the United Nations Office for Project Services (“UNOPS”) managed a limited number of “orphan contracts”—those for which the goods already were in transit, but had not yet been prioritized and allocated to a particular agency for handling—for a rate of \$950 per contract.<sup>43</sup>

The table below details the fees paid to the Agencies for the various tasks completed under Resolutions 1472 and 1476.

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<sup>42</sup> S/RES/1472, paras. 2-4 (Mar. 28, 2003); S/RES/1476, para. 1 (Apr. 24, 2003); “Briefing on the Implementation of Security Council Resolution 1472 (2003) of 28 March 2003” (Apr. 22, 2003).

<sup>43</sup> Maurice Critchley fax to the Agencies (Apr. 25, 2003); Maurice Critchley fax to the Agencies (Jan. 12, 2004).

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Table 5 – Fees Paid to the Agencies for Work Performed under Resolutions 1472 and 1476 (in USD thousands)<sup>44</sup>

	Fees for Contracts Taken Over or Amended (7%)	Fees for Goods Procured, Delivered & Paid for (7%)	Fees for Contracts Transferred to CPA (3%)	Fees for Orphan Contracts (\$950 per contract)	Total Fees
WFP	\$52,074	\$3,777 <sup>1</sup>	-	-	\$55,851
UNDP	\$22,569	-	\$771	-	\$23,340
FAO	\$7,338	\$3,788	\$4,023	-	\$15,149
WHO	\$8,832	\$1,231	\$747	-	\$10,810
UNICEF	\$3,226	\$893	-	-	\$4,119
UNOPS	\$3,565	-	-	\$25	\$3,590
<b>Total</b>	<b>\$97,604</b>	<b>\$9,689</b>	<b>\$5,541</b>	<b>\$25</b>	<b>\$112,859</b>

<sup>1</sup> WFP received 3% fee on Goods Procured, Delivered & Paid for and a 7% fee for other Resolution 1472 tasks.

Maurice Critchley, the Executive Officer of OIP, stated that the seven percent rate for acquired contracts and newly procured contracts was based on WFP's submitted budget. According to Mr. Critchley, the seven percent rate was in line with United Nations standards and "passed the reasonableness test." It therefore was proposed to and approved by the Controller's office. Similarly, given the decreased level of work for contracts transferred to CPA, Mr. Critchley proposed a three percent reimbursement rate, which Mr. Halbwachs also approved. The Committee notes, however, that there seems to have been no sound basis that justified or validated the percentages recommended by Mr. Critchley and implemented by the United Nations.<sup>45</sup>

In the case of WFP, which received over \$55 million in fees, representatives indicated that they had in excess of 1,400 staff people—net of staff already being paid from Programme funds—mobilized around the region, at headquarters, and in Cyprus to handle the massive task of procuring, shipping, storing and delivering \$760 million in emergency foodstuffs. While the amount paid to WFP, given the timeframe involved, appears high relative to the administrative fees paid to WFP throughout the course of the Programme, the staffing levels involved in Resolution 1472 work appear to justify the fees paid. The Committee notes that the magnitude of these figures is consistent with the budget provided by WFP prior to its commencement of Resolution 1472 activities and, as the following calculation demonstrates, seems reasonable. Assuming an average yearly cost per employee, including salary, benefits, travel, and other

<sup>44</sup> Monthly expenditure reports of the Agencies (2003-2003) (detailing aggregate expenditures incurred for Resolutions 1472 and 1476).

<sup>45</sup> Maurice Critchley interview (May 25, 2005); Moses Bamuwanye e-mails to Maurice Critchley (Jan. 6 and 12, 2004).

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overhead costs of \$100,000, and a timeframe of four months to complete the Resolution 1472 work, total salary costs alone for WFP are estimated at \$46 million.<sup>46</sup>

Conversely, other Agencies may have incurred proportionately less costs. For example, UNDP reviewed, prioritized and amended 512 contracts and subsequently organized the shipment and delivery of goods related to sixty-three of those contracts. UNDP completed this task by using staff already funded out of the ESD Account and also by hiring approximately twenty additional technical engineers and procurement specialists. Although UNDP presumably incurred some additional costs above and beyond the staffing costs for the twenty new hires, the payment of \$23 million in fees appears excessive in comparison to the level of additional resources committed. Similarly, UNOPS hired two individuals to assist in the renegotiation and execution of six Programme contracts. UNOPS estimated that costs incurred relating to this work were less than \$300,000, but it received over \$3.4 million in fees.<sup>47</sup>

## C. ADMINISTRATIVE COSTS RELATING TO RESOLUTION 1483

Among other things, Resolution 1483 tasked the United Nations—in coordination with CPA—to prioritize pending Programme humanitarian contracts previously entered into by the Government of Iraq. In addition to prioritization, the United Nations was required also to amend certain terms contained in the contracts, including the contracting party, contract price, and transportation details. OIP again enlisted the Agencies' assistance in executing this time-sensitive exercise, which was to be completed by November 21, 2003. Unlike work performed under Resolutions 1472 and 1476, however, the Agencies were not taking physical possession of the humanitarian goods and were not responsible for storing the goods or delivering them to Iraq. Rather, for the most part, the Agencies contacted suppliers and renegotiated certain contract terms, involving mainly the contracting party and the applicable price.<sup>48</sup>

In an e-mail dated June 23, 2003 to the United Nations Budgeting Department staff, Mr. Critchley indicated that the United Nations had “moved from the SCR 1472 proposal of agencies being paid on the basis of the value of the contracts, as that would not be cost effective for this exercise.” He stated further that the Agencies would be compensated for direct costs plus three percent of those costs for overhead.<sup>49</sup>

Most of the Agencies ultimately were unable to compile detailed budgets for this task. In a memorandum to Benon Sevan, dated July 14, 2003, Mr. Critchley reverted to the payment

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<sup>46</sup> Nicolas Oberlin interview (June 2, 2005); Jean-Jacques Graisse memorandum to Benon Sevan (May 13, 2003).

<sup>47</sup> Oscar Fernandez-Taranco interview (May 18, 2005); Oscar Fernandez-Taranco e-mail to the Committee (July 21, 2005); Rolf Sprauten interview (May 19, 2005).

<sup>48</sup> S/RES/1483, para. 16 (May 22, 2003); Maurice Critchley e-mail to Johannes Huisman, Vivianne van de Perre, Benon Sevan, Farid Zarif, and Catherine Pollard (June 23, 2003).

<sup>49</sup> Maurice Critchley memorandum to the Agencies (June 23, 2003).

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methodology used in the case of Resolution 1472, and he requested that Mr. Sevan approve a fee for the Agencies of three percent of each amended contract's value, a formula based partly on a budget proposal that UNOPS submitted. On July 29, 2003, Mr. Critchley informed the heads of all Agencies that they would be receiving a three percent fee for their work under Resolution 1483, but no reimbursement for direct costs. In fact, had the rate of three percent of contract face value been used, the Agencies would have been paid as much as \$199 million in fees for the few months of work.<sup>50</sup>

The deadline for the completion of work under Resolution 1483 was November 21, 2003, the Programme's termination date. By that time, the Agencies had completed substantially all of their work related to Resolution 1483. On November 19, 2003, at a UNOPS Management Coordination Committee ("MCC") meeting, Mark Malloch Brown, then head of UNDP, and Mr. Halbwachs expressed concern about the level of fees that UNOPS was to receive for its involvement in Resolution 1483. According to the agenda sent in advance of that meeting, UNOPS was to receive approximately \$50 million in fees as against budgeted costs of \$3 million. Nigel Fisher, Executive Director of UNOPS, indicated that he was cognizant of the fact that UNOPS would be receiving a windfall for its Resolution 1483 work. He openly disclosed to the UNOPS Board of Directors and the members of the MCC, including a representative of OLA, his intention of using this revenue to assist in restructuring UNOPS.<sup>51</sup>

In his capacity as Chairman of MCC, Mr. Malloch Brown raised this matter at the next Iraq Steering Group meeting. With the concurrence of Deputy Secretary-General Fréchette, Mr. Sevan suggested that the Agencies instead be compensated based on actual costs. Mr. Malloch Brown delegated the task of interfacing with the Agencies on this issue to Sally Fegan-Wyles of the United Nations Development Group ("UNDG"). When interviewed, Mr. Malloch Brown stated that he felt delegating this job to UNDG was appropriate because UNDG acts as a coordinating unit across all agencies and had not been involved previously in the Programme.<sup>52</sup>

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<sup>50</sup> Maurice Critchley memorandum to Benon Sevan (July 14, 2003); Maurice Critchley memorandum to the Agencies (July 29, 2003). WFP submitted a budget of approximately \$2 million for the work while UNOPS submitted a budget based on a percentage of contract value, in which work would be performed for a three percent fee for the first \$100 million in contracts and 2.5 percent thereafter. The Committee notes that the UNOPS cost estimate contained the provision that UNOPS would be controlling and tracking the cargo until its final destination in Iraq. This ultimately was not required of UNOPS or any other of the Agencies. See Nicolas Oberlin e-mail to Maurice Critchley (June 11, 2003); "Draft Proposal to OIP, Prioritization of Contracts" (June 16, 2003).

<sup>51</sup> S/RES/1483, para. 16 (May 22, 2003); Mark Malloch Brown interview (June 20, 2005); Jean-Pierre Halbwachs interview (June 27, 2005); Philippe Elghouayel e-mail to MCC members (Nov. 18, 2003) (attaching the MCC meeting agenda); MCC meeting agenda (Nov. 18, 2003) (regarding a meeting scheduled for November 19, 2003); Nigel Fisher interview (June 20, 2005).

<sup>52</sup> Mark Malloch Brown interview (June 20, 2005); Louise Fréchette interview (June 1, 2005); see also Benon Sevan fax to the Agencies (Nov. 24, 2003) (directing the Agencies to identify their direct costs relating to Resolution 1483).

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Ms. Fegan-Wyles held two teleconferences with representatives of all of the Agencies and OIP to discuss the issue. During these discussions, it was agreed that the Agencies should identify their actual costs incurred for Resolution 1483 work and forward the information to Ms. Fegan-Wyles for consolidation. As some Agencies voiced skepticism at their ability to identify all direct costs involved as well their ability to estimate indirect costs, Ms. Fegan-Wyles proposed that the Agencies use a sliding scale to estimate indirect costs. The sliding scale, to be applied against the face value of renegotiated contracts, was 1 percent on the first \$500 million in contracts, 0.75 percent on the second \$500 million, and 0.5 percent thereafter. Ms. Fegan-Wyles told the Committee that these rates were established based on discussions with the Agencies and that, although she was charged with compiling the information, she had no independent basis to determine whether they in fact were reasonable. Ms. Fegan-Wyles ultimately consolidated the Agencies' submissions, calculating that the result would be \$73 million in fees.<sup>53</sup>

Ms. Fegan-Wyles presented the results of her work to Mr. Sevan, who still felt that the total fees were too high and expressed surprise that the Agencies were unable to identify their direct costs. In a memorandum to Mr. Sevan on December 9, 2003, Mr. Malloch Brown proposed to further reduce the fee to a flat one percent and to exclude reimbursement for direct costs altogether. In a memorandum back to Mr. Malloch Brown on that same day, Mr. Sevan confirmed his agreement with Mr. Malloch Brown's proposal and noted that the use of a flat one percent rate was "similar to the rate that the Controller and [he] had in mind." Mr. Malloch Brown indicated that he was satisfied with the suggestion that the fee be decreased from three percent to one percent because the change reduced fees by over \$130 million from the \$199 million that would have been due to the Agencies under the original rate.<sup>54</sup>

Table 6 below summarizes the direct costs incurred by the Agencies as indicated in their submissions to Ms. Fegan-Wyles and compares that to the actual payments to the Agencies. This table clearly suggests that all Agencies received substantial fees in excess of direct costs for the work performed under Resolution 1483.<sup>55</sup>

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<sup>53</sup> Sally Fegan-Wyles interview (May 3, 2005); Sally Fegan-Wyles e-mail to the Committee (May 4, 2005) (attaching the schedule of Resolution 1483 cost estimates from the Agencies); Romesh Muttukumaru e-mail to Sally Fegan-Wyles (Dec. 4, 2003) (indicating the sliding scale used by UNDP for the calculation of Resolution 1483 fees). Secretary-General Annan did not attend the Steering Committee meeting, but has indicated that he was briefed on the issue of payments to the Agencies for work under Resolution 1483. Kofi Annan interview (July 27, 2005).

<sup>54</sup> Sally Fegan-Wyles interview (May 3, 2005); Mark Malloch Brown memorandum to Benon Sevan (Dec. 9, 2003); Benon Sevan memorandum to Mark Malloch Brown (Dec. 9, 2003); Mark Malloch Brown interview (June 20, 2005).

<sup>55</sup> Sally Fegan-Wyles e-mail to the Committee (May 4, 2005) (attaching the schedule of Resolution 1483 cost estimates from the Agencies).

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Table 6 – Resolution 1483 Submitted Direct Costs Versus Actual Fees Paid to the Agencies (in USD thousands)<sup>56</sup>

	Direct Costs	Fees Paid	Excess of Fees Paid Over Direct Costs
UNOPS <sup>1</sup>	\$3,000	\$19,019	\$16,019
WFP <sup>2</sup>	\$2,725	\$16,876	\$14,151
UNDP	\$4,000	\$10,655	\$6,655
UN-HABITAT	\$200	\$3,928	\$3,728
UNICEF	\$750	\$4,082	\$3,332
FAO	\$3,250	\$6,293	\$3,043
WHO	\$450	\$3,270	\$2,820
UNESCO <sup>3</sup>	\$125	\$1,956	\$1,831
ITU	\$50	\$385	\$335
	<b>\$14,550</b>	<b>\$66,464</b>	<b>\$51,914</b>

<sup>1</sup> Total fees paid to UNOPS include \$3.4 million in fees related to work done on certain WFP contracts.

<sup>2</sup> WFP's costs were based on actual Resolution 1483 costs as recorded in WFP's accounting system, net of costs related to contracts outsourced to UNOPS.

<sup>3</sup> UNESCO cost estimates were not included in the spreadsheet compiled by Ms. Fegan-Wyles. The cost amount was estimated by the Committee based on Resolution 1483 staffing levels provided by UNESCO. The Committee's estimate is based on three full time staff, working for five months, at an annual cost (including benefits and other overheads) of \$100,000 each.

As noted elsewhere in this Chapter, determining a percent for indirect costs is not a simple task. For the purpose of its estimate, the Committee has used a twenty percent rate to account for indirect costs which might not have been included in the Agencies' cost estimates. Although the Committee believes that this estimate is high, it applied this twenty percent rate based on the actual proportion of indirect to direct costs calculated on Resolution 986 costs: \$100 million in PSC to \$500 million in direct costs. Unlike the United Nations' application of the one percent fee, however, the Committee applied the twenty percent overhead rate to the actual expenditures incurred by the Agencies and not the value of the contracts that the Agencies renegotiated. As shown below in Table 7, use of this twenty percent rate results in an estimate of approximately \$2.9 million in indirect costs. Given actual direct costs estimated by the Agencies (\$14.7 million), and the Committee's estimate of indirect costs (\$2.9 million), which together total \$17.6

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<sup>56</sup> Ibid; Monthly expenditure reports of the Agencies (2003) (detailing aggregate expenditures incurred for Resolutions 1483); Chad Martino e-mail to the Committee (June 27, 2005). Mr. Martino was a Reports Officer in WFP's Iraq Country Office. Ibid.

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million, the Committee estimates that the actual payments to the Agencies (\$66.5 million) represented an overpayment of almost \$49 million for work performed under Resolution 1483.<sup>57</sup>

Table 7 – Estimate of Excess Fees Paid to the Agencies for Work Performed under Resolution 1483 (in USD thousands)<sup>58</sup>

	Direct Costs	20% of Direct Costs	Total Costs	Fees Paid	Estimated Excess Fees
UNOPS*	\$3,000	\$600	\$3,600	\$19,019	\$15,419
WFP	\$2,725	\$545	\$3,270	\$16,876	\$13,606
UNDP	\$4,000	\$800	\$4,800	\$10,655	\$5,855
UN-HABITAT	\$200	\$40	\$240	\$3,928	\$3,688
UNICEF	\$750	\$150	\$900	\$4,082	\$3,182
WHO	\$450	\$90	\$540	\$3,270	\$2,730
FAO	\$3,250	\$650	\$3,900	\$6,293	\$2,393
UNESCO	\$125	\$45	\$170	\$1,956	\$1,786
ITU	\$50	\$10	\$60	\$385	\$325
	<b>\$14,550</b>	<b>\$2,930</b>	<b>\$17,480</b>	<b>\$66,464</b>	<b>\$48,984</b>

\* Total fees paid to UNOPS include \$3.4 million in fees related to renegotiation work done on WFP contracts.

Mr. Malloch Brown has indicated that he knew the one percent rate would result in payments in excess of costs—most notably because UNOPS still stood to receive \$19 million in fees as against reported costs of \$3 million. When showed the Committee’s staff’s analysis of Resolution 1483 payments to the Agencies, Mr. Malloch Brown stated: “[W]e did overcharge.”<sup>59</sup>

Following its interview of Mr. Malloch Brown, the Committee conveyed to him its view on the extent of this overpayment. In a reply letter, which is attached to this Chapter as an Annex, Mr. Malloch Brown offered revised estimates on the overpayment of the Agencies under Resolution 1483 and communicated the Agencies’ commitments to return excess fees. Specifically, Mr. Malloch Brown’s letter included revised estimates: \$25.3 million for work performed by the Agencies relating to Resolution 1483 (\$20.7 million in direct costs and \$4.6 million in indirect costs) as well as \$7.4 million already spent on various Iraq-related projects since the Programme’s termination. Based on these figures, the Agencies now estimate that the amount owed for excess fees relating to Resolution 1483 is no more than \$33.8 million. The Committee

<sup>57</sup> Sally Fegan-Wyles interview (May 3, 2005); John Haight interview (Apr. 20, 2005); Chad Martino e-mail to the Committee (June 27, 2005).

<sup>58</sup> Sally Fegan-Wyles e-mail to the Committee (May 4, 2005) (attaching the schedule of Resolution 1483 cost estimates from the Agencies); Monthly expenditure reports of the Agencies (2003) (detailing aggregate expenditures incurred for Resolutions 1483).

<sup>59</sup> Mark Malloch Brown interview (June 20, 2005).

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has not received any documentation supporting the Agencies' most recent cost estimates or purported Iraq-related expenditures. Accordingly, it is not in a position to adopt the Agencies' new estimates of amounts owing. However, the Committee remains willing to review documentation submitted by the Agencies substantiating the new amounts and to reconsider what is owed. Until then, however, the Committee concludes that up to \$50 million is due Iraq.<sup>60</sup>

## D. SUMMARY OF ADMINISTRATIVE COSTS AND FEES

In total, the Committee has identified over \$1.2 billion in Programme costs and fees deemed to be administrative in nature, \$787 million of which relate to administrative costs of the Agencies. This amount markedly exceeds the \$487 million in administrative costs of the Agencies, which was disclosed in the Programme's audited financial statements. Total costs and fees include: (1) direct administrative costs, including certain costs shifted from the ESD to the ESC Accounts (as discussed in the next Part of this Chapter); (2) PSC; and (3) fees paid for work performed under Resolutions 1472, 1476, and 1483. These costs are detailed below in Table 8.<sup>61</sup>

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<sup>60</sup> Ibid.; Mark Malloch Brown e-mail to the Agencies (July 29, 2005); Mark Malloch Brown e-mail to the Committee (Aug. 19, 2005) (attaching a table of consolidated estimates of Resolution 1483 costs and Iraq-related expenditures from the Agencies); Mark Malloch Brown letter to the Committee (Aug. 29, 2005) (providing new estimates) (included in Annex A to this Chapter). In addition, Mr. Malloch Brown clarified that he had no formal coordinating role in regard to the Agencies' post-war activities in Iraq. Relative to the Committee's estimate (about \$50 million), the Agencies' estimate (about \$34 million) reflects approximately \$8 million in additional costs now claimed by the Agencies and \$7.4 million for subsequent (and presumably uncompensated) projects in Iraq. Ibid.

<sup>61</sup> Monthly expenditure reports of the Agencies (1997-2003) (detailing aggregate Programme expenditures); Programme financial statements (1997-2004); Accounting entries posted to the Programme accounting ledgers (1997-2004).



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Table 8 – Summary of Programme Administrative Costs and Fees (in USD thousands)<sup>62</sup>

	Direct Costs	Programme Support Costs	Total
<b><u>Agencies</u></b>			
Costs and fees	\$506,083 <sup>1</sup>	\$281,273	\$787,356
<b><u>UN/OIP/UNOHCI</u></b>			
OIP and UNOHCI costs	\$227,874	-	\$227,874
UN HQ Staffing costs <sup>2</sup>	\$19,074	-	\$19,074
Other Programme costs <sup>3</sup>	\$181,212	-	\$181,212
UN subtotal	\$428,160		\$428,160
<b>Grand Total</b>	<b>\$934,243</b>	<b>\$281,273</b>	<b>\$1,215,516</b>

<sup>1</sup> Includes implementation costs paid from the ESC Account. See Section V.B.

<sup>2</sup> Includes UN HQ personnel from various departments such as the Office of Legal Affairs, Treasury, OIOS and Accounting.

<sup>3</sup> Includes costs of independent inspection agents and bank fees.

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<sup>62</sup> Ibid.

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## V. FUNDING SOURCES FOR ADMINISTRATIVE COSTS AND FEES

The Security Council established, in paragraph 8(d) of Resolution 986, that an account should be created to fund the United Nations' administrative costs for implementing the Programme. A subsequent report of the Secretary-General detailed that this account—known as the ESD Account—would be funded with 2.2 percent of the proceeds from Iraq's sale of oil under the Programme. In total, \$940 million in administrative costs were disclosed in the Programme's audited financial statements as ESD expenditures. However, as detailed below, administrative costs and fees relating to the Programme's administration sometimes were charged to the humanitarian accounts (i.e., the ESC Account for northern Iraq and the ESB Account for central and southern Iraq) rather than—as provided in Resolution 986—to the ESD Account. This inevitably had the effect of reducing the amount of funds available for humanitarian purchases.<sup>63</sup>

### A. PROGRAMME SUPPORT COSTS

When Mr. Halbwachs approved the payment of three percent for PSC, he stipulated that both ESC and ESD support costs be charged to the ESD Account (i.e., the account designated for administrative expenses). Shortly thereafter, in a memorandum to Mr. Halbwachs dated September 11, 1997, Mr. Akashi of DHA indicated that the ESD Account possessed insufficient funds to pay all PSC. Mr. Akashi therefore suggested that PSC be paid respectively from the ESC and ESD Accounts. In an e-mail dated September 13, 1997 to Bock Yeo and Gudrun Fosse of the Budgeting Department, Mr. Halbwachs initially rejected DHA's proposal to fund administrative costs from the ESC Account. However, as indicated in a memorandum to Mr. Sevan dated October 28, 1997, Mr. Halbwachs ultimately agreed to fund the PSC relating to ESC activities through the ESC account and the PSC relating to ESD expenditures through the ESD Account.<sup>64</sup>

When questioned about this directive, Mr. Halbwachs stated that it was an exigent decision based on the limited funds available in the ESD Account and specifically the concern that the ESD Account might contain insufficient funds to cover Programme administrative costs. In hindsight, Mr. Halbwachs acknowledged that PSC should not have been charged to the ESC Account, but

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<sup>63</sup> S/RES/986, para. 8(d) (Apr. 14, 1995); "Interim Report of the Secretary-General on the Implementation of Security Council Resolution 986 (1995)," S/1996/978, para. 34(d) (Nov. 25, 1996); Programme financial statements, ESD administrative expenditures (1997-2004) (totaling \$940 million in administrative costs).

<sup>64</sup> Jean-Pierre Halbwachs memorandum to Yohannes Mengesha (Aug. 6, 1997); Yasushi Akashi memorandum to Jean-Pierre Halbwachs (Sept. 11, 1997); Jean-Pierre Halbwachs e-mail to Bock Yeo (Sept. 13, 1997); Jean-Pierre Halbwachs memorandum to Benon Sevan (Oct. 28, 1997).

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the decision was made within a political context and that concerns over cash availability in the ESD Account took precedence over the accounting treatment.<sup>65</sup>

On several occasions during its external audits of Programme accounts, BOA questioned the appropriateness of charging PSC to the ESC Account. In a November 1998 memorandum to Jay Karia, Director of Accounts at the United Nations, BOA wrote:

The programme support costs for services rendered by the Headquarters of the Agencies are in the nature of operational/administrative expenses and should have been booked to [the] 2.2 per cent account [(i.e., the ESD Account)] instead of the 13 per cent account [(i.e., the ESC Account)]. The incorrect booking of programme support costs to the 13 per cent account has resulted in understatement of cumulative surplus under this account . . . .<sup>66</sup>

BOA reiterated this position during the external audit of Programme accounts for the period January to June 1999. In response, Mr. Halbwachs explained in a memorandum to BOA dated November 12, 1999 that the decision to fund PSC relating to ESC purchases from the ESC Account was made in the Programme's "infancy," specifically in Phase II, during which no oil revenues accrued for three months. Mr. Halbwachs added that, because of this revenue shortfall, "all Secretariat units and UN agencies were told that operating expenditures would have to be kept at a minimum and that only the most urgent requirements would be met from the funds then available in the ESD [Account]." As a result, Mr. Halbwachs noted that "several agencies were . . . not able to hire the necessary staff or initiate procurement of non-essential goods and services," which ultimately precipitated the decision to fund PSC relating to ESC purchases from the ESC Account. After providing this explanation, Mr. Halbwachs concluded his memorandum to BOA by indicating that—in light of increased oil revenue and accordingly increased funding available in the ESD Account—PSC would not be charged to the ESC Account as of Phase VI, which spanned May 25 to December 11, 1999.<sup>67</sup>

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<sup>65</sup> Jean-Pierre Halbwachs interview (Mar. 23, 2005); Jean-Pierre Halbwachs memorandum to Reynaldo Gamutan (Nov. 12, 1999). The Committee notes that the United Nations did have the ability to increase the allocation to the ESD Account if the original estimate of 2.2 percent proved inadequate. "Interim Report of the Secretary-General on the Implementation of Security Council Resolution 986 (1995)," S/1996/978, para. 34(d) (Nov. 25, 1996).

<sup>66</sup> K. Manjit Singh memorandum to Jay Karia (Nov. 23, 1998).

<sup>67</sup> Reynaldo Gamutan memorandum to Benon Sevan (Oct. 27, 1999); Amorsonia Escarda memorandum to Benon Sevan (Feb. 3, 2000); Jean-Pierre Halbwachs memorandum to Christopher Bolger (Mar. 5, 1999); Jean-Pierre Halbwachs memorandum to Reynaldo Gamutan (Nov. 12, 1999); OIP, "Phases of the Programme," <http://www.un.org/Depts/oip/background/phases.html> (detailing the dates of the various phases under the Programme). Mr. Gamutan and Ms. Escarda were BOA team members. Reynaldo Gamutan memorandum to Benon Sevan (Oct. 27, 1999); Amorsonia Escarda memorandum to Benon Sevan (Feb. 3, 2000).

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Mr. Halbwachs convened a working group to establish new procedures regarding the accounting treatment of PSC. This group consisted of representatives from the Accounting and Budgeting Departments as well as from OIP. As indicated in a memorandum to Mr. Halbwachs summarizing the working group's discussion on March 7, 2000, the initial concern was whether the ESD Account would contain sufficient funds to cover PSC payments. In the end, however, the working group determined that there would be sufficient funds and therefore proposed that all PSC be charged to the ESD Account beginning at the start of Phase VIII (in June 2000). The Committee's staff reviewed entries in the Programme's accounting ledgers on a sample basis and noted that this new policy appears to have taken effect beginning in Phase VIII.<sup>68</sup>

As shown in Table 9 below, over \$52 million in PSC was charged to the ESC Account before the change in accounting treatment. These charges decreased the funds available in the ESC Account for humanitarian purchases in northern Iraq.

Table 9 – Programme Support Costs Paid to the Agencies (in USD thousands)<sup>69</sup>

	Support Costs Paid from ESC Account	Support Costs Paid from ESD Account	Total Support Costs Paid
UNDP	\$11,487	\$7,234	\$18,721
FAO	\$11,480	\$5,011	\$16,491
UN-HABITAT	\$7,259	\$7,868	\$15,127
UNICEF	\$8,480	\$5,442	\$13,922
WFP	\$4,318	\$7,043	\$11,361
UNOPS	\$2,204	\$8,279	\$10,483
WHO	\$4,458	\$6,003	\$10,461
UNESCO	\$2,445	\$1,801	\$4,246
ITU	\$22	\$1,116	\$1,138
<b>TOTAL</b>	<b>\$52,153</b>	<b>\$49,797</b>	<b>\$101,950</b>

## B. IMPLEMENTATION COSTS

As early as 1998, Mr. Sevan approached Mr. Halbwachs about shifting certain costs—relating to implementation as opposed to administration—from the ESD to the ESC Account. Because the Programme in northern Iraq had evolved from predominantly procurement-related tasks to more

<sup>68</sup> Vivian van de Perre note to Jean-Pierre Halbwachs (Mar. 8, 2000); Accounting entries posted to the Programme accounting ledgers (2000-2003). The working group noted that it would not be possible to change the methodology for paying PSC during a phase. Because the May 8, 2000 meeting occurred after the start of Phase VII, the change in methodology for paying PSC was not implemented until the start of Phase VIII. Vivian van de Perre note to Jean-Pierre Halbwachs (Mar. 8, 2000).

<sup>69</sup> Monthly expenditure reports of the Agencies (1997-2003) (detailing aggregate Programme expenditures).

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project implementation, Mr. Sevan proposed that “the costs of ‘technical staff’ involved directly in the execution of the project be met from the [ESC] Account.” He reasoned that expenditures for design and implementation of the Programme were “capital in nature” and noted that the implementation costs of subcontractors in northern Iraq already were funded from the ESC Account. Under Mr. Sevan’s proposal, which he stated was “driven by the need to ‘capitalize’ costs, the new procedure [would] only apply to those sectors where a non-consumable physical product [was being] delivered” (e.g., sectors such as electricity and telecommunications, but not food and medicine).<sup>70</sup>

In a memorandum dated June 5, 2001, Mr. Halbwachs rejected Mr. Sevan’s funding proposal regarding certain implementation costs in northern Iraq. While recognizing the “fine line between actual humanitarian supplies and services being provided . . . on the one hand, and the cost for the [A]gencies associated with implementing this humanitarian assistance on the other hand,” Mr. Halbwachs underscored that “a line has to be drawn somewhere.” In Mr. Halbwachs’s view:

[T]he cleanest and most workable way of distinguishing how the costs for staff should be borne, is whether such staff are on the payroll of the agency involved or not. In other words, any staff on an agency’s payroll (including short term consultants and technical staff) should always be charged to the ESD [A]ccount. Work contracted out, including the cost of technical staff not on the agency’s payroll, can be borne by the ESC [A]ccount.

Mr. Halbwachs’s memorandum noted his hope that this approach would “minimize the possibility of ‘creative accounting’” through the shifting of “costs not approved in the ESD budget to the ESC [A]ccount (which is subject to a different budgetary process and does not pass through [the Controller’s] office.”<sup>71</sup>

On January 9, 2002, Mr. Halbwachs e-mailed Mr. Sevan regarding the Government of Iraq’s request for a breakdown of ESD expenditures in northern versus central and southern Iraq. Mr. Halbwachs observed in his e-mail that the allocation of ESD funds within Iraq was not necessarily proportionate, given that the United Nations performed an observational role in central and southern Iraq and was charged with actual implementation in the north. Furthermore, Mr. Halbwachs questioned the Government of Iraq’s motivation for this inquiry. He noted that excess ESD funds were transferred periodically to the ESB Account (for the Government of Iraq’s purchases of humanitarian goods for central and southern Iraq), whereas the Government of Iraq could not access ESC funds (because it did not administer the Programme in northern Iraq). Accordingly, by seeking to have certain administrative expenditures funded from the ESC

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<sup>70</sup> Benon Sevan memorandum to Jean-Pierre Halbwachs (Sept. 21, 1998); Benon Sevan draft memorandum to Jean-Pierre Halbwachs (Nov. 15, 2000) (identifying issues relating to the funding of the Programme in northern Iraq); Jean-Pierre Halbwachs memorandum to Benon Sevan (June 5, 2001) (referring to Mr. Sevan’s 1998 memorandum).

<sup>71</sup> Jean-Pierre Halbwachs memorandum to Benon Sevan (June 5, 2001).

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Account instead of the ESD Account, the Government of Iraq might be attempting to maximize the ESD surplus and hence future transfers to the ESB Account (and therefore the funds available for its own humanitarian purchases).<sup>72</sup>

This funding issue became more heated in late January 2002, when Mr. Sevan met with an Iraqi Ministry of Foreign Affairs official, Dr. Saeed Hasan Al-Mosawi. As recorded in a note-to-file written by John Almstrom (Deputy Humanitarian Coordinator), who attended the meeting, Dr. Al-Mousawi threatened to withhold visas for personnel working in Iraq until his concerns about the allocation of costs between the ESC and ESD Accounts were taken into consideration. Though acknowledging the United Nations' different roles within Iraq, Dr. Al-Mousawi expressed shock about the percentage of ESD funds spent on administering the Programme in northern Iraq. He requested a review of this policy and recommended that sector-related expenses be charged to the applicable sectors and that the ESD Account be reserved for OIP's operating expenses, to which Mr. Sevan added "and agencies." Dr. Al-Mousawi countered "that experts on tomato paste factories should not be funded under the ESD [Account]."<sup>73</sup>

When interviewed, Mr. Halbwachs stated that Mr. Sevan called him on several occasions from Baghdad in order to discuss this funding issue and to persuade him to adopt a new methodology for allocating costs to the ESC and ESD Accounts. Again, Mr. Halbwachs denied the request. Subsequently, at informal Security Council consultations on February 26, 2002, Mr. Sevan stated that one of the reasons provided by the Government of Iraq for the delays in granting visas was its disagreement with the United Nations over the charging of certain expenditures to the ESD rather than ESC Account.<sup>74</sup>

Mr. Halbwachs has indicated that Mr. Sevan continued to raise the issue with him over the course of the next several months. During one particular phone conversation, Mr. Halbwachs finally capitulated and agreed to implement the funding change. Mr. Halbwachs has indicated further that he knew the change was wrong and that he acceded to Mr. Sevan's persistence.<sup>75</sup>

Almost immediately after Mr. Halbwachs agreed to this new accounting policy, Tun Myat (United Nations Humanitarian Coordinator in Iraq) drafted an Aide Mémoire to inform the Government of Iraq of the relevant change. This draft memorandum indicated that the Controller had agreed that, as of July 1, 2002, the ESC Account would fund "those costs which are directly associated with the implementation of a particular project." This would include: "[s]taff; consultants; contractors, including subcontractors; and related operational costs that are part of an organizational structure with ultimate responsibility to produce project outputs and can be held

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<sup>72</sup> Jean-Pierre Halbwachs e-mail to Benon Sevan (Jan. 9, 2002).

<sup>73</sup> John Almstrom note-to-file (Jan. 21, 2002) (detailing Mr. Sevan's discussions at the Iraqi Ministry of Foreign Affairs on January 20, 2002).

<sup>74</sup> Jean-Pierre Halbwachs interview (July 19, 2005); Benon Sevan statement at informal Security Council consultations (Feb. 26, 2002).

<sup>75</sup> Jean-Pierre Halbwachs interview (July 19, 2005).

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accountable for those project outputs.” Furthermore, the memorandum stated that the ESD Account would fund “costs associated with the operation of headquarters elements both within Iraq and outside performing operational, managerial or administrative support functions for the programme, the independent inspection agents, the certified public accountants, and other costs associated with the [Programme’s] implementation.” This would encompass: “[s]taff, consultants, experts on mission and related operating costs that are part of an organizational structure, that provides operational, managerial or administrative guidance and support to the programme . . . and can be held accountable for those services.” In addition, the memorandum noted that the ESD Account would fund the United Nations Humanitarian Coordination in Iraq as well as observation costs.<sup>76</sup>

A draft copy of the Aide Mémoire was sent to OIP and to Mr. Halbwachs for comment. Mr. Halbwachs immediately registered his objections: “I would like to make it clear that I do not agree to have my name included in any such Aide Mémoire and did not agree to the points therein.” Moreover, Mr. Halbwachs stated his view “that internal arrangements for handling the Escrow account should not be communicated to the Iraqi Government.”<sup>77</sup>

On June 1, 2002, Mr. Sevan sent a memorandum (stamped “URGENT”) to Mr. Critchley, instructing him again to revisit this funding issue with the Controller’s office. Mr. Sevan wrote:

While I fully agree with Mr. Halbwachs . . . that his name should not appear in the note verbale and also we should not send in writing the info regarding arrangements for handling the escrow account to the Government, I thought the rest of the info contained in the draft aide memoire prepared by Mr. Myat was in line with the agreement given by the Controller as to how we should proceed during the second half of this year. Please clarify with his staff as to what he means and then I will discuss the matter with him.<sup>78</sup>

Nonetheless, when interviewed, neither Mr. Halbwachs, Mr. Critchley, nor other employees in the Controller’s office could recall any further discussions on the funding issue. Johannes Huisman, of the Budgeting Department within the Controller’s office, recalled that all the subsequent discussions related to implementing the funding change and issuing instructions to the Agencies on reporting these costs. On August 12, 2002, Mr. Critchley faxed the Agencies instructions for allocating costs between the ESC and ESD Accounts. Consistent with the draft memorandum earlier circulated by Mr. Myat, the fax indicated that the ESC account would fund “[d]irect implementation” (i.e., “operating costs that are part of an organizational structure with ultimate responsibility to produce project outputs”), and the ESD Account would fund “[m]anagement and administrative support costs” (i.e., “operating costs that are part of an

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<sup>76</sup> Tun Myat fax to Benon Sevan (May 28, 2002) (attaching the draft memorandum). The Committee has not obtained any evidence suggesting that this memorandum ever was sent to the Government of Iraq.

<sup>77</sup> Jean-Pierre Halbwachs memorandum to Benon Sevan (May 29, 2002).

<sup>78</sup> Benon Sevan note to Maurice Critchley (June 1, 2002).

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organizational structure, that provides management and administrative support to the projects under the [ESC] [A]ccount”).<sup>79</sup>

The Committee’s staff performed a detailed review of the expenditure reports submitted by the Agencies and the records of payments to the Agencies. In sum, \$81 million in administrative costs was charged to the ESC Account as a result of this change in policy. This amount related solely to expenditures incurred between July 1, 2002 and the end of the Programme.<sup>80</sup>

### C. FEES PAID UNDER RESOLUTIONS 1472, 1476, AND 1483

Resolution 1472 authorized the Secretary-General to fund from the ESD Account the “operational and administrative costs resulting from the implementation of the temporarily modified Programme.” This resolution further noted that these costs should be funded “in the same manner as costs arising from those activities set forth in paragraph 8(d) of resolution 986 (1995)” (i.e., the United Nations’ administrative costs under the Programme). Despite Resolution 1472’s specific reference to paragraph 8(d) of Resolution 986, which (as discussed above) led to the creation of the ESD Account, the \$112 million in fees paid to the Agencies, relating predominantly to staff time, was paid out of the ESB and not the ESD Account.<sup>81</sup>

Similarly, the \$66 million paid to the Agencies for work done pursuant to Resolution 1483 was paid from the ESB rather than the ESD Account. Although Resolution 1483 does not specifically identify the proper funding source, the Committee is of the view that the work performed by the Agencies, as described in Section IV.C of this Chapter, was purely administrative in nature and similar to the work described in paragraph 4(d) of Resolution 1472 and discussed above in Section IV.B. Given the administrative nature of the fees under Resolution 1483, the Committee believes that they likewise should have been paid out of the ESD Account.<sup>82</sup>

Mr. Halbwachs has indicated that he could not remember taking part in any discussions about the funding source for these fees. He further stated that while it was his responsibility to make such a decision, he could not recall having done so or it having been raised as an issue during any discussions. Several additional United Nations staff members, from OIP as well as the

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<sup>79</sup> Jean-Pierre Halbwachs interview (July 19, 2005); Maurice Critchley interview (July 14, 2005); Johannes Huisman interview (July 14, 2005); Vivian van de Perre interview (July 14, 2005); Maurice Critchley fax to the Agencies (Aug. 12, 2002) (emphasis in original).

<sup>80</sup> Monthly expenditure reports of the Agencies (2002-2003) (detailing implementation costs).

<sup>81</sup> S/RES/1472, para. 4(h) (Mar. 28, 2003); Maurice Critchley fax to the Agencies (Apr. 25, 2003) (noting that “[b]oth the cost of programme delivery and the associate 7% supplement for implementation costs will be charged against the [ESB Account]”); Monthly expenditure reports of the Agencies (2003) (detailing aggregate expenditures incurred for Resolutions 1472 and 1476).

<sup>82</sup> S/RES/1483 (May 22, 2003); S/RES/1472, para. 4(d) (Mar. 28, 2003); Maurice Critchley fax to the Agencies (June 23, 2003) (regarding the Agencies’ budgets for work under Resolution 1483); Monthly expenditure reports of the Agencies (2003) (detailing aggregate expenditures incurred for Resolution 1483).



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Accounting and Budgeting Departments, similarly stated that they did not recall any instances in which the issue of paying these fees from the ESB Account had been raised.<sup>83</sup>

Given Resolution 1483's mandate that the United Nations terminate the Programme and consolidate and transfer to the Development Fund for Iraq ("DFI") the remaining fund balances (all of which were substantial), the source for paying these administrative fees ultimately did not reduce the total funds transferred to DFI.<sup>84</sup> However, the Committee notes that payment of administrative fees from accounts other than the ESD Account ultimately understated expenditures in the ESD Account.

## D. SUMMARY OF FUNDING SOURCES

The Programme financial statements show a total of \$942 million in expenditures in the ESD Account. As shown in Table 10 below, actual administrative expenditures totaled \$1.2 billion throughout the Programme. \$313 million of this total, which related to certain administrative expenditures of the Agencies, was charged to the ESB and ESC Accounts, and not the ESD Account.<sup>85</sup>

Table 10 – Funding for Administrative Charges (in USD thousands)<sup>86</sup>

	Funding for Administrative Charges			
	ESD	ESC	ESB	Total
Agency Admin. Charges	\$474,329	\$133,703	\$179,324	\$787,356
UN/OIP/UNOHCI Admin. Charges	\$428,160			\$428,160
<b>Total</b>	<b>\$902,489</b>	<b>\$133,703</b>	<b>\$179,324</b>	<b>\$1,215,516</b>

<sup>83</sup> Jean-Pierre Halbwachs interview (June 27, 2005); Maurice Critchley interview (May 25, 2005); Johannes Huisman interview (June 30, 2005); Jayantilal Karia interview (July 27, 2005).

<sup>84</sup> S/RES/1483 (May 22, 2003); Programme financial statements (2003).

<sup>85</sup> Programme financial statements (1997-2004). The difference between the \$942 million disclosed in the Programme's financial statements and the \$902 million paid out of the ESD Account, as shown in Table 10 above, relates to credits on prior-period expenditures. In accordance with the United Nations Financial Rules and Regulations, these credits are not applied to the expenditure line in the financial statements but are instead credited to miscellaneous income. Accounting entries posted to the Programme accounting ledgers (1997-2003); Financial Rules, Article VII, rule 107.2 (1985).

<sup>86</sup> Monthly expenditure reports of the Agencies (1997-2003).

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## **VI. FINDINGS AND CONCLUSIONS**

As outlined in the Introduction, the Committee set out to answer the following three questions:

1. Were adequate procedures and controls in place to establish, review, and approve budgets and to make other financial decisions relating to the Programme?
2. Were amounts paid to the Agencies for PSC and for administrative fees relating to the Agencies' activities under Resolutions 1472, 1476, and 1483 reasonable?
3. Were administrative costs funded from the proper accounts as provided for in the relevant Security Council resolutions?

Findings:

1. The Committee finds that there were inadequate controls in place to ensure a sound review of important financial decisions relating to the Programme. The United Nations Controller was placed in the position of having to take sole responsibility for important decisions that ultimately had a material effect on the Programme's expenditures and its financial reporting. Responsibility for large-scale financial decisions should not rest on one individual alone. In particular, the Programme would have benefited from review by ACABQ or some other authoritative budgetary body.
2. The Committee finds that there was inadequate support and justification for the establishment of the three percent rate for PSC and that, as the Programme grew in size and duration, this rate should have been reviewed and reassessed for reasonableness. The three percent PSC rate resulted in nearly \$102 million in payments to the Agencies—in addition to the \$500 million paid to them for direct administrative costs relating to their administration of the Programme.

The Committee finds also that there was inadequate support and justification for the rates adopted to compensate the Agencies for work performed under Resolutions 1472, 1476, and 1483. Although the United Nations found that the original three percent rate established for Resolution 1483 was excessive and reduced it to one percent, the resulting payments to the Agencies still were grossly higher than their costs. The Committee estimates that the United Nations overpaid the Agencies by nearly \$49 million for work performed under Resolution 1483.

3. The Committee finds that the funding for administrative costs was neither transparent nor in accordance with the relevant resolutions. The Committee identified over \$300 million in administrative costs and fees that were charged to the humanitarian accounts for northern Iraq ("ESC Account") and for central and southern Iraq ("ESB Account") rather than to the Programme's administrative account ("ESD Account").

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This resulted in a significant misstatement of the Programme's accounts and decreased the balance of funds available for the purchase of humanitarian goods.

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**VII. ANNEX: LETTER RELATING TO RESOLUTION 1483 COSTS**

UNITED NATIONS  NATIONS UNIES

POSTAL ADDRESS - ADRESSE POSTALE : UNITED NATIONS, N.Y. 10017  
CABLE ADDRESS - ADRESSE TELEGRAPHIQUE : UNATIONS NEWYORK

EXECUTIVE OFFICE OF THE SECRETARY-GENERAL  
CABINET DU SECRETAIRE GENERAL

REFERENCE:

29 August 2005

Dear Mr. Volcker,

Thank you for your letter of 22 August 2005 and for the opportunity to comment on the proposed statements in the upcoming report of the Independent Inquiry Committee (IIC) with regard to the administrative costs related to Security Council resolution 1483. I do wish to make two points. First, contrary to the draft statement, I had no formal role in co-ordinating the Office of Iraq Programme (OIP) funded activities of United Nations agencies in Iraq; and second, while the nine United Nations agencies that worked in Iraq at this time all agree that surplus funds should be returned, our calculations suggest a lower figure than you presently propose.

On the first point, the OIP had its own co-ordination structure in Iraq under the United Nations Office of the Humanitarian Coordinator for Iraq (UNOHCI). This was a unique situation in which a separate United Nations entity, namely UNOHCI-OIP, was the client and contracted other United Nations agencies to work for it. As such, OIP negotiated with the United Nations implementing agencies a fee of 3% for this particular activity of closing out OIP services under Security Council resolution 1483. I had no responsibility whatsoever for co-ordination in Iraq, neither as Chair of the United Nations Office for Project Services (UNOPS) Management Coordination Committee nor as Chair of the United Nations Development Group (UNDG), both functions which I held in my former capacity as Administrator of the United Nations Development Programme (UNDP). Nevertheless, when it came to my attention as UNOPS Chair and UNDP Administrator that the 3% payment rate would likely generate excessive returns for the implementing agencies under Security Council resolution 1483, I intervened with the Secretary-General, the OIP Executive Director and the heads of the other United Nations agencies to seek to reduce the fees to a more appropriate level. From the Secretary-General downwards, there

Mr. Paul A. Volcker  
Chairman  
Independent Inquiry Committee into the  
United Nations Oil-for-Food Programme  
New York

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was agreement the agencies should offer back a reduction to OIP. As such a reduction would need to be agreed by all implementing agencies, and as all affected agencies were also members of UNDG, which I chaired, that was the vehicle I sought to use in successfully facilitating agreement between them and our mutual client, OIP on the fee reduction to 1%. Given the available knowledge of anticipated direct and indirect costs at the time, this appeared to be a reasonable figure.

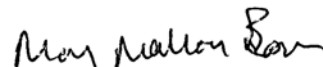
On the second point, as shared with the IIC last week, updated data made available by the agencies to the United Nations shows a total of \$25,274,395 direct and indirect costs charged against the 1% fees provision of \$66,465,230. In addition, agencies have expended \$7,396,618 on other projects in Iraq. This leaves a maximum balance of \$33,794,217 which could be returned to Iraq, which is significantly less than the estimate of \$48 million indicated in your proposed recommendation. Agencies have now provided written commitments to return this total amount of excess fees. Any additional return of funds over and above the \$33,794,217 we have been advised could raise legal and financial issues for some agencies, as it would require drawing on funds assigned to other purposes. Accordingly, I would request that you review your recommendation for return of funds to Iraq and limit this to no more than the level of excess fees received by the agencies as per attached updated table, which has been slightly revised from the initial one sent to the IIC on 19 August 2005.

Finally, let me add my gratitude for the understanding tone of your draft statement as regards my best efforts to reduce these fees. However, I must make it clear that because I had no formal co-ordination role, my concurrence that you cite in the return of the monies has no particular legal standing. Rather, it is the commitment of the individual agencies, which is now secured, that matters.

I hope the above comments will be taken into consideration by the IIC when finalizing its recommendations.

With best regards,

Yours sincerely,



Mark Malloch Brown  
Chef de Cabinet

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Agency, Fund or Programme	1% Fee received by Agencies	Direct	Indirect	Used for other projects in Iraq	Total spent on prioritization and projects in Iraq	"Surplus"	Refund of balance agreed	Comment
FAO	<sup>a</sup> 6,293,164	5,093,164			5,093,164	1,200,000	Yes	
WFP	20,300,281	6,149,286			6,149,286	14,150,995	Yes	
UNICEF	4,082,033	532,209	87,283	980,917	1,580,409	2,501,624	Yes	
UNDP	10,854,512	4,068,750	1,758,100	2,500,000	8,326,850	2,327,662	Yes	
WHO	<sup>b</sup> 3,270,451	2,713,084			2,713,084	557,367	Yes	
UNESCO	1,955,797	39,625	90,325	1,088,503	1,216,453	739,344	Yes	
UN-Habitat	3,928,388	553,726	100,000	2,849,198	3,502,924	425,464	Yes	
UNOPS	15,595,181	502,165	2,586,678		4,088,843	11,506,338	Yes	Payment to be made in phases after approval from Board
ITU	385,423					385,423	yes	
<b>TOTAL</b>	<b>66,465,230</b>	<b>20,652,009</b>	<b>4,622,386</b>	<b>7,396,618</b>	<b>32,671,013</b>	<b>33,794,217</b>		

<sup>a</sup> FAO did not provide a breakdown of the Fees they incurred for that matter, all the fees have been placed under direct cost column.

<sup>b</sup> WHO also did not provide a breakdown of the Fees they incurred. WHO, noted that they did not have a tracking of the PSC, nor did they give any amount used for "other projects in Iraq", hence the amount net of the reported available balance has been placed under direct costs.

25/08/2005

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# MANAGEMENT OF THE OIL-FOR-FOOD PROGRAMME

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### ASSESSMENT OF PROGRAMME OVERSIGHT

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## I. INTRODUCTION AND SUMMARY

Over the course of its investigation, the Committee has assessed the Programme-related activities of the oversight entities in the United Nations and the Agencies. This review has encompassed all internal and external auditing of the Programme and other oversight activities including investigation. The First Interim Report addressed the Programme-related audits of the Internal Audit Division (“IAD”) of the United Nations Office of Internal Oversight Services (“OIOS”). In regard to IAD, the Committee previously found: (1) inadequate funding and staffing; (2) incomplete audit coverage and poor coordination among IAD and the Agencies’ internal auditors; (3) unsatisfactory reporting of conclusions and monitoring of the implementation of recommendations; (4) insufficient mechanisms for resolving disputes; and (5) significant deviations from “best practices.”<sup>87</sup>

This Chapter answers questions similar to those considered previously regarding IAD, but in relation to the oversight areas not earlier addressed, including internal audits within the Agencies, external audits, and investigations. Specifically, this Chapter addresses the following five questions:

1. Was there sufficient funding and staff to perform adequate oversight of the Programme?
2. Were all the important aspects of the Programme fully audited?
3. Were audit findings properly reported and was the implementation of recommendations monitored?
4. Were contentious issues relating to Programme oversight properly resolved?
5. Do United Nations policies and procedures conform to “best practices” for oversight?

The Committee’s assessment of Programme oversight is based on full access to records of the United Nations and the Agencies, including correspondence, internal audit working papers, and interviews. Observations and conclusions are further based on the review of internal Programme-related audit reports of the Agencies, external audit biennium reports, and interviews of individuals involved in various oversight capacities. Furthermore, the Committee circulated a detailed questionnaire to the Agencies’ heads of oversight, to which it obtained responses. Unfortunately, the Board of Auditors (“BOA”), which conducted the Programme’s external audits, denied access to BOA’s audit working papers. This hampered the review of BOA’s work, especially its audit planning, scope, and testing of critical areas.

Part II provides an overview of the oversight functions within the United Nations system, which then are reviewed in the remainder of the Chapter. Part III addresses the internal audit functions

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<sup>87</sup> “First Interim Report,” pp. 189-90.



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of the Agencies and specifically reviews their Programme-related audits. A list of the Agencies' Programme-related internal audits is included in Annex 1 to this Chapter. Part IV reviews the Programme-related activities of BOA and examines its external audits of the Programme. Next, Part V examines the investigative process as well as the funding and staffing of the Investigations Division of OIOS ("OIOS ID") and then analyzes its limited Programme-related investigations. Part VI briefly explains the functions of OIOS's Monitoring, Evaluation and Consulting Division ("MECD") and the Joint Inspection Unit ("JIU"), neither of which were involved in Programme oversight. Part VII reviews the Committee's findings and conclusions regarding Programme oversight.

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## II. OVERSIGHT FUNCTIONS OF THE UNITED NATIONS SYSTEM

Oversight within the United Nations system is provided by several entities performing separate but overlapping functions. The two main oversight functions are internal and external audit. Internal audit is generally staffed by professionals who work within an organization and report to general management on a day-to-day basis. Internal audit focuses more on the internal control environment, compliance with policies and applicable laws, and the effectiveness and efficiency of operations. External audit is performed by independent accountants, and is mainly concerned with reviewing financial statements and providing opinions on their preparation and presentation. The scope of internal audit is often wider than external audit and is less concerned with financial statements.<sup>88</sup>

### A. INTERNAL OVERSIGHT

As described in the First Interim Report, the main internal oversight body within the United Nations is OIOS, which was established by the General Assembly in 1994 to provide oversight functions for the Secretariat and its peacekeeping operations. In addition to providing internal audit services, OIOS provides investigatory functions through OIOS ID, and, through MECD, it provides monitoring and evaluation services. MECD performed no Programme-related work.<sup>89</sup>

With the exception of UN-Habitat, all of the Programme-related Agencies have their own internal audit functions.<sup>90</sup>

The main formal mechanism for cooperation among the United Nations internal oversight units, as noted in the First Interim Report, is the annual meeting of the Representatives of Internal Audit Services of the United Nations Organizations and Multilateral Financial Institutions (“RIAS”).<sup>91</sup>

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<sup>88</sup> See A/RES/15/74(I) (Dec. 7, 1946) (detailing the appointment and responsibilities of the external auditors); A/RES/48/218B (Aug. 12, 1994) (detailing the establishment and responsibilities of internal oversight functions within the United Nations).

<sup>89</sup> “First Interim Report,” pp. 167-72; OIOS, “United Nations Internal Oversight,” [http://www.un.org/Depts/oios/documents/oios\\_booklet\\_e.pdf](http://www.un.org/Depts/oios/documents/oios_booklet_e.pdf); “Report of the Secretary-General on the activities of OIOS,” A/C.5/55/23, p. 2 (Nov. 15, 2000). The First Interim Report reviewed the operations and activities of IAD as well as its Programme-related internal audits. “First Interim Report,” pp. 168-88.

<sup>90</sup> FAO e-mail to the Committee (Mar. 11, 2005); WHO e-mail to the Committee (Apr. 25, 2005); WFP e-mail to the Committee (Mar. 11, 2005); UNESCO e-mail to the Committee (May 4, 2005); UNICEF memorandum to the Committee (Mar. 17, 2005); UNDP/UNOPS e-mails to the Committee (Mar. 17, 2005); ITU e-mail to the Committee (Mar. 11, 2005).

<sup>91</sup> “First Interim Report,” p. 175.

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## B. EXTERNAL OVERSIGHT

BOA is the main independent oversight body of the United Nations and is comprised of three members—each holding the highest office of audit of a member state. BOA audits the financial statements and activities of the United Nations, including the accounts established by Resolution 986 and the financial statements of UNICEF, UN-Habitat, UNOPS, and UNDP.<sup>92</sup>

In addition to BOA, the other external oversight body of the United Nations is JIU, which was established in 1966. JIU possesses broad investigatory powers on matters involving the use of United Nations funds and the efficiency of United Nations services. JIU performed no Programme-related work.<sup>93</sup>

The members of BOA, together with the appointed external auditors of the specialized agencies and of IAEA, form the Panel of External Auditors of the United Nations, specialized agencies and the International Atomic Energy Agency (“the Panel”). Each of the eight members of the panel has the rank of Auditor General or its equivalent in a member state. The purpose of the Panel is “to further the co-ordination of the audits for which its members are responsible and to exchange information on [audit] methods and findings.” The Panel advises on best practices in audit and accounting within the United Nations system, and shares experiences in auditing United Nations organizations in order to identify practical ways to enhance the overall effectiveness and accountability of the system.<sup>94</sup>

Internal audit functions generally meet with the external auditors on a regular basis. For instance, OIOS meets with BOA on a bimonthly basis to share information on their activities. Internal audit reports are available to the external auditors, who normally review the implementation status of earlier recommendations.<sup>95</sup>

Chart A, below, demonstrates the components and reporting structure of oversight entities across the United Nations system.

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<sup>92</sup> “First Interim Report,” pp. 172-73; A/RES/15/74(I) (Dec. 7, 1946); “Financial Regulations and Rules of the United Nations (Series 100),” ST/SGB/Financial Rules/1/Rev.3 (1985) (hereinafter “Financial Rules”), art. XII; BOA, “Official WEB Site for the United Nations Board of Auditors,” <http://www.unsystem.org/auditors> (hereinafter “BOA Homepage”).

<sup>93</sup> “First Interim Report,” pp. 172-73.

<sup>94</sup> A/RES/846/1438 (XIV), para. 1 (Dec. 5, 1959); Panel of External Auditors of the United Nations, specialized agencies and the International Atomic Energy Agency, “Official WEB site for the United Nations Panel of External Auditors,” <http://www.unsystem.org/auditors/external.htm>.

<sup>95</sup> “First Interim Report,” p. 175.

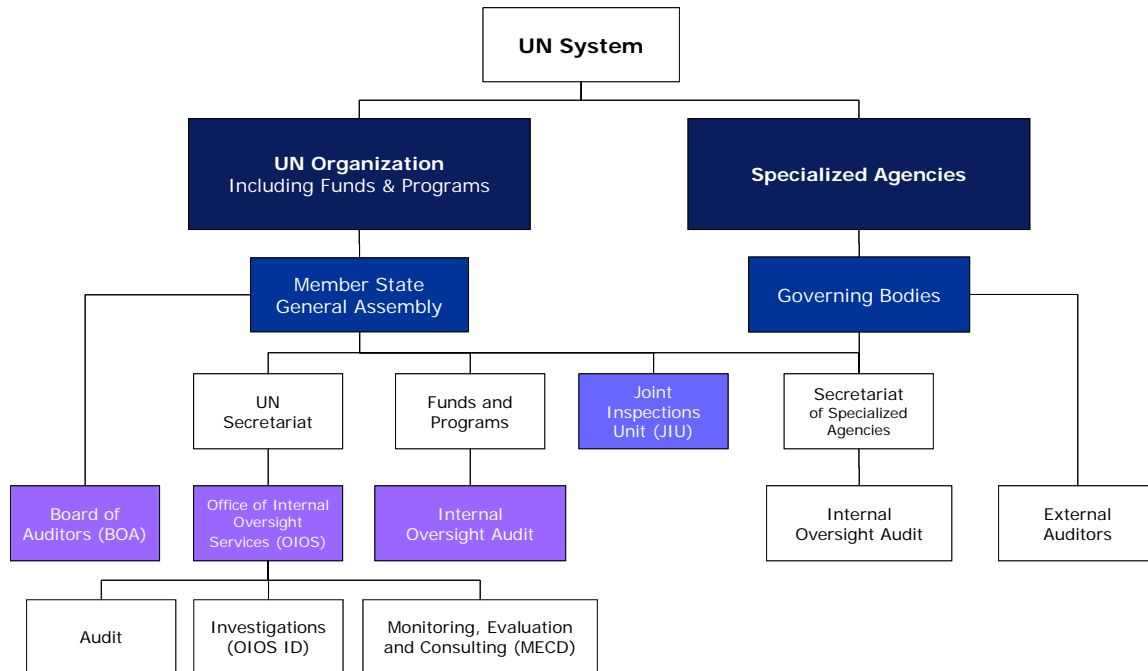
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Chart A – The Oversight Components of the United Nations System<sup>96</sup>




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<sup>96</sup> Internal oversight of the Agencies can include investigations and evaluation. OIOS also performs internal oversight of UN-Habitat and the United Nations High Commissioner for Refugees (“UNHCR”). BOA and the external auditors of the specialized agencies are members of the Panel of Auditors.

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### III. INTERNAL AUDITS OF THE AGENCIES

The internal audit units of the Agencies—though limited in funding and staffing and late to start—performed sixty-six audits of the Programme during the relevant years. These reports identified weaknesses in critical process areas and presented numerous recommendations for improvement. However, as detailed below, audit findings generally had little impact on strengthening the Programme’s internal controls or improving its performance, due to deficiencies in timing, scope, funding, and reporting. In addition, oversight activities were not coordinated across the Programme, which limited the ability to identify the scale and seriousness of management issues confronting the Programme.

As part of its review, the Committee circulated a questionnaire to the Agencies, requesting information about their internal oversight functions. All of the Agencies replied. The analysis in this Chapter is in part based on the responses provided by the Agencies and in part on the Programme-related audits performed by the Agencies from 1997 to 2004.<sup>97</sup>

#### A. COVERAGE AND TIMING

The number and timing of internal audits varied considerably across the Agencies. For example, while FAO performed thirty-three of the sixty-six audits, ITU performed none. This variability— together with differences among the Agencies in their level of involvement in the Programme— makes direct comparisons difficult. For example, FAO performed many small and specific audits of operational areas (e.g., “Review of Contracts on Hiring of Water Tankers” and “Review of Procedure for Contracting for Civil Engineering Services”), while WFP performed broader Programme-wide audits (e.g., “WFP Operations in Iraq Internal Audit Report”). Nonetheless, all

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<sup>97</sup> Committee e-mails to the Agencies (Feb. 17 and Apr. 8, 2005) (including the Committee’s questions); FAO e-mails to the Committee (Mar. 11 and Apr. 19, 2005); WHO e-mail to the Committee (Apr. 25, 2005); WFP e-mails to the Committee (Mar. 11 and Apr. 22, 2005); UNESCO e-mail to the Committee (May 4, 2005); UNICEF memoranda to the Committee (Mar. 17 and May 5, 2005); UNDP/UNOPS e-mails to the Committee (Mar. 17 and Apr. 24, 2005); ITU e-mails to the Committee (Mar. 11 and Apr. 21, 2005). For economy of citation, the Agencies’ responses referenced collectively are cited in this Report as “Questionnaire responses of the Agencies.” Specifically, the Committee requested information about the Agencies’ internal oversight functions, including: (1) internal oversight history; (2) set-up; (3) mandate; (4) internal and external reporting structure; (5) funding and staffing details; (6) audit methodologies; (7) planning details during the Programme; (8) entity-wide internal audit activities; and (9) Programme-related audits performed. Because OIOS conducted the internal audits of UN-Habitat during the Programme, the Committee did not survey UN-Habitat. However, the First Interim Report addressed the relevant issues regarding OIOS. “First Interim Report,” pp. 165-94. A list of sixty-six Programme-related audits performed by the Agencies is included in Annex 1 to this Report. For ease of reference these audits are collectively cited as “Programme-related audits of the Agencies (1997-2004).”

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the Agencies, with the exception of FAO and UNDP, averaged annually less than one Programme-related internal audit.<sup>98</sup>

Table 1 displays the number and timing of the Agencies' Programme-related audits. Although FAO and UNICEF conducted internal audits early in the Programme, most of the Agencies did not do so until the Programme's third and fourth years (1999-2000). UNOPS did not conduct its first audit until 2002. The delay in internal audits in the early stages of the Programme meant that key weaknesses were not identified until several years after the inception of the Programme.<sup>99</sup>

Table 1 – Programme-Related Internal Audits of the Agencies<sup>100</sup>

Year	FAO	UNDP	Habitat	UNESCO	UNICEF	WFP	UNOPS	WHO	ITU	Total
1997	1				1					2
1998	1				1					2
1999	2	5								7
2000	1	2	1		1			1		6
2001	8	1	1	2		1				13
2002	8	1	2	1	1		1	2		16
2003	5		1			1				7
2004	7	1		1	2	1	1			13
Total	33	10	5	4	6	3	2	3	0	66

## B. PLANNING AND SCOPE

With the exception of UNESCO, which launched its oversight function in 2001, and UN-Habitat, which utilized OIOS, each of the Agencies had professional oversight units in place before the Programme started. These units were established by formal resolutions of the governing bodies of the Agencies.<sup>101</sup>

In general, the Agencies have taken similar approaches to formalizing their oversight functions. Their mandates encompass auditing internal controls, compliance, and the efficiency and effectiveness of the Agencies' operations. Most audit mandates also involve reviewing and

<sup>98</sup> Questionnaire responses of the Agencies; Programme-related audits of the Agencies (1997-2004); "Oil-for-Food Programme Review of Contracts on Hiring of Water Tankers," AUD 5501 (July 2001); "Oil-for-Food Programme Review of Procedure for Contracting for Civil Engineering Services," AUD 3901 (June 2001); "WFP Operations in Iraq Internal Audit Report," AR/01/01 (Feb. 12, 2001).

<sup>99</sup> Programme-related audits of the Agencies (1997-2004). ITU was the only Agency which was not involved in the Programme from 1997 to 2000. ITU did not perform any Programme-related audits. ITU e-mails to the Committee (Mar. 11 and Apr. 21, 2005).

<sup>100</sup> Programme-related audits of the Agencies (1997-2004). Note that OIOS conducted the UN-Habitat internal audits. "First Interim Report," pp. 171-72 (Feb. 2005). The gray area above indicates that ITU's involvement in the Programme started in 2001.

<sup>101</sup> Questionnaire responses of the Agencies.

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assessing managerial performance as well as providing auditors with unfettered access to the Agency's books, records, and documents. Finally, all Agency internal audit regimes seek to comply with the professional standards and practices recommended by the Institute of Internal Auditors ("IIA").<sup>102</sup>

Despite similar mandates, documentation provided by each of the Agencies indicates that the Agencies differed considerably among themselves in their approaches to planning, size, scope, and frequency of their audits. Each of the Agencies indicated that it used professional auditing standards such as the IIA standards, but the Agencies did not comply with the Committee's request to provide detailed entity and Programme-level risk assessments covering each of the years of their participation.<sup>103</sup>

Most internal audits conducted by the Agencies identified deficiencies and made recommendations. However, less than twenty percent of the internal audits followed up on areas that had been subject to previous audits, in order to determine whether management had successfully implemented recommendations and whether overall controls had improved.<sup>104</sup>

## C. FUNDING AND STAFFING

Generally, the Agencies' oversight functions are funded by normal operating budgets, augmented on occasion by contributions, or extra-budgetary posts from member states. None of the Agencies had mechanisms for funding audits of special, extra-budgetary efforts, such as the Programme. In addition, the Agencies do not apply metrics (for instance, one auditor per \$100 million of expenses) or use program-specific audit coverage requirements to guide funding or staffing levels. Instead, their internal oversight functions are generally subject to regular budgeting processes. Furthermore, funds available for extra-budgetary programs are usually controlled by the program manager, who may fail to budget properly for audit needs.<sup>105</sup>

There were several instances in which planned or requested Programme audits were curtailed by a lack of funding or available staff. In some instances, the scope of oversight was limited by the Agencies' management, which failed to respond to requests for audit work with timely support and funding.<sup>106</sup>

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<sup>102</sup> Ibid.

<sup>103</sup> Ibid.; The Institute of Internal Auditors, "International Standards for the Professional Practice of Internal Auditing," secs. 2110, 2120, [http://www.iiia.org/?doc\\_id=1499](http://www.iiia.org/?doc_id=1499) (hereinafter the "IIA Standards"). Several Agencies did provide a variation of an entity-level risk assessment. That was the case for FAO (for 2001), UNICEF (for 2002-2004) and UNDP (for 1999-2005). Questionnaire responses of the Agencies; UNDP letter to the Committee (Aug. 26, 2005).

<sup>104</sup> Programme-related audits of the Agencies (1997-2004).

<sup>105</sup> Questionnaire responses of the Agencies.

<sup>106</sup> The Programme did provide for the direct funding of internal audit posts through the ESD Account. The Committee notes that only two audit units, OIOS and that of FAO, exercised this option. Questionnaire

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Comparing the number of audits and level of resources devoted to them during the Programme with two established benchmarks—one internal to the United Nations and one for private sector organizations—suggests that, overall, the Agencies’ internal oversight of Programme activities was both underfunded and understaffed.

**Benchmark Comparison #1:** The Secretary-General has recommended a general funding of one internal auditor for every \$100 million of annual budgeted mission operation expenditures for United Nations Peacekeeping. While the Agencies met this standard at the entity level, this was not the case at the Programme level. Since the annual dollar value of the Agencies’ humanitarian and administrative expenditures under the Programme averaged \$400 million, this standard would have required the Agencies to dedicate roughly four full-time auditors per year, yet the Agencies only applied just over one audit staff on average per year during the Programme.<sup>107</sup>

**Benchmark Comparison #2:** A survey of numerous organizations, conducted over the 1997-1999 period by the Australian National Audit Office, found that, on average, organizations spent about one percent (0.82 percent) of their corporate-wide annual costs on internal audit. The total amount of Programme-related expenditures by the Agencies was about \$2.8 billion. Using this benchmark, the Agencies should have spent about \$23 million to audit Programme activities. Yet the Agencies spent only a fraction of this amount: less than \$4 million.<sup>108</sup>

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responses of the Agencies; “World Health Organization 2.2% Budget Proposal of the Iraq Programme – 1 January 2002-31 December 2002,” pp. 32-33 (undated); Jean-Pierre Halbwachs memorandum to Benon Sevan, p. 12 (Jan. 18, 2002); Stephani Scheer interview (Sept. 15, 2004); Jayanti Prasad interview (Nov. 22, 2004); UNDP fax to Maurice Critchley (Feb. 8, 1999); Dagfinn Knutsen interview (Jan. 11, 2005); K. R. Langford note-to-file (May 16, 2001). Mr. Langford is the Director of the Office of Internal Oversight Services for WHO.

<sup>107</sup> “Report of the Secretary-General: Experiences learned from the use of resident auditors at peacekeeping missions,” A/55/735, p. 2 (Jan. 17, 2001); Ester Stern interview (Dec. 17, 2004); Alain Gillette interview (Jan. 19, 2005). The Agencies’ total revenues in the period was \$54 billion and total agency internal audit staff exceeded the required standard during the years of the Programme. Questionnaire responses of the Agencies; BOA external audit reports on the Agencies (1997-2003). The value of the Agencies’ humanitarian and administrative expenditures is covered in Chapters 1 and 5 of this Volume.

<sup>108</sup> Australian National Audit Office, “Benchmarking the Internal Audit Function,” <http://www.anao.gov.au/WebSite.nsf/Publications/4A256AE90015F69BCA256983007767B0> (2000). The survey covered forty-nine, forty-eight, and twenty-seven organizations, including public interest and non-profit organizations around the world, in 1997, 1998, and 1999 respectively. Even though the use of generalized benchmarks has inherent limitations, the organizations included in the survey were not dissimilar, in size and complexity, to the Agencies’ Programme activities. The Agencies did not internally track their costs of auditing Programme activities, but did provide the Committee with the total number of internal audit staff over the years of the Programme and the total budgeted costs for their internal audit functions of \$87.4 million from 1997 to 2003. Thus, the average cost of an audit post was around \$119,000 per year. The Agencies had a total of 7.5 specific audit posts allocated to the Programme which equals



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Considering the Programme's size and conditions, which were new to many of the Agencies, the level of internal audit resources devoted to the Programme would be expected to be at least equivalent to normal staffing levels recommended by the Secretary-General.<sup>109</sup>

## D. INTERNAL AUDIT FINDINGS AND RECOMMENDATIONS

Internal audit reports made a total of 1,163 findings and recommendations on Programme operations. Despite differences in timing and scope of internal audits among the Agencies, these findings highlight strikingly similar problems across the Agencies. As shown in Table 2, most findings pertained to shortcomings in project management and administration (366 findings and recommendations), cash management and control (163), procurement (158), human resources and personnel (133), and contract management (97).<sup>110</sup>

Table 2 – Internal Audit Recommendations by Functional Area<sup>111</sup>

	Number of Findings and Recommendations	Percent of Total
Project Management and Administration	366	32%
Cash Management and Control	163	14%
Procurement	158	14%
Human Resources and Personnel	133	11%
Contract Management	97	8%
Other	246	21%
<b>Total</b>	<b>1,163</b>	<b>100%</b>

The auditors' recommendations addressed internal control weaknesses. Most weaknesses related to deficiencies in operating and financial policies (forty-nine percent), monitoring or supervision of Programme activities (twelve percent), and internal controls and authorization (eleven percent). Together, these areas accounted for about seventy-two percent of all control weaknesses. For example, in 2001, one of the Agencies lacked adequate "standard" procedures for key financial and administrative areas, including procurement and inventory management. The weaknesses identified in internal audit reports ranged from simple procedural inefficiencies

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estimated Programme-related internal audit costs of around \$900,000. Similarly, the average cost of an audit was \$55,000. Sixty-six internal audits of the Agencies were performed during the Programme, which equals estimated Programme-related internal audit costs of \$3.6 million. Questionnaire responses of the Agencies. The total amount of Programme-related expenditures by the Agencies is covered in Chapter 1 and 5 of this Volume.

<sup>109</sup> "Report of the Secretary-General: Experiences learned from the use of resident auditors at peacekeeping missions," A/55/735, p. 2 (Jan. 17, 2001).

<sup>110</sup> Programme-related audits of the Agencies (1997-2004).

<sup>111</sup> Ibid. Other areas of recommendations include expense claims, information technology, non-expendable assets, budgeting, security, coordination, and financial reporting.

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to internal control deficiencies that made the operating environment prone to errors, irregularities, and financial misstatements.<sup>112</sup>

As shown in Table 3, deficiencies in internal controls persisted throughout the duration of the Programme. Furthermore, deficiencies were found repeated across all the Agencies. Although the Agencies had operational policies and procedures for extra-budgetary programs, they were lax in addressing issues identified by auditors and in improving operations, controls, and management practices in these programs. For example, in 1999, FAO identified and made recommendations to improve cash management and address security weaknesses. A subsequent audit in 2001 of the agency's cash management indicated that earlier recommendations had not been fully implemented and weaknesses persisted.<sup>113</sup>

**Table 3 – Number of Annual Findings and Recommendations by Internal Audits for the Three Most Prevalent Control Weakness Areas, 1997-2004<sup>114</sup>**

	1997	1998	1999	2000	2001	2002	2003	2004	Total
Lack of Policies and Procedures	36	48	53	87	133	128	42	44	571
Lack of Monitoring and Supervision	10	10	8	28	21	41	5	13	136
Lack of Controls and Authorization	8	16	17	16	30	22	5	14	128

The Agencies track the status of audit recommendations and review implementation status at regular intervals. At most of the Agencies, however, there is no penalty for failing to implement audit recommendations and there are no negative consequences for managers who failed to address the deficiencies described in the findings. The exceptions are UNDP and UNOPS, which note such failures when considering staff annual performance reviews, promotions, and reassignments.<sup>115</sup>

## E. CONFLICT RESOLUTION AND REPORTING

In most instances, the head of an agency's oversight unit reports to the equivalent of a Director-General and, with the exception of UNESCO, submits annual findings to the agency's governing body. Yet there are few formal independent mechanisms to resolve conflicts between internal

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<sup>112</sup> Other weaknesses included lack of sufficient, or the inefficient use of, resources, incorrect or poor reporting and disclosure, lack of coordination, poor implementation, lack of documentation, poor planning, and lack of security. Ibid.; "UNHCS [UN-Habitat] Settlement Rehabilitation Project in Northern Iraq," AF2001/32/2, rec. 25 (Feb. 6, 2002).

<sup>113</sup> Programme-related audits of the Agencies (1997-2004); "Oil for Food Program - Review of internal Controls," AUD 5399, para. 58 (Dec. 1999); "Oil for Food Programme - Cash Security in FAO Offices in Northern Iraq," AUD 3801, paras. 11-69 (Apr. 2001).

<sup>114</sup> Programme-related audits of the Agencies (1997-2004).

<sup>115</sup> Questionnaire responses of the Agencies.

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auditors and the program managers who are the subject of reports. Furthermore, audit independence can be compromised when oversight funding is provided by funds that are controlled by program managers, allowing them to influence the scope of the audit and its funding.<sup>116</sup>

All of the Agencies involved in the Programme, with the exception of ITU, had or are currently creating audit committees. However, none of these committees are properly independent as defined by directives of IIA and adopted by the Agencies. Most are chaired and staffed by senior agency managers and have a minority of external (or unaffiliated agency) members. WFP is an exception, as its audit committee is chaired by an external and independent chairman (the former Auditor General of the World Bank Group) and also includes “two external and independent members and two internal members who are not major clients of the audit function.”<sup>117</sup>

In addition to the Agencies’ differing lines of internal reporting, their memoranda of understanding with the United Nations varied; only some of these agreements required the Agencies to provide copies of their audit reports to OIP. The 661 Committee and OIP were interested in Agency audit reports due to the size of the Programme and in order to “ensure transparency” of Programme activities. Both the 661 Committee and OIP believed that the Agencies were required to provide—pursuant to their respective memoranda of understanding—copies of their internal and external audit reports to OIP. However, as of August 1999, OIP and the 661 Committee had not received any internal or external audit reports from the Agencies. Mr. Sevan indicated that he intended to “strongly encourage” the Agencies “to conduct management audits . . . and share those reports with [OIP]” and subsequently the 661 Committee. The 661 Committee official meeting minutes contain no subsequent discussions relating to audits of the Agencies, and some of the Agencies ultimately did not agree with OIP’s interpretation of the audit clauses in the memoranda of understanding. OIP attempted to change the audit clauses in these agreements to require the Agencies to provide OIP with copies of their internal audits, but were met with opposition, and this issue appears never to have been resolved. There is inconsistent information from OIP and the Agencies and it is unclear if the Agencies submitted their Programme internal audit reports to OIP.<sup>118</sup>

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<sup>116</sup> Questionnaire responses of the Agencies; C. Richard Baker, “The Varying Concepts of Auditor Independence, Shifting with the Prevailing Environment,” *CPA Journal*, Aug. 2005, p. 22.

<sup>117</sup> IIA Standards, secs. 1311, 2020, 2060 and 2500; Questionnaire responses of the Agencies; “Internal Audit Modus Operandi,” attachment to WFP e-mail to the Committee, pp. 3-4 (Mar. 11, 2005); see also Louis Braiotta Jr., “An Overview of the EU 8<sup>th</sup> Directive,” *Internal Auditor Magazine*, Apr. 2005, p. 62; “SEC Proposes Rules Requiring Listing Standards for Audit Committee Independence and Powers,” *Public Company Advisory*, Jan. 14, 2003, p. 1; Curtis C. Verschoor, ed., *Audit Committee Briefing: Understanding the 21st Century Audit Committee and its Governance Roles* (The Institute of Internal Auditors, 2000); Morgan, Lewis & Bockius LLP, “Audit Committee Independence,” <http://www.morganlewis.com/pdfs/appendixIII.1A.pdf> (June 2003).

<sup>118</sup> FAO-UN memorandum of understanding (Oct. 14, 1997); ITU-UN memorandum of understanding (Mar. 13, 2000); UNICEF-OIP memorandum of understanding (Nov. 17, 2000); UNDP-OIP memorandum of understanding (Mar. 11, 1998); UNESCO-UN memorandum of understanding (Sept. 2, 1998); UN-

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## F. OVERSIGHT COORDINATION

The Agencies do not issue internal audits publicly. Their policy is to share information internally, with their external auditors and with other United Nations oversight bodies such as OIOS. However, Programme-related reports were not shared, and there is no indication that audit findings and recommendations were consolidated and assessed across the Programme.<sup>119</sup>

The similarity of findings and recommendations from the Agencies' audits indicates that they encountered common difficulties. As a result, "horizontal audits"—analyzing functions such as cash management and procurement or project management across the Agencies—or a greater effort to share audit results and audit resources among the Agencies and the Programme, would have been beneficial.<sup>120</sup>

These ideas were discussed several times at annual meetings of the RIAS beginning in 2000, and in newsletters that OIOS circulated to RIAS attendees. For example, at the 2001 RIAS meeting, participants decided to take "concrete steps to share audit plans and information required for the conduct of horizontal audits, perform joint audits, share audit results and appoint an audit focal point in each audit body."<sup>121</sup>

Effective coordination may have been hampered by turf issues. Following the 2001 RIAS meeting, objections to effective coordination, sharing, and horizontal auditing were raised by the oversight representatives of WHO, UNDP, FAO, and WFP, who agreed that:<sup>122</sup>

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Habitat-UN memorandum of understanding (Aug. 10, 1998); UNOPS-DPKO-OIP memorandum of understanding (Feb. 20, 1998); WFP-OIP memorandum of understanding (Mar. 29, 2000); WHO-UN memorandum of understanding (June 21, 2000); Provisional record of 661 Committee meeting, S/AC.25/SR.187, p. 6 (July 22, 1999); Provisional record of 661 Committee meeting, S/AC.25/SR.188, p. 15 (Aug. 17, 1999); Kenneth Langford e-mail to Denis Adkin, Xavier Leus, Hilary Wild, and Tom Topping (June 12, 2001); Benon Sevan letter to Jacques Diouf (Mar. 15, 2000); Henri Carsalade letter to Benon Sevan (Apr. 18, 2000); Benon Sevan letter to Jacques Diouf (Mar. 19, 2001); Henri Carsalade letter to Benon Sevan (May 18, 2001).

<sup>119</sup> Questionnaire responses of the Agencies; Provisional record of 661 Committee meeting, S/AC.25/SR.188, p. 15 (Aug. 17, 1999); Stephani Scheer e-mail to the Committee (Aug. 18, 2005); Kenneth Langford e-mail to Denis Adkin, Xavier Leus Hilary Wild, and Tom Topping (June 12, 2001); Neeta Tolani fax to Anne Bauer, Manuel Areanda da Silva, Nils Kastberg, Khaled Philby, Jean-Paul Menu, Nadji Rahmania, Heinz Kull, and Marylene Spezzati (Jan. 14, 1999); Benon Sevan letter to Jacques Diouf (Mar. 15, 2000); Henri Carsalade letter to Benon Sevan (Apr. 18, 2000); Benon Sevan letter to Jacques Diouf (Mar. 19, 2001); Henri Carsalade letter to Benon Sevan (May 18, 2001).

<sup>120</sup> Programme-related audits of the Agencies (1997-2004); RIAS meeting minutes (2000-2003).

<sup>121</sup> *Ibid.*; "First Interim Report," p. 181.

<sup>122</sup> RIAS meeting minutes, p. 12 (June 4-6, 2001); Kenneth Langford e-mail to Denis Adkin, Xavier Leus, Hilary Wild, and Tom Topping (June 12, 2001). Incidentally, WHO is the only one of the Agencies that publicly issued summaries of their audit reports during the Programme. Although all of the Agencies' internal audit reports, except for UNESCO, are available to the Agencies' secretariats either in full or in

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- The memoranda of understanding between OIP and the Agencies did not require any change, and there was no willingness to consider the proposed change;
- The proposed changes would put OIP in an inappropriate supervisory role over the Agencies;
- Internal audit reports should remain internal to their respective organizations;
- OIOS has no mandate to supervise or direct the Agencies' internal audits;
- Each of the internal audit groups outside of OIOS had devoted considerable and continuing efforts to the audit of the Programme; and
- The most effective way to coordinate internal audit work among the Agencies was direct and confidential contact among the heads of the various audit groups of the Agencies, who could privately share and discuss the necessary information.<sup>123</sup>

Similarly, at the 2002 meeting, participants agreed to support joint or horizontal audits, and OIOS was asked to complete a horizontal audit of procurement in northern Iraq by March 2003. Nonetheless, as discussed in the First Interim Report, no horizontal audit of the Programme was ever conducted.<sup>124</sup>

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summary, they are not available to the public. Questionnaire responses of the Agencies. Internal audit reports on the Programme were never shared with other Agencies or with OIOS. Stephani Scheer e-mail to the Committee (Aug. 18, 2005).

<sup>123</sup> Kenneth Langford e-mail to Denis Adkin, Xavier Leus, Hilary Wild, and Tom Topping (June 12, 2001).

<sup>124</sup> RIAS meeting minutes (2000-2003).

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## **IV. EXTERNAL AUDITS**

### **A. INTRODUCTION TO THE BOARD OF AUDITORS**

In 1946, the General Assembly established BOA to act as an independent body to “carry out external audit of the accounts of the United Nations organization and its funds and programmes.” BOA is comprised of three Auditors General, or holders of the highest office of audit of a member state, who serve on a rotating basis. According to the Financial Regulations and Rules of the United Nations, BOA is responsible for ensuring that:

- (a) The financial statements present fairly the financial position as at the end of the period and the results of its operations for the period then ended;
- (b) The financial statements were prepared in accordance with the stated accounting principles;
- (c) The accounting principles were applied on a basis consistent with that of the preceding financial period; [and]
- (d) Transactions were in accordance with the Financial Regulations and legislative authority.

To fulfill this mandate, BOA possesses unfettered access to the United Nations’ books and records.<sup>125</sup>

As part of its oversight responsibilities, BOA audited certain Programme-related accounts, which it collectively referred to as “the Iraq Account.” This Chapter adopts the same convention. BOA’s audits of the Iraq Account included the review of the Programme’s various escrow accounts (the ESB, ESC, ESD, and beginning in 2002, the ESE and RWA Accounts) as well as the activities within the Secretariat that were funded by these accounts. In addition, BOA audited the United Nations Compensation Commission (“UNCC”) and four of the Agencies involved in administering the Programme. BOA addressed its formal reports to the Secretary-General and forwarded them to the General Assembly, OIP, 661 Committee, and the Government of Iraq. Each report contained findings and recommendations on financial and management issues and its audit opinion, all of which were unqualified throughout the Programme.<sup>126</sup>

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<sup>125</sup> A/RES/15/74(I) (Dec. 7, 1946); Financial Rules, Annex to the Financial Regulations (hereinafter “Annex to Financial Rules”), sec. 5; BOA Homepage.

<sup>126</sup> “Reports of the Board of Auditors on the Audit of the United Nations Escrow Account (the Iraq Account) established under the provisions of the Security Council Resolution 986 (1995)” (1997-2002) (hereinafter “BOA external audit reports on the Iraq Account (1997-2002)”). Eight external audits of the Iraq Account by the BOA are listed in Annex 2 to this Chapter. BOA presentation for the Committee (Oct. 2004). The Agencies audited by BOA were UNICEF, UN-Habitat, UNOPS, and UNDP, all of which are

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BOA provided the Committee access to its audit reports as well as its administrative staff, but denied access to its audit working papers and files. This restriction prevented the Committee from assessing: (1) how the audits were planned and conducted; (2) what specific audit steps and procedures were performed; and (3) how critical issues and areas of risk were addressed.<sup>127</sup>

## B. STANDARDS

BOA follows “audit standards adopted by the Panel of External Auditors which has recognized the standards of the International Organization of Supreme Audit Institutions (INTOSAI) as the core auditing standards [and] has taken account of the International Federation of Accountants’ (IFAC) International Standards on Auditing.”<sup>128</sup>

United Nations Financial Rules require that external audits include a general review of a program’s financial systems and internal controls, and that auditors report to the General Assembly any matters materially affecting the accuracy of accounts, including unsubstantiated expenditures. The Financial Rules further require the external auditors to inform the General Assembly of any known instances of: (1) fraud or presumptive fraud; (2) wasteful or improper expenditure of the Organization’s money or other assets (notwithstanding that the accounting for the transaction may be correct); (3) defects in the regulations governing control of receipts and disbursements or of supplies and equipment; and (4) expenditures that do not conform to the authority that governs the expenditure.<sup>129</sup>

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programs and funds overseen by the General Assembly. BOA Homepage. BOA did not audit the financial statements of UNESCO, FAO, WFP, WHO, or ITU, which were audited separately by Auditors General from the Panel. A list of thirty-six external audits of the Agencies is included in Annex 3 to this Report. For ease of reference these audits are collectively cited as “External audits of the Agencies (1997-2003).” An unqualified opinion generally means that the auditors have concluded that the financial statements adhered, in all material respects, to the accounting principles upon which they were prepared and are free of any material misstatement. ADVFN, “ADVFN Financial Glossary,” [http://www.advfn.com/money-words\\_term\\_5175\\_qualified\\_opinion.html](http://www.advfn.com/money-words_term_5175_qualified_opinion.html). The various escrow accounts of the Programme are described in detail in Chapter 3 of this Volume.

<sup>127</sup> BOA letters to the Committee (Jan. 28 and May 6, 2005); Committee letter to BOA (Feb. 2, 2005). BOA’s audit working papers are not United Nations documents or materials, but are the property of BOA and its representative member states. While hopeful that BOA would feel duty-bound to share the materials with the Committee as part of its comprehensive investigation, BOA was not required to do so. BOA informed the Committee that the eight members of the Panel unanimously supported the decision to deny access to the working papers based on guidance from their respective legislative bodies and on auditing standards. Although disappointed with the decision, the Committee notes that BOA, and its staff were otherwise generally cooperative.

<sup>128</sup> BOA Homepage.

<sup>129</sup> Annex to Financial Rules, sec. 6; BOA presentation for the Committee (Oct. 2004) (regarding BOA’s external audits of the Iraq Account).

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BOA defines materiality to be between 0.25 and 1 percent of total costs inversely dependant on the level of risk.<sup>130</sup>

## **C. EXTERNAL AUDITS OF THE IRAQ ACCOUNT**

BOA audited the financial statements and related footnotes of the Iraq Account. These statements contain reports on the Programme's income, expenditures, reserves, assets, liabilities, and cash flows. The statements further reflect the activities of OIP (including the oil and humanitarian aid contracts), United Nations Office of the Humanitarian Coordinator for Iraq ("UNOHCI"), United Nations Treasury, and the inspection agents, as well as transactions with the Agencies. However, these statements do not reflect the Programme-related activities of the Agencies or UNCC.<sup>131</sup>

### **1. Audit Funding and Staffing**

All BOA members have a longstanding arrangement to commit and charge approximately 350 staff-weeks per year to audit their United Nations assigned entities. Based on perceived needs, BOA alone determines the funding and staffing for each audit. Audit staff consist of auditors from BOA members' national audit offices. BOA has few, if any, restrictions on the size and level of funding for its audits or on the diversity and technical expertise of its staff and is allowed to supplement its staff with outside auditors. Although BOA has the ability to request additional resources if the need arises, and has done so in other circumstances where the audit commitment increased sharply, they never made such a request for the audit of the Iraq Account.<sup>132</sup>

The cost of each audit, including costs relating to staff expenses, was borne by the Programme ESD Account. The total cost charged to the Programme for external audits, through June 2004, was approximately \$1 million (or an average of about \$110,000 per audit).<sup>133</sup> In 2001, at the height of Programme activity, the year-end audit was performed by only four people working for four weeks.<sup>134</sup> The costs of the audits were extremely low compared to external audit costs analyzed in a report by the Corporate Executive Board. That report estimated that the average

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<sup>130</sup> BOA e-mail to the Committee (Aug. 4, 2005).

<sup>131</sup> BOA external audit reports on the Iraq Account (1997-2002); Programme financial statements (1996-2002). The financial activities of UNCC and the Agencies involved in the Programme were reported separately. BOA presentation for the Committee (Oct. 2004).

<sup>132</sup> Financial Rule, reg. 12.8-9. The issue of the Agencies' funding for their internal audit functions is addressed above in Section III.C; Alain Gillette, Rajan Govender, and Sabiniano Cabatuan interview (Sept. 2, 2005) (indicating that BOA did not request additional resources for the Iraq Account, even though additional resources were requested for UNDP and Tsunami relief-related audits).

<sup>133</sup> Katrina Nowlan e-mail to the Committee (May 31, 2005). Ms. Nowlan is Chief of the Peacekeeping Accounts Section, Accounts Division, at the United Nations Office of Programme Planning, Budget & Accounts. Katrina Nowlan business card.

<sup>134</sup> BOA presentation for the Committee (Oct. 2004).



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annual audit fee for companies with similar revenues as the Iraq Account would be well over \$1 million in 2005.<sup>135</sup>

In its audits of the Iraq Account, BOA included auditors general from the following member states:

Table 4 – BOA Auditors of the Iraq Account<sup>136</sup>

	Lead Auditor	Other Members
1996 to 1998	India	Ghana, United Kingdom
1999	Philippines	Ghana, United Kingdom
2000 to 2004	Philippines	South Africa, France

## 2. Scope and Coverage

By its governing rules, BOA is wholly independent of United Nations management. It is responsible for its own budgeting decisions and for auditing the financial statements of any United Nations entity under its review. It thus has latitude to determine its scope and objectives. BOA had direct access to every OIOS report and the internal and external audit reports of the four Agencies that BOA audited. The other five Agencies each were audited by a single Panel member who had full access to the internal audit reports and could communicate with BOA. The Panel members had almost unlimited access to books and records. BOA’s audit approach is designed to obtain relevant and reliable evidence to support audit opinions on financial matters ranging from planning to reporting results. BOA indicated that its planning for the audits entailed a “risk-based audit approach to identify, source and prioritize risks in order to appropriately focus the audit” and that they “identified, tested or evaluated financial and management controls.”<sup>137</sup>

As detailed in Table 5, below, the eight BOA audits of the Iraq Account covered very different aspects of the Programme, reflecting the auditors’ degree of flexibility. In the early years

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<sup>135</sup> Corporate Executive Board, “2005 Sarbanes-Oxley Section 404 Audit Fee Benchmarks: Comprehensive Survey Results Analysis,” [http://www.cfo.executiveboard.com/Images/CFO/PDF/SOX\\_Public.pdf](http://www.cfo.executiveboard.com/Images/CFO/PDF/SOX_Public.pdf) (May 2005) (survey of forty-four member companies).

<sup>136</sup> BOA external audit reports on the Iraq Account (1997-2002).

<sup>137</sup> BOA presentation for the Committee (Oct. 2004); Financial Rules, reg. 12.4-12. Particularly, the Financial Rules state, in part, that BOA shall perform its audits of the accounts of the United Nations “as it *deems necessary* in order to satisfy itself.” Annex to Financial Rules, sec. 1 (emphasis added). The Financial Rules further state that BOA “shall be the *sole judge* as to the acceptance in whole or in part of certifications and representations by the Secretary-General and may proceed to such detailed examination and verification *as it chooses* of *all* financial records . . .” Ibid., sec. 2 (emphasis added). The Financial Rules also require BOA to report to the General Assembly any instance in which its scope was restricted or in which it was not provided sufficient documentation to conduct its work. Ibid., sec. 8.

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(through 1999), the audit scope was broad, covering both financial and reporting aspects and critical operational activities of the Programme and the Agencies. However, subsequent audits had a much narrower scope.<sup>138</sup>

Table 5 – Audit Areas relating to the Audits of the Financial Statement of the Iraq Account<sup>139</sup>

Lead Auditor:	India Dec-96 to Jun-97	India Jul-97 to Dec-97	India Jan-98 to Jun-98	India Jul-98 to Dec-98	Philippines Jan-99 to Dec-99	Philippines Jan-00 Dec-00	Philippines Jan-01 to Dec-01	Philippines Jan-02 to Dec-02	Philippines Jan-03 to Dec-03
<b>Financial statements</b>	X	X	X	X	X	X	X	X	X
<b>Cash management</b>	X	X	X	X	X	X	X	X	X
<b>Oil Purchases</b>									
- Contract Process	X	X	X						
- Pricing	X	X	X	X	X				
- Overseers	X	X			X				
- Inspectors	X	X		X	X				
- Pipeline fees			X	X	X				
<b>Humanitarian Aid</b>									
- Infrastructure in Iraq	X	X	X	X	X				
- Procurement/ Distribution	X	X	X	X	X	X	X	X	X
- Inspection of goods	X	X	X	X	X				
- Tracking of goods	X	X						X	
<b>Agencies</b>									
- Monitoring advances	X			X	X		X		
- Financial reporting	X	X							
- Implementation/ reporting	X	X							
- Agency operations		X	X	X	X				
<b>OIP Headquarters</b>									
- Procurement							X		
- Contract management							X	X	
- Agency coordination							X		
- Asset management								X	X

Of the various oversight bodies, BOA was best positioned to provide the United Nations and its authoritative bodies with comprehensive and independent assessments of the Programme. As the size and complexity of the Programme increased, and as knowledge of its serious problems surfaced publicly, BOA presented fewer serious concerns about the integrity and effectiveness of management and of the Programme's underlying activities. For example, after 1999, BOA substantially reduced its assessments of the pricing of oil and humanitarian goods contracts. Very large areas, amounting to over \$70 billion in transactions from 2000 onwards, were widely suspected of being manipulated by the Iraqi regime. When asked why it decreased its audit scope and testing of critical areas such as oil and humanitarian contracts, BOA indicated that it had no definitive reason.<sup>140</sup>

<sup>138</sup> BOA presentation for the Committee (Oct. 2004); BOA external audit reports on the Iraq Account (1997-2002).

<sup>139</sup> Ibid.

<sup>140</sup> Sabiniano G. Cabatuan interview (Oct. 26, 2004; Mar. 23 and 29, 2005). Chapter 2 of Volume I details the Committee's estimates of illicit income obtained by the Iraqi regime throughout the Programme.

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The Financial Rules require BOA to “draw to the attention of the Secretary-General” any transaction in which its “legality and propriety” are questioned. Furthermore, the Financial Rules state that the report of BOA to the General Assembly on the financial operations of the organization should mention “[w]asteful or improper expenditure of the Organization’s money or other assets (notwithstanding that the accounting for the transaction may be correct).” However, BOA acknowledged that its audit procedures did not include testing for fraud or corruption, because BOA never considered fraud or corruption to be relevant issues for its audits of the Iraq Account. In fact, BOA officials stated that—even if they had been aware of fraudulently overpriced contracts, for example—their concern would not have been that contracts were fraudulent or overpriced. Rather, BOA would have only addressed whether these contracts were recorded properly in the Iraq Account at their full (albeit fraudulent) value and current status (i.e., whether liquidated or outstanding).<sup>141</sup>

BOA’s strict emphasis on financial statement presentation appears to conflict with the very auditing standards that it enforces. The estimated dollar amount of fraud and corruption from the Programme is in the billions. The application of BOA materiality standards to the Programme would have resulted in material misrepresentations of the financial statements. Yet BOA issued clean, unqualified opinions on all financial statements and sounded no alarms about the fraud that impugned the integrity of those finances.<sup>142</sup> Also, despite the large number of serious weaknesses in the Programme noted by internal auditors, BOA’s reports on all operations of the Programme through the United Nations and the Agencies failed to note or make recommendation on the poor internal control environment.<sup>143</sup>

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<sup>141</sup> Annex to Financial Rule, secs. 4, 6. The auditors reported that they were interested in ensuring that the contracts approved by the 661 Committee were documented properly and appropriately accounted for in the accounting and reporting system. BOA’s review did not include determining the veracity of contract pricing or whether less than the expected value of goods or services was received. Sabiniano G. Cabatuan interviews (Oct. 26, 2004; Mar. 23 and 29, 2005).

<sup>142</sup> Sabiniano G. Cabatuan interview (Oct. 26, 2004). As detailed earlier in Chapter 2 of Volume I, the Committee has estimated that approximately \$1.8 billion in oil and humanitarian price manipulation occurred throughout the Programme. This represents less than five percent of the total value of the contracts processed under the Programme. Under normal audit practice, if a misstatement due to fraud is significant and material to the financial statements, then an auditor would typically note the misstatement in the audit opinion, regardless of whether the financial statements accurately reflected the transactions. Audit risk assessments and testing programs should be designed to detect the lack or breakdown of internal controls that lead to material financial misstatements. For BOA, the concept of materiality for financial statement reporting purposes is based on a percentage of expenditures, which varies within the range of 0.25 percent and 1 percent of total expenditures, depending on the level of audit risk. The precise level is set during the audit’s planning phase and reassessed during the audit’s reporting phase. BOA e-mail to the Committee (Aug. 4, 2005). Based on these standards, there clearly was a material misstatement of the Iraq accounts. As a result, the accounts should not have received the benefit of an unqualified audit opinion. International Federation of Accountants, “International Standards on Auditing 320,” <http://www.ifac.org/guidance>.

<sup>143</sup> See Section III above of this Chapter; Programme-related audits of the Agencies (1997-2004); “First Interim Report,” pp. 167-188.

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### 3. External Audit Findings and Recommendations

The Financial Rules provide BOA with discretion to select topics in its audit reports, including any information that the “Board deems necessary” regarding the efficiency of a program’s administration and management.<sup>144</sup>

BOA’s audit opinions included accompanying reports containing observations on financial and management matters as well as recommendations. There were between five and eight main recommendations in each report. Many recommendations related to: (1) the slow pace of distributing humanitarian supplies; (2) the lack of diversified bank accounts; (3) the absence of signed memoranda of understanding with Agencies; (4) the remittance of interest on funds held by the Agencies; and (5) the contracting of the inspection agents. Each of the audit reports also contained between sixty to eighty paragraphs of observations, many of which were informative and detailed, particularly in the earlier years. In addition, between 1999 and 2003, BOA issued several interim audit reports to OIP.<sup>145</sup>

## D. EXTERNAL AUDITS OF THE AGENCIES

External auditors performed biennial audits on the Agencies’ financial statements. All such statements received unqualified audit opinions. The external auditors also submitted management letters that addressed financial and management issues that arose during their work. The Committee reviewed all biennial financial statements from the Agencies and the accompanying management letters concerning issues relating to the Programme.<sup>146</sup>

Programme expenditures amounted to approximately five percent of total expenditures by the Agencies between 1996 and 2003. This percentage varied by year and across the Agencies. The Agencies had no consistent accounting practice in their financial statements for the reporting of Programme activities. The Agencies did not normally provide this information in their financial statements, and, in the instances when they did, it was not disclosed to BOA in a consistent or detailed manner.<sup>147</sup> In a few instances, these activities were identified clearly as a separate fund. In other statements, these activities were removed from the balance sheet and therefore were not disclosed in the audited financial statements. It was therefore difficult, if not impossible, for BOA to extract Programme financial statements from the Agencies’ biennial financial statements.

There was no specific audit focused on the Agencies Programme-related activities. Because the Programme was a relatively small part of the overall activities of the Agencies, it was not subject

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<sup>144</sup> Financial Rules, reg. 12.10; BOA presentation for the Committee (Oct. 2004).

<sup>145</sup> BOA external audit reports on the Iraq Account; BOA presentation for the Committee (Oct. 2004). Chapter 3 of this Volume addresses the Agencies’ remittance of interest on disbursed funds.

<sup>146</sup> External audits of the Agencies (1997-2003).

<sup>147</sup> Ibid.; Esther Stern memorandum to Benon Sevon, AUD-7-1:31 (Nov. 30, 2000); BOA external audit reports on the Iraq Account (1997-2002).

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to full audit. External audits of the Agencies consequently provided only limited assurances regarding the Programme's financial activities and its control environment. As a result external audit reports had very little, if any, comment on Programme-related activities. However, the external audit management reports for four Agencies—FAO, UN-Habitat, WFP, and WHO—contained specific comments on the Programme. The following table summarizes those findings:

Table 6 – Summary of Programme-related Findings of the Agencies' External Audits<sup>148</sup>

Type of Weakness	FAO	Habitat	WFP	WHO	Total
<b>1998/1999</b>					
* Lack of/Poor Monitoring	1				1
* Lack of/Poor Policies/Procedures	2				2
* Lack/Insufficient use of Resources	1				1
	<b>4</b>				<b>4</b>
<b>2000/2001</b>					
* Incorrect or Poor Reporting/Disclosure	1				1
* Lack of Controls/Authorization		1	2		3
* Lack of Documentation	3				3
* Lack of/Poor Policies/Procedures	6		2		8
* Lack/Insufficient use of Resources	1				1
* Poor Implementation	2	1			3
	<b>13</b>	<b>2</b>	<b>4</b>		<b>19</b>
<b>2002/2003</b>					
* Lack of/Poor Monitoring		2			2
* Lack of/Poor Policies/Procedures				1	1
		<b>2</b>		<b>1</b>	<b>3</b>
<b>Grand Total</b>	<b>17</b>	<b>4</b>	<b>4</b>	<b>1</b>	<b>26</b>

As with the internal audits, the external audits noted similar types of findings including poor controls, monitoring, policies, and procedures.<sup>149</sup>

For those Agencies with Programme-related expenses that exceeded materiality limits, the volume of adverse internal audit findings should have influenced the external auditors' scope and testing of these Agencies' Programme-related activities. However, the Agencies' audit reports do not identify whether the scope of external audits reflected the frequency of internal control weaknesses noted by internal auditors.<sup>150</sup>

<sup>148</sup> External audits of the Agencies (1997-2003).

<sup>149</sup> Programme-related audits of the Agencies (1997-2004); External audits of the Agencies (1997-2003).

<sup>150</sup> Ibid.

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As previously noted, because BOA failed to make its working papers available to the Committee, the Committee was unable to adequately elucidate or validate the planning approach and work performed by BOA.<sup>151</sup>

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<sup>151</sup> BOA letter to the Committee (Jan. 28, 2005); Committee letter to BOA (Feb. 2, 2005); BOA letter to the Committee (May 6, 2005).

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## V. INVESTIGATIONS

### A. INTRODUCTION TO OIOS INVESTIGATIONS DIVISION

With the creation of OIOS, the United Nations established a new oversight function—an internal investigations division—and for the first time began responding to allegations of fraud, abuse, and corruption within the organization.<sup>152</sup> The OIOS Investigations Division (“OIOS ID”) possesses a broad mandate, covering the Secretariat and all United Nations organs. OIOS ID’s main responsibilities are: (1) to investigate reports of violations of United Nations regulations, rules, and pertinent administrative issuances; and (2) to assess the potential within all program areas and United Nations offices worldwide for fraud and violations in high risk operations. The mandate was clarified in 2000, reaffirming that OIOS’s authority extends to separately administered fund and programs.<sup>153</sup> Largely due to inadequate funding, OIOS ID has primarily conducted reactive investigations. However, OIOS ID does possess the authority to undertake proactive work.<sup>154</sup>

OIOS ID has no disciplinary or adjudicative function. Its role is limited to fact finding and conducting inquiries to establish the facts of a particular complaint or allegation. OIOS ID’s reports of findings and its recommendations are non-binding. Once completed, they are submitted to the program managers concerned. These program managers, not OIOS ID, are responsible for taking action on findings or referring the matter for administrative or disciplinary action. Reports may also be transmitted directly to the General Assembly, and after consultation

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<sup>152</sup> A/RES/48/218B (Aug. 12, 1994); ST/SGB/273, paras. 16-17 (Sept. 7, 1994) (regarding the establishment of OIOS). In a March 1993 report to the Secretary-General of the United Nations, Dick Thornburgh (then Under-Secretary-General for Administration and Management) urgently recommended the creation of a new office of Inspector General to bring together the functions of audit, inspection, investigation, and program evaluation. Mr. Thornburgh noted that, at the time, the United Nations was almost totally lacking in “effective means to deal with fraud, waste and abuse by staff members . . .” Dick Thornburgh report to Boutros Boutros-Ghali, p. 29 (Mar. 1, 1993).

<sup>153</sup> ST/IC/1996/29 (Apr. 25, 1996) (outlining the terms of reference for OIOS investigations); ST/SGB/273, para. 1 (Sept. 7, 1994); A/RES/54/244, para. 15 (Jan. 31, 2000) (deciding that arrangements should be made for reimbursement of OIOS by funds and programs). In response, the Secretary-General issued a report that among other things proposed the establishment of a mechanism to handle funding and reimbursement for investigation services provided by OIOS to funds and programs. “Enhancing the internal oversight mechanisms in operational funds and programmes, updated version,” A/55/826, paras. 56-59 (Mar. 8, 2001). By February 2002, a number of the Agencies had signed memoranda of understanding with OIOS ID, providing for the reimbursement for investigative services. “Enhancing the internal oversight mechanisms in operations funds and programmes, updated views,” A/56/823, paras. 9, 16, 19 (Feb. 19, 2002).

<sup>154</sup> Barbara Dixon interview (Feb. 21, 2005); see also ST/SGB/273, para. 17 (Sept. 7, 1994) (addressing OIOS ID’s mandate for proactive investigations); “Strengthening the Investigations Function in United Nations System Organizations,” JIU/REPO/2000/9, p. 3 (2000).

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with the Office of Legal Affairs of the United Nations (“OLA”), suspected criminal activity may be referred to the appropriate national authority.<sup>155</sup>

As with IAD, OIOS ID reports to the Secretary-General on a semi-annual basis, providing information on outstanding recommendations made to the relevant program managers.<sup>156</sup>

In addition to OIOS ID, there are various independent investigative units within the United Nations programs and specialized agencies. As of 2001, most funds and programs did not have dedicated investigative units, so a number of them relied upon OIOS ID for information and advice and, on occasion, to conduct investigation.<sup>157</sup> Currently there is no single coordinating mechanism within the United Nations organization for these various independent investigative units.<sup>158</sup>

## B. INVESTIGATIVE PROCESS

Procedures for the conduct of OIOS ID investigations are set forth in the OIOS Manual of Investigation Practices and Policies, originally issued in February 1997 and updated in April 2005 (“Investigations Manual”). Respect for the individual rights of staff members, fairness, and due process are central to OIOS ID’s conduct of investigations.<sup>159</sup>

As an internal investigative body, OIOS ID relies primarily on the cooperation of individuals and entities both within and outside of the Organization. The Secretary-General has directed that

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<sup>155</sup> ST/SGB/273, paras. 19-20 (Sept. 7, 1994); “Rules and Procedures to be Applied for the Investigations Functions Performed by the Office of Internal Oversight Services,” A/55/469, para. 21 (Oct. 11, 2000); OIOS, Manual of Investigation Practices and Policies, paras. 78-83 (Apr. 4, 2005) (hereinafter “Investigations Manual”).

<sup>156</sup> Barbara Dixon interview (Feb. 21, 2005).

<sup>157</sup> “Enhancing the internal oversight mechanisms in operational funds and programmes, updated version,” A/55/826, paras. 53-54 (Mar. 8, 2001); “Strengthening the Investigations Function in United Nations Systems Organizations,” JIU/REP/2000/9, paras. 22-24, Table 1, Annex I (2000); Barbara Dixon interview (Feb. 21, 2005).

<sup>158</sup> Barbara Dixon interview (Feb. 18, 2005); “Strengthening the Investigations Function in United Nations System Organizations,” JIU/REP/2000/9, para. 76 (2000) (recognizing the need for inter-agency cooperation).

<sup>159</sup> ST/SGB/273, para. 18(a) (Sept. 7, 1994); OIOS, Investigations Section Manual (Feb. 1997) (hereinafter “1997 Investigations Manual”); OIOS, “Manual of Investigation Practices and Policies” (Apr. 4, 2005) (hereinafter “Investigations Manual”). The 1997 Investigations Manual was first placed on the United Nations website in February 1997. OIOS, “Investigations,” <http://www.un.org/depts/oios/investigation.htm>. In response to a General Assembly request, the Secretary-General issued a report detailing the procedures to be followed by the Investigations Section of OIOS. A/RES/54/244, para. 16 (Jan. 31, 2000) (stressing that OIOS ID shall provide procedures to protect individual rights of staff); “Rules and Procedures to be Applied for the Investigations Functions Performed by the Office of Internal Oversight Services,” A/55/469, para. 5 (Oct. 11, 2000) (detailing the procedures of OIOS ID).



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OIOS shall have access to all United Nations staff and to all of the Organization's records, documents, and materials. Under their terms of employment, United Nations staff members are obligated to cooperate with investigations conducted by OIOS ID. Strikingly, no staff member has ever been sanctioned by OIOS ID for non-cooperation, lying to investigators, or obstruction. OIOS ID has no ability to compel the production of witnesses or documents through legal process. Although OIOS ID has no power to compel cooperation from outside parties, outside parties are accorded the same due process rights as United Nations staff members during the investigative process. Cooperation with OIOS ID, however, is not a condition imposed upon United Nations contractors who want to do business with the organization.<sup>160</sup>

In order to encourage persons to report information to OIOS, the full privilege of confidentiality applies to a complainant's identity. During the Programme, however, the United Nations had no whistleblower protection policy to protect complainants from reprisals and retaliation within the Organization. In April 2005, a Proposed Whistleblower Policy, drafted by a United Nations interdepartmental working group and others, was tabled for consultation with the staff. A final policy will be issued after this process of consultation has been completed.<sup>161</sup>

Because of limited resources, OIOS ID employs a risk assessment approach for prioritizing those complaints that appear appropriate for further investigation and determining which to fully pursue. Cases are assessed on the basis of: (1) risk to the Organization (i.e., an isolated incident versus a systemic problem); (2) patterns and trends; and (3) budgetary restrictions. Those matters that are not assigned for further investigation are used for informational purposes (relating to ongoing or future investigations) or to identify trends.<sup>162</sup>

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<sup>160</sup> "Reporting of Inappropriate Use of United Nations Resources and Proposals for Improvement of Programme Delivery," ST/SGB/273, para. 4 (Sept. 7, 1994); ST/SGB/2003/5 (Feb. 7, 2003) (hereinafter "2003 Staff Regulations"), reg. 1.2(r) (requiring staff members to respond fully to requests for information from staff members and other officials of the Organization authorized to investigate possible misuse of funds, waste or abuse); Investigations Manual, para. 15 (citing Staff Regulation 1.2(r)); Investigations Manual, paras. 12, 76-77 (establishing that OIOS ID is to utilize its administrative authority for access to documents and other resources of the organization); Barbara Dixon memorandum (Mar. 28, 2005); see also "Revised Disciplinary Measures and Procedures," ST/AI/371 (Aug. 2, 1991) (setting forth the requirements of due process to be afforded to a staff member against whom misconduct has been alleged).

<sup>161</sup> Investigations Manual, paras. 24-37 (explaining the confidentiality protections afforded to complainants); United Nations, "Proposed Whistleblowing Protection Policy" (Apr. 15, 2005) (available on the United Nations intranet); Kofi Annan letter to staff (June 4, 2004) (posted on the United Nations intranet). Information on how staff may make Hotline Reports has been incorporated into the OIOS Investigations Manual and is also found on the OIOS website. OIOS, "Hotline," <http://www.un.org/depts/oios/hotline.htm>. The inter-departmental working group, referenced above, included representatives from OIOS, OHRM, UNDP, OLA, and DPKO, with input from the Office of the Ombudsman and a consultant recommended by Transparency International. United Nations, "Proposed Whistleblowing Protection Policy" (Apr. 15, 2005).

<sup>162</sup> Investigations Manual, para. 30 (noting that OIOS ID has sole discretion over whether to take up a case and what priority to assign the case); Barbara Dixon interview (Jan. 18, 2005); Karl Paschke interview

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## C. FUNDING AND STAFFING

The Director of OIOS ID reports to the Under-Secretary-General for OIOS. Currently, OIOS ID has a small staff at United Nations headquarters in New York City and offices in Vienna, Nairobi, and Arusha. This staff consists of thirty-four regular, extra-budgetary, and regional positions, including investigators, management, and administrative staff.<sup>163</sup>

Although OIOS was established as an independent office, it depends on the Secretariat for its funding. The General Assembly resolution establishing OIOS provided for presentation of OIOS's budget to the General Assembly with due regard for the office's needs. Yet, despite its mandate providing for operational independence, in order to investigate complaints relating to extra-budgetary programs and activities (funds and programs), OIOS ID must seek funding from the relevant program manager whose program or staff it planned to investigate.<sup>164</sup>

OIOS ID has been consistently understaffed. When first created in 1994-95, OIOS ID was funded for seven posts. In 1996-97, OIOS ID received increased funding for sixteen positions: one head of office, twelve investigators, and three general services staff. Since 1997, OIOS ID has received two regular budget professional posts and other increases dedicated to the two war crimes tribunals and peacekeeping missions. Even so, the staff's size has not kept pace with the vast increase in the number of cases received. As illustrated below, although the number of posts more than doubled between 1997 and 2003, the number of cases filed increased almost four-fold.

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(Mar. 31, 2005); Jorge Fares interview (Aug. 10, 2005) (explaining that the Risk Assessment Programme ("RAP") is only applied to complaints that may be subject to an investigation).

<sup>163</sup> "OIOS Annual Reports," A/59/359, p. 53 (Oct. 27, 2004). Since 1994, Barbara Dixon has been the Director of OIOS ID, reporting directly to Karl Paschke, Under-Secretary-General for OIOS (Nov. 1994-1999), then Dileep Nair, Under-Secretary-General for OIOS (Apr. 2000-Apr. 2005), and then Inga-Britt Ahlenius, the current Under-Secretary-General for OIOS. Karl Paschke interview (Mar. 31, 2005); "OIOS Annual Report," A/55/436, p. 7 (Oct. 2, 2000); OIOS, "Under-Secretary-General," [www.un.org/depts/oios/usg.htm](http://www.un.org/depts/oios/usg.htm). On September 15, 2003, the opening of a Vienna regional branch of OIOS was announced. In announcing the new Vienna office, it was noted that ninety percent of cases investigated by OIOS are located away from United Nations headquarters in New York. OIOS press release, "UN Internal Oversight Opens New Investigations Office in Vienna" [http://www.un.org/Depts/oios/reports/press/org\\_1395.htm](http://www.un.org/Depts/oios/reports/press/org_1395.htm) (Sept. 15, 2003).

<sup>164</sup> A/RES/48/218B, paras. 8-10 (Aug. 12, 1994); Barbara Dixon interview (Feb. 21, 2005). According to Ms. Dixon, OIOS ID does have some extra-budgetary posts. However, most fall within peacekeeping operations. *Ibid.*; see, e.g., A/RES/54/244, para. 15 (Jan. 31, 2000) (deciding that arrangements should be made for reimbursement of OIOS by funds and programs); "Enhancing the internal oversight mechanisms in operational funds and programmes, updated version," A/55/826, para 63B (Mar. 8, 2001) (recommending the establishment of a mechanism to reimburse OIOS for investigations and audit services that it provides for funds and programs).

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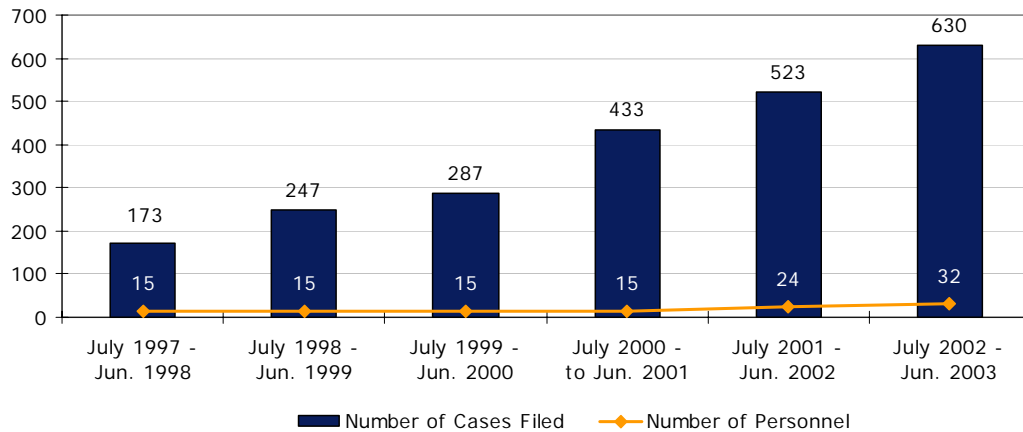
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Due to its lack of staff, the number of complaints OIOS actually investigates falls far short of the number of incoming complaints it receives.<sup>165</sup>

Chart B – OIOS ID Cases Received and Staffing Levels, 1997-2003<sup>166</sup>



By 2001, many of the organization’s operational funds and programs had entered into memoranda of understanding with OIOS ID to reimburse it for investigative services. As of 2001, UN-Habitat, UNDP, UNICEF, and UNOPS all had signed agreements with OIOS ID for the provision of investigative services. Although OIOS contacted OIP to establish a memorandum of understanding for investigative services, none materialized.<sup>167</sup>

<sup>165</sup> “OIOS Annual Reports,” A/54/393, para. 127 (Sept. 23, 1999), A/55/436, para. 153 (Oct. 2, 2000), A/56/381, paras. 214-15 (Sept. 19, 2001), A/57/451, para. 53 (Oct. 4, 2002); A/58/364, para. 136 (Sept. 11, 2003), A/59/359, p. 54 (Oct. 27, 2004); Barbara Dixon interview (Jan. 18, 2005)

<sup>166</sup> “OIOS Annual Reports,” A/54/393, para. 127 (Sept. 23, 1999), A/55/436, para. 153 (Oct. 2, 2000), A/56/381, paras. 214-15 (Sept. 19, 2001), A/57/451, para. 53 (Oct. 4, 2002); A/58/364, para. 136 and p. 59 (Sept. 11, 2003), A/59/359, p. 54 (Oct. 27, 2004).

<sup>167</sup> “Enhancing the internal oversight mechanisms in operations funds and programmes, updated views,” A/56/823, para. 28 (Feb. 19, 2002) (reporting that OIOS contacted OIP to establish a memorandum of understanding for future investigative services provided by OIOS).

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#### D. PROGRAMME-RELATED INVESTIGATIONS<sup>168</sup>

At the inception of the Programme in 1997, OIOS ID already was experiencing insufficient funding for its regular budget. During the seven years of the Programme, despite several requests, OIOS ID received no additional budgetary or staffing resources to investigate complaints or to perform proactive assessments of fraud or corruption vulnerabilities relating to the Programme.<sup>169</sup>

Surprisingly, OIOS ID received only a small number of Programme-related cases. According to information provided by OIOS ID, during the period of 1997 to 2003, it received only thirty-nine complaints relating to the Programme. These complaints involved OIP, UNOHCI, UN-Habitat, WFP, UNOPS, and Department of Economic and Social Affairs (“DESA”) and variously concerned Programme mismanagement, misconduct, corruption, fraud, conflict of interest, attempted sexual assault, theft, and the death of a staff member. In 2001 and 2002, OIOS ID received the most significant Programme-related cases from UN-Habitat. Only two of the complaints received by OIOS ID involved oil companies, relating in one case to the use of a fraudulent document and in the other to the topping-off of an oil tanker. OIOS ID received no complaints related to companies selling humanitarian goods under the Programme. For reasons discussed more fully below, OIOS ID was unable to gain entry into Iraq to investigate these matters.<sup>170</sup>

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<sup>168</sup> The Committee conducted a brief review of the resources and ability of OIOS ID to conduct and pursue investigations regarding the Programme and related activities. The assessment in this section is based upon the review of OIOS ID detailed allegation statistics and related records, as well as interviews with OIOS ID staff. It does not include a detailed review of each of the investigations conducted in relation to the Programme, or interviews of any of the witnesses or evidence identified in those investigations.

<sup>169</sup> Barbara Dixon memorandum to Karl Paschke (June 13, 1997) (advising of the effect of budget reductions on the work of OIOS ID); “OIOS Annual Reports,” A/54/393, para. 127 (Sept. 23, 1999), A/55/436, para. 153 (Oct. 2, 2000), A/56/381, paras. 214-15 (Sept. 19, 2001), A/57/451, para. 53 (Oct. 4, 2002); A/58/364, para. 136 (Sept. 11, 2003), A/59/359, p. 54 (Oct. 27, 2004); Barbara Dixon memorandum to Hocine Medili (May 14, 2001) (requesting investigators for the Iraq region); Benon Sevan note to Barbara Dixon (May 26, 2001) (advising that he could not support OIOS ID’s recommendation due to complaints from the Government of Iraq over the increase in numbers of international staff in Iraq). Mr. Medili is Director of the Field Administration and Logistics Division of the Department of Peacekeeping Operations (“DPKO”); Barbara Dixon interview (Feb. 21, 2005).

<sup>170</sup> OIOS ID detail allegation statistics (Jan. 18, Feb. 18, and Aug. 10, 2005); OIOS ID case predication form, no. 98-0137 (Oct. 28, 1998). The breakdown of the number of cases discussed in the aforementioned documents, by entity is: UNOHCI (15); UN-Habitat (8); OIP (6); UNCC (5); UNMOVIC (2); UNOPS (1); WFP (1); and DESA (1). *Ibid.*; Barbara Dixon interview (Jan. 18, 2005) (stating that Mr. Sevan had advised her that he could not get OIP staff into Iraq, let alone OIOS ID investigators); Francis Montil interview (Jan. 31, 2005) (noting that the assessment mission in northern Iraq to investigate complaints received regarding UN-Habitat and the Programme never materialized because of an inability to obtain visas).

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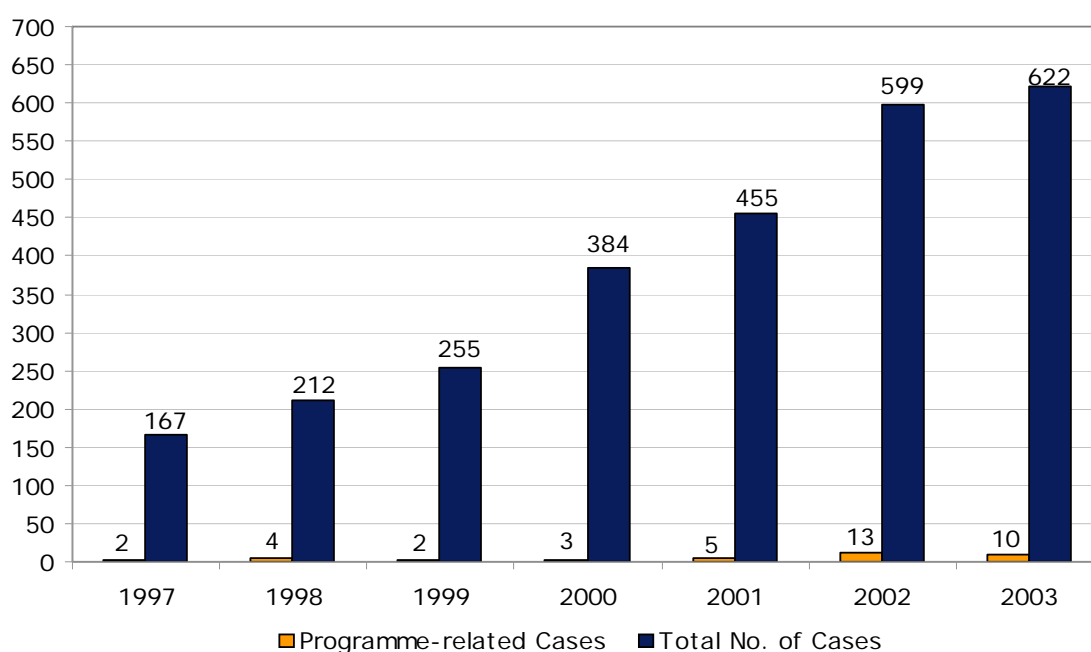
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In 2002, OIOS ID received its largest number of complaints in a Programme year: thirteen. A comparison of data on OIOS ID's received cases and Programme-related cases demonstrates that Programme-related cases were only a small fraction of the total cases received by OIOS ID during the Programme period.

Chart B – Comparison of Programme-Related Cases and Total Number of Cases Received by OIOS ID per Year<sup>171</sup>



OIOS ID investigators attempted to reach out to entities such as UNOHCI to encourage them to report problems. However, these overtures were met with no response. The low number of reported complaints during the Programme—despite the presence of OIOS ID within the organization—suggests a culture of non-reporting. This could have been due, in part, to the general lack of acceptance of OIOS ID within the United Nations programs and funds and to the unwillingness of managers to support investigations of their own programs. Moreover, the United Nations imposes no duty upon its staff to report fraud and corruption. During the period

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<sup>171</sup> “OIOS Annual Reports,” A/54/393, para. 127 (Sept. 23, 1999), A/55/436, para. 153 (Oct. 2, 2000), A/56/381, paras. 214-15 (Sept. 19, 2001), A/57/451, para. 53 (Oct. 4, 2002); A/58/364, para. 136 and p. 59 (Sept. 11, 2003), A/59/359, p. 54 (Oct. 27, 2004).

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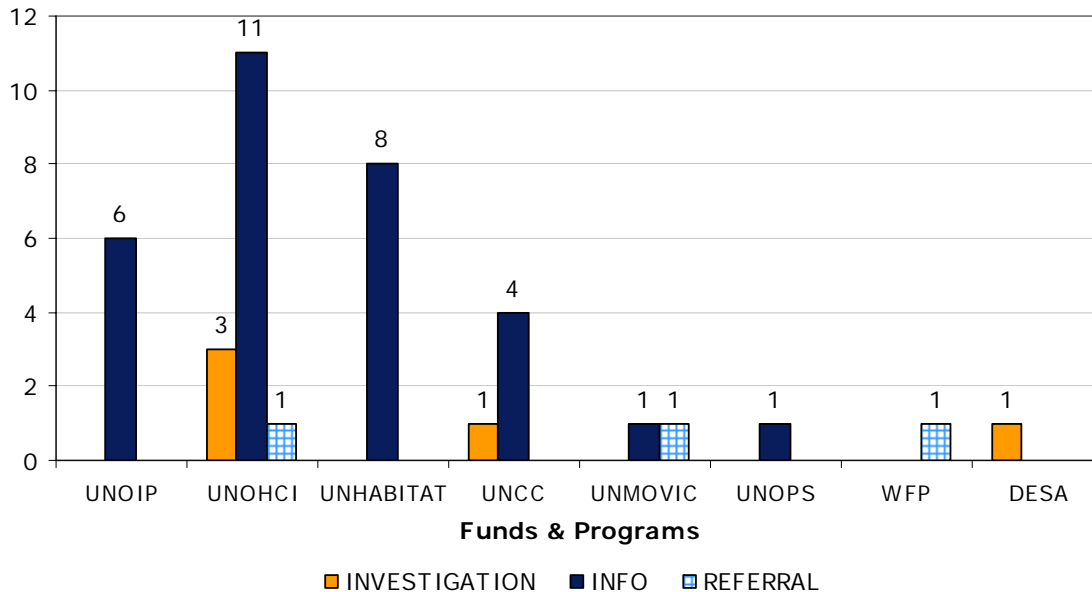
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of the Programme, as noted above, the United Nations provided no “whistleblower protection” for United Nations staff.<sup>172</sup>

For those Programme-related complaints that were received and for which investigations were opened, little investigation was actually undertaken. Several important factors impaired the ability of OIOS ID to conduct investigations relating to the Programme, most notably a lack of necessary financial resources and an inability to obtain Iraqi visas for OIOS ID investigators. Cases that were not investigated were filed for informational purposes or referred to a different department or agency for further review and action.<sup>173</sup>

Chart C – OIOS ID Programme-Related Cases, 1997-2003<sup>174</sup>



OIOS did not have an adequate budget to properly investigate the OFFP. The division received no support, financial or otherwise, from OIP. Prior to July 2000, OIOS ID did not receive any extra-budgetary funding from any of the Organization’s funds and programs. It does not appear that OIOS ID requested extra-budgetary funding from OIP until May 2001, when the Director of OIOS ID requested additional resources to conduct investigations in Iraq. Specifically, this

<sup>172</sup> Barbara Dixon interview (Feb. 21, 2005); Francis Montil interview (Jan. 31, 2005). This Chapter addresses earlier the United Nations’ proposed Whistleblowing Protection Policy.

<sup>173</sup> Barbara Dixon interview (Aug. 19, 2005).

<sup>174</sup> OIOS ID detail allegation statistics (Jan. 18, Feb. 18, and Aug. 10, 2005); OIOS ID case predication form, no. 98-0137 (Oct. 28, 1998).

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proposal involved funding two resident investigators to cover the Iraq region, which would include the Guard Contingent (“UNGCI”) in northern Iraq as well as UNOHCI and OIP in Baghdad. Twelve days after making this request, the Director of OIOS ID received a note from Mr. Sevan advising that OIP could not support her recommendation due to the Government of Iraq’s complaints over the increasing number of international staff in Iraq.<sup>175</sup>

Despite the absence of any extra-budgetary support, OIOS ID attempted to investigate several cases in Iraq. In order to investigate a UNOHCI sexual harassment allegation in 2000, Mr. Sevan requested that Mr. Myat, Humanitarian Coordinator, “ensure that the Government grants visas to the investigation team as soon as possible.” After this personal intervention by Mr. Sevan, the Government of Iraq granted visas for two OIOS ID investigators to investigate the harassment allegation in Iraq. However, this was the only entry for OIOS ID staff ever approved by the Government of Iraq.<sup>176</sup>

In 2001, OIOS ID requested that UNOHCI in Baghdad secure a visa for an investigator to travel to northern Iraq on mission from November 25 to December 4, 2001. On November 18, 2001, UNOHCI provided security clearance for the travel; however, the visa was still not secured. Mr. Myat advised UN-Habitat that the issuance of visas was a matter entirely up to the Government of Iraq. For over a year, numerous requests were made regarding the status of the investigator’s visa, which ultimately the Government of Iraq did not approve. Six additional complaints regarding UN-Habitat in Iraq were received in 2002.<sup>177</sup> As a result of the inability to enter Iraq, none of the eight complaints relating to UN-Habitat in Iraq ever were investigated. OIOS ID’s investigative files do not indicate whether there were any attempts to advance these investigations using alternative methods after it became apparent that OIOS ID staff could not obtain visas to enter Iraq. Between 2001 and 2003, OIOS made additional efforts to obtain visas through the offices of UNOHCI, OIP, and UN-Habitat, but none were ever approved.<sup>178</sup>

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<sup>175</sup> Barbara Dixon interviews (Feb. 21 and Aug. 19, 2005); Barbara Dixon memorandum to Hocine Medili (May 14, 2001); Benon Sevan note to Barbara Dixon (May 26, 2001). OIOS ID did not enjoy a good relationship with Mr. Sevan. Prior to the Programme, Mr. Sevan had managed a program investigated by OIOS ID. Barbara Dixon interview (Feb. 21, 2005).

<sup>176</sup> OIOS ID detail allegation statistics (Jan. 18, 2005) (detailing case number 0298/00); Benon Sevan cryptogram to Tun Myat (Nov. 6, 2000) (requesting assistance in obtaining approval for two visas); Tun Myat cryptogram to Benon Sevan (Nov. 7, 2000) (indicating that the Government of Iraq had granted the visas); Barbara Dixon interview (Jan. 18, 2005).

<sup>177</sup> These complaints alleged irregularities in the contract bidding process, misconduct, sexual assault, waste of resources and fraud. OIOS ID detail allegation statistics (Jan. 18, 2005).

<sup>178</sup> Barbara Dixon memorandum to Tun Myat (Nov. 15, 2001) (requesting security clearance and a visa for OIOS ID investigator Jesse Ngari); Barbara Dixon e-mail to Jesse Ngari (Nov. 19, 2001) (advising Mr. Ngari of his security clearance, but noting that UN-Habitat would be responsible for arranging visas); Barbara Dixon interview (Jan. 18, 2005) (stating that Mr. Sevan had advised her that he could not even get visas for OIP staff); Francis Montil interview (Jan. 31, 2005) (noting that the assessment mission in northern Iraq to investigate complaints received regarding UN-Habitat and the Programme never materialized because of an inability to obtain visas); Barbara Dixon e-mail (Feb. 10, 2002) (requesting

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The Committee notes that on at least three occasions OIOS ID referred complaints back to UNCC (once) and OIP (twice) for the relevant departments to conduct their own internal inquiries. In the case of the referral involving UNCC, OIOS ID received a response from the UNCC within two months, stating that UNCC had found no substance to the allegation. According to OIOS ID, complaints were regularly referred back to the entity submitting the complaint due to the limited financial resources.<sup>179</sup>

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assistance in securing a visa for Mr. Ngari); Barbara Dixon e-mail to Jesse Ngari (Feb. 12, 2003) (advising Mr. Ngari that travel to Iraq has been suspended). The problem of the Government of Iraq refusing to issue visas to the Agencies' staff escalated in November 2000, when the Agencies increased the number of international staff implementing Programme activities in Iraq's three northern governorates. OIP, "Impact of the Non-Issuance of Visas on Programme Implementation in the Three Northern Governorates of Iraq" (Nov. 2001). The non-issuance of visas violated the Iraq-UN MOU. See Iraq-UN MOU, paras 45(c), 46 (indicating that persons performing contractual services for the United Nations in connection with the Programme shall be promptly issued visas by the Iraqi authorities). A memorandum from one UN-Habitat employee to another noted that, because of the number of international staff in Iraq, "only gentle persuasion based on acceptable, to [the Government of Iraq], reasons can be used to obtain visas." Hans Bruyntjes memorandum to Jorge Gavidia (Jan. 11, 2002); OIOS ID detail allegation statistics (Jan. 18, 2005).

<sup>179</sup> OIOS ID detail allegation statistics (Jan. 18 and Feb. 18, 2005) (detailing cases number 0057/99, 0155/99 and 0376/02); Barbara Dixon letter to Jean-Claude Aimé (Mar. 21, 2000); Barbara Dixon letter to Benon Sevan (May. 23, 2000); Jean-Claude Aimé letter to Barbara Dixon (May 15, 2000); Benon Sevan letter to Barbara Dixon (June 23, 2000); Barbara Dixon interview (Aug. 19, 2005).



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## **VI. OTHER OVERSIGHT FUNCTIONS**

### **A. MONITORING EVALUATION AND CONSULTING**

As noted above, MECD did not perform any evaluations or inspections of the Programme. When interviewed, MECD's head of unit, Vladislav Guerassev, stated that the Programme was outside the scope of MECD's normal activities. Generally, MECD evaluates United Nations budget activities, which did not include the Programme which was an extra-budgetary activity. The General Assembly occasionally requests that MECD undertake specific evaluations of extra-budgetary activities. However, the General Assembly never requested that MECD evaluate the Programme.<sup>180</sup>

Although the head of MECD presumed that the shortcomings revealed by OIOS's audits were no more serious than those exhibited in other United Nations areas, the very difficulties involved in the evaluation of the Programme—its size, extra-budgetary status, uncertainty, and complexity—made a proper evaluation all the more critical. So far as the Committee is aware, no overall Programme goals were set; there were no ongoing managerial assessments; and there were no performance comparisons of participating entities of the Programme.<sup>181</sup>

### **B. JOINT INSPECTION UNIT**

JIU's purpose and mandate was reviewed in the First Interim Report. The JIU did not perform any reviews or investigations of the Programme.<sup>182</sup> A JIU review at the inception of the Programme might have been beneficial. Such a review could have highlighted many problematic management, control, and resource issues with the aim of implementing improvements early in the Programme's development.

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<sup>180</sup> Vladislav Guerassev interview (Apr. 8, 2005); ST/SGB/2000/8, sec. 6 (May 16, 2002) (detailing the structure and functions of MECD). According to Mr. Guerassev, there are three reasons why the Programme was not evaluated by MECD. First, requesting an evaluation ordinarily implies that it will be tied to an improvement regime. Because the Programme was viewed as a short-term project with little continuity, it was not a suitable candidate for such an evaluation. Second, there was minimal political interest in making the Programme more efficient and effective. Third, MECD had the fewest resources of any OIOS division and could not realistically conduct an adequate and comprehensive evaluation of the Programme. Vladislav Guerassev interview (Apr. 8, 2005).

<sup>181</sup> Ibid. This point is also illustrated by an independent study entitled "Impact of the Oil-for-Food Programme on the Iraqi People," released in connection with this Report.

<sup>182</sup> "First Interim Report," pp. 172-73.

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## **VII. FINDINGS AND CONCLUSIONS**

As outlined in the introduction, in addition to describing the oversight activities in the Programme, the Committee sought to answer the following questions:

1. Was there sufficient funding and staff to perform adequate oversight of the Programme?
2. Were all the important aspects of the Programme fully audited?
3. Were audit findings properly reported and was the implementation of recommendations monitored?
4. Were contentious issues relating to Programme oversight properly resolved?
5. Do United Nations policies and procedures conform to “best practices” for oversight?

Findings:

1. The Committee finds that the funding and staffing levels for Programme oversight services, including internal audit, external audit, and investigations, were insufficient.

Extra-budgetary endeavors, such as the Programme, did not have an independent mechanism to determine the necessary funding for oversight.

Considered both in relation to United Nations and public company benchmarks, an endeavor of the Programme’s magnitude and complexity required internal audit resources many times greater than what actually was in place.

The refusal of OIP’s management to allocate sufficient funds and its reluctance to obtain visas for investigations staff particularly impeded the achievement of adequate staffing levels and prevented OIOS ID from fully carrying out its duties.

Although BOA is not subject to any restraint on levels of staffing and funding, in the Committee’s view, the resources it applied to Programme auditing were inadequate and well below public company benchmarks.

Because none of the existing governing bodies—the General Assembly, the Security Council, or the Agencies’ governing bodies—addressed all of the Programme’s many inter-connected aspects, appropriate funding and staffing were never allocated for the coordinated review of risks and audit planning across the Programme.

2. The Committee finds that key areas of the Programme were neither adequately nor timely reviewed.

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Internal and external auditors failed to audit and test properly some of the Programme's most critical areas—including pricing of oil and humanitarian goods—and to assess their impact on the Programme's financial statements.

For the most part, the Agencies' internal audits began far too late in the Programme.

BOA audit planning appears to have been inconsistent, and the areas subject to review varied by year. Furthermore, despite the Programme's increasing complexity in 2000, the number of areas addressed in BOA's audit reports declined significantly.

External audit review of Programme activities in the Agencies was very limited because the reviews were carried out within the context and materiality of the Agencies' overall operations.

Audit coverage was further limited by the absence of any agreement that the Agencies, OIOS, and OIP coordinate Programme internal oversight and the fact that no policy mandates required coordination and communication across the various UN-related Agencies.

3. The Committee finds that OIP management, the General Assembly, and the Security Council, were not provided with audited financial statements and internal audit reports that comprehensively covered all aspects of the Programme and highlighted deficiencies impacting the Programme's effectiveness.

BOA's audits of the Programme's accounts were reported in a timely manner, but internal audit reports were not published in a timely manner and in a consistent format, and they were not made available to OIP, the General Assembly, or the Security Council.

Moreover, audit findings and recommendations were frequently not implemented in a timely fashion, and often were ignored. There is no evidence suggesting that there were consequences for managers responsible for programs subject to adverse audit comments or for managers who failed to implement audit recommendations.

The Programme had potentially quantifiable aims such as effective and efficient humanitarian relief, and improving the health and nutrition of the Iraqi people. However, the Programme's overall goals were not specified and were not subject to evaluation and monitoring by internal oversight.

4. The Committee finds that the disjointed and sometimes overlapping approach to oversight left a number of contentious issues unresolved, including:

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OIP and the 661 Committee were very concerned that they were not receiving copies of the Agencies' audit reports. OIP attempted to amend its memoranda of understanding with the Agencies to require the Agencies to share their audit reports with OIP. The Agencies resisted this attempt, and the issue never was fully resolved.

OIOS likewise requested copies of the Agencies' audit reports in order to better coordinate and audit the Programme. The Agencies similarly resisted this request, and the issue was not resolved.

5. The Committee finds several deviations from "best practices."

Areas in which internal oversight did not conform to best practice included: (a) lack of direct reporting to an independent oversight board; (b) failure to perform risk assessments to professional IIA standards; and (c) lack of budgetary independence.

The evidence available to the Committee suggests that BOA did not consistently follow its audit standards and that there were technical shortfalls in its approach to risk assessment, planning and testing during the Programme. This finding is supported by the variability of the areas covered in BOA's audit reports from year to year, the high risk areas not consistently addressed in its reports, its approach to detection and reporting of fraudulent transactions, and the lack of comment on the internal control weaknesses described in internal audit reports.

The Committee finds that BOA paid insufficient attention to the risks of fraudulent manipulations of Programme income and spending by the Iraqi regime and that, by the 2000-2001 biennium, should have qualified its attestations regarding the Programme's financial statements.

OIOS ID is generally not supported and accepted across the United Nations by both management and staff. This, together with a lack of a whistleblower protection policy, prevents OIOS ID from successfully carrying out its mandate.

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#### Conclusions:

Many of the same shortfalls observed in the First Interim Report (regarding OIOS's internal audits of the Programme) also are apparent in regard to the oversight bodies discussed in this Chapter. The oversight bodies failed to uncover serious manipulations of oil and humanitarian contracts by the Iraqi regime and often failed to stimulate improvement of the many Programme-related activities on which they reported. Of particular concern are the unqualified audit opinions rendered by the external auditors, particularly in light of the fraudulent pricing of oil and humanitarian contracts discussed elsewhere in this Report, as well as the misstatement of certain administrative costs as described in Chapter 1 of this Volume.

Programme oversight was limited by a lack of coordinated planning, field work, and reporting by internal and external auditors across the United Nations and the UN-related Agencies. There are striking similarities between audit findings and recommendations regarding the Agencies, but due to organizational barriers, the Agencies and OIP did not effectively cooperate to bring about improvements. Many of the same deficiencies were reported repeatedly by the Agencies' internal auditors and were not adequately addressed prior to the Programme's end.

These shortcomings had two broad effects. First, some critical aspects of the Programme were not subject to audit, or audits were performed too late to have appropriate impact. Second, despite an avalanche of issues reported by the oversight bodies, the United Nations did not react and take sufficient and timely corrective action. The Committee concludes that these shortcomings in Programme oversight were not generally caused by deliberate actions to frustrate or deny full oversight. Rather, they resulted from weaknesses in the structure, independence, professional standards, and resources of the oversight functions.

The United Nations system presents one of the most complex and demanding oversight environments. It operates across cultures and languages, addressing emergency situations in parts of the world that face political uncertainty, economic hardship, and under-developed infrastructure. The United Nations system is intricate, subject to political pressures, and filled with staff and management from diverse backgrounds. Proper oversight subsequently demands appropriate leadership, qualified staff members, sufficient resources, structural independence, and coordination. Accordingly, the Committee's recommendations, set forth in Chapter 3 of Volume I of this Report, aim to reorganize oversight across the United Nations system to: (1) create real independence; (2) integrate diverse units into a fully-coordinated force; and (3) improve planning, risk assessment, and accountability. The Committee views these recommendations as critical reforms; determined efforts to implement them would send a powerful message from the United Nations' leadership to its staff and the world.

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## VIII. ANNEX 1: INTERNAL AUDIT REPORTS OF THE AGENCIES<sup>183</sup>

Entity Audited	Report ID	Report Title	Year
FAO	AUD 1103	Oil for Food Programme – Certification of LGF Accounts	2003
	AUD 1204	Closure of the Oil-for-Food Programme in North Iraq	2004
	AUD 1404	Oil-for-Food Programme – Procurement of Urea	2004
	AUD 1504	Oil-for-Food Programme – Amendments to contracts under SCRs 1472/1476	2004
	AUD 2201	Oil for Food Programme – Resolving Management Constraints	2001
	AUD 2202	Oil for Food Programme – Follow-up on Transport Service Contracts	2002
	AUD 2504	Oil-for-Food Programme – Amendments to contracts under SCR 1483	2004
	AUD 2702	Oil for Food Programme – Local Procurement Unit	2002
	AUD 2904	Oil-for-Food Programme – Procurement of DAP	2004
	AUD 3204	Oil-for-Food Programme – Award of a Transport Service Contract (Alleged Staff Misconduct)	2004
	AUD 3302	Oil-for-Food Programme – Special Human Resource Issues	2002
	AUD 3401	Back to Office Report – Oil for Food Programme	2001
	AUD 3402	Oil for Food Programme – Bids for Freight Transportation Contracts	2002
	AUD 3403	Oil for Food Programme – Procurement of Spraying Vehicles	2003
	AUD 3801	Oil for Food Programme – Cash Security in FAO Offices in Northern Iraq	2001
	AUD 3901	Oil for Food Programme – Review of Procedure for Contracting for Civil Engineering Services	2001
	AUD 3904	Procurement of proprietary herbicides	2004
	AUD 4102	Oil for Food Programme – Mechanization Sub-sector Distribution Centres	2002
	AUD 4698	“Oil for food” Programme (SCR 986) in Iraq OSRO/IRQ/607, 702, 703 and 801/DHA	1998
	AUD 5002	Oil for Food Programme – Thefts in warehouses	2002
	AUD 5103	Losses arising from looting in Baghdad	2003
	AUD 5302	Oil for Food Programme – Follow-up on Inventory Verification	2002
	AUD 5399	Oil for Food Program - Review of internal Controls	1999
	AUD 5501	Oil for Food Programme – Review of Contracts on Hiring of Water Tankers	2001
	AUD 5599	Oil for Food Program – Review of Management Constraints	1999
	AUD 5699	Oil for Food Program – Review of Performance Measurement	2000
	AUD 603	Oil-for Food Programme – LGF Accounting Issues	2003
	AUD 6101	Review of the Irregularities in the Awarding of a Transport Contract	2001
	AUD 6403	Oil for Food Programme – Review of LGF Accounts (September 2002-July 2003)	2003
	AUD 7201	Oil-for-Food Programme - Special Review of FAO Observation Role in Centre/South Iraq - Organizational Structure	2001
	AUD 8001	Oil-for-Food Programme - Special Review of FAO Observation Role in Center/South Iraq - Observation Procedures	2001
	AUD 802	Oil-for Food Programme - Inventory Management of Deep Well Pumps	2002
	IAR 6097	“Oil for food” Programme (SCR 986) in Iraq OSRO/IRQ/607 and 702/DHA	1997

<sup>183</sup> Throughout the Chapter, this set of sixty-six Programme-related audits conducted by the Agencies is referred to as “Programme-related audits of the Agencies (1997-2004).”

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Entity Audited	Report ID	Report Title	Year
<b>UN-Habitat</b>	AF00/101/1	OIOS Audit of the UNCHS Settlement Rehabilitation Programme in Northern Iraq	2000
	AF2001/32/2	UNCHS Settlement Rehabilitation Project in Northern Iraq	2001
	AF2002/24/1	Management Audit of the UN-Habitat Settlement Rehabilitation Programme - in Northern Iraq	2002
	AF2002/24/2	Management Audit of the UN-Habitat Settlement Rehabilitation Programme - in Northern Iraq	2002
	AF2003/93/1	Audit of UN-Habitat SRP Processing of Invoices for Payment	2003
<b>UNDP</b>	AH99/4/3	OIOS Audit of DESA Project IRQ 97003	1999
	AH99/7/2	OIOS Audits of the Oil for Food Programme	1999
	IAS0042	PWC Internal Audit Report to UNDP OAPR - UNDP Country Office In Iraq	1999
	IAS0088	UNDP-ENRP Office in Northern Iraq	2002
	IAS0095	UNDP-ENRP Office in Northern Iraq	2004
	RCM0023	Review of Irregularities in the Procurement of Goods and Services in the UNDP Office in Iraq	1999
	RCM0025	ENRP Northern Iraq; UNDP Direct Execution	2000
	RCM0060	ENRP Northern Iraq; UNDP Direct Execution	2000
	RCM0075	UNDP Office in Iraq	2001
	RCM024	Review of Allegations of irregularities in the Recruitment of Personnel in the UNDP Office in Iraq and follow up on OAPR Report No.IAS0042	1999
<b>UNESCO</b>	IOS/2001/Report N° 1	Audit of the Iraq Oil for Food Programme	2001
	IOS/2002/Report N° 15	Iraq Oil for Food Programme (OFFP) – International Procurement Activities	2002
	Report Towards an Education Revival	Report Towards an Education Revival	2001
	IOS/2004/13	Audit Report on Winding Up of the Iraq Oil for Food Programme	2004
<b>UNICEF</b>	2000/019	Audit of the Baghdad Country Office and the Erbil Zonal Office	2000
	2002/12	Audit Report of the Iraq Country Office	2002
	2004/09	Audit Report of the Iraq Office: Office of Internal Audit	2004
	97/006	Audit Report on the Baghdad Country Office, Iraq	1997
	98/022	Audit of the Baghdad Country Office, Iraq	1998
	2004/18	Audit Report on the Termination and Handover of the Oil-for-Food Programme Office of Internal Audit	2004
<b>UNOPS</b>	POS 163	Desk Audit of Liquidation of UNOPS Activities in Northern Iraq	2004
	PSO137	UNOPS Procurement Activities in Northern Iraq	2002
<b>WFP</b>	AR/01/01	WFP Operations in Iraq Internal Audit Report	2001
	AR/04/18	WFP Operations in Iraq Internal Audit Report	2004
	FA-ODC-03-006	OEDO Review of Emergency Preparedness in the Middle East	2003
<b>WHO</b>	00/583	Oil For Food Programme, Iraq	2000
	02/643	Evaluation of WHO's Procurement of Humanitarian Supplies for Northern Iraq	2002
	AF2001/35/1	Audit of Budget Practices for the SCR 986 (1995) 2.2 Per Cent Account	2002

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**IX. ANNEX 2: EXTERNAL AUDITS OF THE IRAQ ACCOUNT<sup>184</sup>**

Report Title	For the Period of
Report of the Board of Auditors on the Audit of the United Nations Escrow Account (the Iraq Account) established under the provisions of the Security Council Resolution 986 (1995)	December 10, 1996 to June 30, 1997
Report of the Board of Auditors on the Audit of the United Nations Escrow Account (the Iraq Account) established under the provisions of the Security Council Resolution 986 (1995)	July 1 to December 31, 1997
Report of the Board of Auditors on the Audit of the United Nations Escrow Account (the Iraq Account) established under the provisions of the Security Council Resolution 986 (1995)	January 1 to June 30, 1998
Report of the Board of Auditors on the Audit of the United Nations Escrow Account (the Iraq Account) established under the provisions of the Security Council Resolution 986 (1995)	July 1 to December 31, 1998
Report of the Board of Auditors on the Audit of the United Nations Escrow Account (the Iraq Account) established under the provisions of the Security Council Resolution 986 (1995)	January 1 to December 31, 1999
Report of the Board of Auditors on the Audit of the United Nations Escrow Account (the Iraq Account) established under the provisions of the Security Council Resolution 986 (1995)	January 1 to December 31, 2000
Report of the Board of Auditors on the Audit of the United Nations Escrow Account (the Iraq Account) established under the provisions of the Security Council Resolution 986 (1995)	January 1 to December 31, 2001
Report of the Board of Auditors on the Audit of the United Nations Escrow Account (the Iraq Account) established under the provisions of the Security Council Resolution 986 (1995)	January 1 to December 31, 2002
Report of the Board of Auditors on the Audit of the United Nations Escrow Account (the Iraq Account) established under the provisions of the Security Council Resolution 986 (1995)	January 1 to December 31, 2003

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<sup>184</sup> Throughout the Chapter, this set of BOA’s eight external audits of the Iraq Account is referenced as “BOA external audit reports on the Iraq Account.”



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Entity Audited	Report Title
FAO	Audited Accounts FAO 1996-97
	Audited Accounts FAO 1998-99
	Audited Accounts FAO 2000-01
	Audited Accounts FAO 2002-03
UN-Habitat	Financial Report and audited financial statements for the biennium ended 31 December 1997 and Report of the Board of Auditors
	Financial Report and audited financial statements for the biennium ended 31 December 1999 and Report of the Board of Auditors
	Financial Report and audited financial statements for the biennium ended 31 December 2001 and Report of the Board of Auditors
	Financial Report and audited financial statements for the biennium ended 31 December 2003 and Report of the Board of Auditors
UNDP	Financial Report and audited financial statements for the biennium ended 31 December 1997 and Report of the Board of Auditors
	Financial Report and audited financial statements for the biennium ended 31 December 1999 and Report of the Board of Auditors
	Financial Report and audited financial statements for the biennium ended 31 December 2001 and Report of the Board of Auditors
	Financial Report and audited financial statements for the biennium ended 31 December 2003 and Report of the Board of Auditors
UNESCO	Financial Reports and Audited Financial Statements relating to the Accounts of UNESCO for the Financial Period Ending 31 December 1997, and Report by the External Auditors
	Financial Reports and Audited Financial Statements relating to the Accounts of UNESCO for the Financial Period Ending 31 December 1999, and Report by the External Auditors
	Financial Reports and Audited Financial Statements relating to the Accounts of UNESCO for the Financial Period Ending 31 December 2001, and Report by the External Auditors
	Financial Reports and Audited Financial Statements relating to the Accounts of UNESCO for the Financial Period Ending 31 December 2003, and Report by the External Auditors
UNICEF	Financial Report and audited financial statements for the biennium ended 31 December 1997 and Report of the Board of Auditors
	Financial Report and audited financial statements for the biennium ended 31 December 1999 and Report of the Board of Auditors
	Financial Report and audited financial statements for the biennium ended 31 December 2001 and Report of the Board of Auditors
	Financial Report and audited financial statements for the biennium ended 31 December 2003 and Report of the Board of Auditors
UNOPS	Financial Report and audited financial statements for the biennium ended 31 December 1997 and Report of the Board of Auditors
	Financial Report and audited financial statements for the biennium ended 31 December 1999 and Report of the Board of Auditors
	Financial Report and audited financial statements for the biennium ended 31 December 2001 and Report of the Board of Auditors
	Financial Report and audited financial statements for the biennium ended 31 December 2003 and Report of the Board of Auditors

<sup>185</sup> Throughout the Chapter, this set of thirty-six external audits of the Agencies is referenced as “External audits of the Agencies (1997-2003).”

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Entity Audited	Report Title
WFP	Audited Biennial Accounts (1996-1997) Financial Report and Statements
	Audited Biennial Accounts (1998-1999) Financial Report and Statements
	Audited Biennial Accounts (2000-2001) Financial Report and Statements
	Audited Biennial Accounts (2002-2003) Financial Report and Statements
WHO	Financial Report and Audited Financial Statements for the period 1 January 1997 – 31 December 1997 and Report of the External Auditor to the World Health Assembly
	Financial Report and Audited Financial Statements for the period 1 January 1998 – 31 December 1999 and Report of the External Auditor to the World Health Assembly
	Financial Report and Audited Financial Statements for the period 1 January 2000 – 31 December 2001 and Report of the External Auditor to the World Health Assembly
	Financial Report and Audited Financial Statements for the period 1 January 2002 – 31 December 2003 and Report of the External Auditor to the World Health Assembly

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## I. INTRODUCTION AND SUMMARY

The United Nations Treasury (“Treasury”), a division within the United Nations Department of Management, is tasked with safeguarding the financial assets of the United Nations and of its programs and funds. As part of this responsibility, Treasury managed and invested the proceeds generated from the sale of Iraqi oil under the Programme. These monies totaled billions in United States dollars (“USD”) and euros, and they represented a sizeable portion of all funds that Treasury managed. As discussed in the First Interim Report, persistent questions have arisen in the media and elsewhere about the United Nations’ management of Programme funds, including its treatment of the interest earned on these funds.<sup>186</sup>

This Chapter addresses three questions:

1. Did Treasury’s investment of Programme funds comply with the relevant United Nations guidelines?
2. Did Treasury adequately assess and address the risks relating to: (a) the concentration of Programme funds at Banque Nationale de Paris (“BNP”); and (b) the Programme’s shift to euro-denominated oil sales?
3. Were total investment returns reasonable for each Programme account, and were these returns properly credited to the accounts? In addition, was the interest earned by the UN-related Agencies on funds advanced to them for administration of the Programme properly credited to the Programme’s escrow account?

To answer these questions, Treasury’s policies and procedures were reviewed broadly, with particular attention to their application to the Programme. A detailed analysis of Treasury’s investment of Programme funds also was performed. The Committee’s assessment of the United Nations’ management of Programme funds is based on information gathered from interviews of key personnel and full access to relevant United Nations records, including internal and external memoranda, investment reports, general accounting ledgers, and bank statements.

Part II of this Chapter reviews the relevant rules that governed Treasury’s investment of Programme funds as well as its account and investment arrangements for these funds. Part III then discusses the concerns raised by Treasury in regard to credit risk, including attempts to diversify the investment and letter-of-credit functions, and to the shift in conducting oil sales in euros rather than USD. After addressing Treasury’s system for tracking investment interest and earnings, Part IV provides the Committee’s assessment of the investment returns on Programme

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<sup>186</sup> United Nations, “Department of the UN Secretariat,” <http://www.un.org/Depts>; “Financial Regulations and Rules of the United Nations,” ST/SGB/Financial Rules/1/Rev.3 (1985) (hereinafter “Financial Rules”), art. IX (Authority, responsibility and policy) (articulating the responsibility of the Under-Secretary-General for Management to oversee investment decisions in order to minimize risks, ensure liquidity, and achieve reasonable returns); “First Interim Report,” p. 195.

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funds, and it concludes with a discussion of the interest earned on funds advanced to the UN-related Agencies for administration of the Programme in northern Iraq.

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## II. PROGRAMME BANKING

### A. COMMON PRINCIPLES AND POLICIES FOR INVESTMENTS

The Common Principles and Policies for Investments (“CPPI”), originally drafted in June 1993 and updated in January 2000, provides “a common framework for the development of investment policies among the United Nations, UNDP, UNICEF, WFP” and any other member of the Administrative Committee on Coordination. CPPI identifies, in decreasing order of importance, three main investment objectives: (1) preservation of capital; (2) maintenance of liquidity; and (3) generation of a competitive return. Although the Committee has not reviewed any documentation specifically adopting CPPI in regard to the management of Programme funds, Treasury informed the Committee—as it previously told the Internal Audit Division (“IAD”) of OIOS—that CPPI governed Programme investments.<sup>187</sup>

#### 1. Permissible Investment Vehicles and Institutions

In keeping with the investment objectives noted above, CPPI prioritizes investment quality, safety, and liquidity over the absolute rate of return. It therefore permits investments in eight different vehicles: (1) bank deposits; (2) commercial paper of banks, corporations (with a minimum equity of \$5 billion), agencies, and provinces/states; (3) euro notes of sovereign and supranational entities; (4) bankers acceptances; (5) treasury bills; (6) repurchase agreements (repos and reverse repos); (7) United States treasury and agency securities; and (8) bonds (both euro and domestic). Moreover, CPPI prohibits investments in equity, equity-linked, or equity-derivative products and limits the maximum maturity of investments to three years.<sup>188</sup>

CPPI requires the placement of investments with creditworthy financial institutions. For this purpose, the United Nations relies on the institutional credit ratings calculated by Fitch IBCA, Moody’s, and Standard & Poor’s. CPPI provides that the relevant ratings for each financial institution holding United Nations investments must be reviewed and updated at least quarterly. These ratings in turn determine the permissible types, amounts, and terms of investments at the

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<sup>187</sup> “Guiding principles and policies for investments of the United Nations” (June 21, 1993); Financial Services Working Group, “Common principles and policies for investments,” para. 2 (Jan. 2000) (hereinafter “CPPI”); Farooq Chowdhury interviews (Mar. 24 and July 19, 2005); “Audit of the Iraq Escrow Account Treasury and Cash Management Functions,” AF2001/34/1, paras. 7-8 (Dec. 11, 2001). Mr. Chowdhury serves as Senior Investment Officer for Treasury. Farooq Chowdhury interview (Mar. 24, 2005). Prior to CPPI’s formalization, there were few if any funds available for Treasury to invest outside of required bank deposits. See Investment Committee meeting minutes (Dec. 11, 2000). For purposes of this Chapter’s analysis, the relevant provisions in the 1993 and 2000 versions of CPPI are substantially similar. However, the requirement to form an investment committee, as discussed below, was first introduced in the January 2000 version of CPPI. See “Guiding principles and policies for investments of the United Nations” (June 21, 1993); CPPI, paras. 3.2, 14.

<sup>188</sup> *Ibid.*, paras. 2, 15.

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particular institutions. In addition, paragraph seven of CPPI suggests matching investments with the currency of the institution's financial statements (or at least giving "due consideration to the currency") as well as, "to the extent possible, the currency size and duration of obligations."<sup>189</sup>

As discussed in Section II.C of this Chapter, Programme funds were held predominantly in bank deposits at either BNP, for the escrow account, or JP Morgan Chase & Co. ("JP Morgan"), for the other Programme accounts. The remaining funds were invested in various approved instruments at other banks or within the United Nations' pooled investment account.<sup>190</sup>

Based on its review of internal and external audit reports, minutes of United Nations Investment Committee ("Investment Committee") meetings, and interviews with Treasury personnel, the Committee is not aware of any instance in which Treasury invested Programme funds in anything but permissible vehicles as defined by CPPI and the United Nations Financial Rules and Regulations ("Financial Rules").<sup>191</sup>

As described in Section III.B of this Chapter, the Government of Iraq's request in 2000 to transact oil sales in euros rather than in USD—the currency of the Programme's financial statements—implicated CPPI's guidance on the currency of investments. In a report submitted to the 661 Committee, more than merely demonstrating the "due consideration" required by CPPI, Treasury technically assessed the risks and implications associated with this shift, which the 661 Committee ultimately approved.<sup>192</sup>

## 2. Sound Management

CPPI further requires the sound management of investment strategies. It provides that the United Nations should form an investment committee, comprised of financial professionals from within the Organization and chaired by its Treasurer, to review periodically Treasury's investment strategies and tactics. Such an investment committee is to meet at least once every six months

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<sup>189</sup> Ibid., paras. 7-14.

<sup>190</sup> "Audit of the Iraq Escrow Account Treasury and Cash Management Functions," AF2001/34/1, para. 19 (Dec. 11, 2001); Investment Committee meeting minutes (Dec. 11, 2000). In July 2000, Treasury began pooling available funds from various United Nations funds and programs for investment purposes in an attempt to achieve greater returns and lower fees. Investment Committee meeting minutes (Dec. 11, 2000).

<sup>191</sup> Investment Committee meeting minutes (Dec. 11, 2000; Apr. 19 and Dec. 10, 2001; July 2, 2002; Mar. 12 and Nov. 4, 2003); "Audit of the Iraq Escrow Account Treasury and Cash Management Functions," AF2001/34/1, para. 19 (Dec. 11, 2001); BOA Programme audit reports (1997-2002); Farooq Chowdhury interviews (Mar. 24 and July 19, 2005).

<sup>192</sup> Programme financial statements (1997-2004); CPPI, para. 7; Suzanne Bishopric report to 661 Committee (Oct. 26, 2000) (assessing the proposed shift); 661 Committee letter to Joseph Connor, S/AC.25/2000/OC.96 (Oct. 31, 2000) (notifying Mr. Connor of the 661 Committee's approval of Iraq's request and asking for a detailed report on the change). At this time, Mr. Connor served as Under-Secretary-General for the Department of Management. Ibid. Ms. Bishopric has served as United Nations Treasurer since October 1991. Suzanne Bishopric interview (May 26, 2005).

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and maintain minutes of its meetings. In addition, as noted above, CPPI requires the quarterly review and summary of the creditworthiness of all approved financial institutions.<sup>193</sup>

The Committee has reviewed carefully the meeting minutes of the Investment Committee. Although these meetings did not occur precisely every six months, they occurred regularly and generally twice per year. The meetings included open discussions about general market conditions as well as the United Nations' investment strategies, particularly as they pertained to Programme funds. The Committee reviewed also the periodic reports of acceptable investments, which Treasury compiled nearly every three months. These reports included the name, credit rating, and appropriate credit limit for each approved financial institution.<sup>194</sup>

### 3. Diversification

CPPI also underscores the importance of portfolio diversification and safe investments. First, investments are to be distributed among multiple financial institutions with no more than ten percent of all United Nations' holdings to be held at any one institution. Second, total investment at an institution should not exceed five percent of that institution's equity capital, and in no case shall it exceed \$150 million, which is the limit set for the most creditworthy banks.<sup>195</sup>

Funds held at BNP quickly surpassed the deposit limits set by CPPI for a single institution. In fact, funds on deposit reached the \$150 million limit by February 1997, and they exceeded \$1 billion by the end of 1997. As further described in Section III.A of this Chapter, Treasury realized—early in the Programme—the significant credit risk posed by the over-concentration of funds at one institution (BNP), and it attempted proactively, on many occasions, to mitigate that risk. However, the Programme funds held in the escrow account were subject to the requirements of the banking services agreement with BNP, which severely limited the quantity of funds that the United Nations could invest elsewhere. When interviewed, Suzanne Bishopric, the United Nations Treasurer, suggested that the subject of diversification was of little interest to the 661 Committee, and she further noted that the Government of Iraq had resisted Treasury's requests to involve other financial institutions. Nonetheless, as discussed below in Section III.A, some

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<sup>193</sup> CPPI, paras. 3.2, 14.

<sup>194</sup> Investment Committee meeting minutes (Dec. 11, 2000; Apr. 19 and Dec. 10, 2001; July 2, 2002; Mar. 12 and Nov. 4, 2003); Treasury memoranda on approved investments (Mar. 16 and Dec. 13, 1995; July 9 and Oct. 2, 1996; Jan. 6, Mar. 13, July 16, Sept. 29, and Nov. 14, 1997; Jan. 15, June 23, Sept. 22, Oct. 16, and Dec. 18, 1998; Apr. 5, July 15, and Oct. 14, 1999; Jan. 6, Mar. 31, Aug. 7, and Dec. 18, 2000; Apr. 11, Oct. 2, and Dec. 27, 2001; Apr. 9, July 1, and Oct. 1, 2002; Mar. 31, June 30, and Nov. 19, 2003; Jan. 16, June 29, and Sept. 30, 2004).

<sup>195</sup> CPPI, paras. 5, 9, 13, Annex I. CPPI provides that \$150 million is the limit for "A" or "A/B" rated institutions. This limit decreases for lower credit quality institutions to the lowest limit of \$25 million for "C" rated institutions. *Ibid.*, Annex I.



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diversification eventually was achieved in 2001, when Treasury transferred over \$2.5 billion and €1.2 billion in Programme funds to five other financial institutions.<sup>196</sup>

## B. ACCOUNT ARRANGEMENTS

The United Nations opened various bank accounts to deposit the oil proceeds used for the various humanitarian and other purposes under the Programme. As noted below, these accounts were known internally as the ESB, ESC, ESD, ESE, RWA, and CWA Accounts. The ESB Account, referred to alternatively as the “escrow account” was held at BNP, and the other Programme-related accounts were held at JP Morgan. Proceeds from the sale of oil were deposited into the ESB Account, whereupon a portion of the funds was then transferred to the other five accounts at JP Morgan. A description of the accounts, and their respective allocations of oil proceeds, is as follows:<sup>197</sup>

- **ESB Account** – Retained initially about fifty-three percent and later fifty-nine percent of the oil proceeds to fund humanitarian purchases for the fifteen governorates in central and southern Iraq;
- **ESC Account** – Received thirteen percent of the funds for the United Nations Inter-Agency Humanitarian Programme for the three governorates in northern Iraq pursuant to Resolution 986;
- **ESD Account** – Received 2.2 percent of the funds to be used for the United Nations’ operational and administrative costs in connection with the Programme pursuant to Resolution 986;<sup>198</sup>
- **ESE Account** – Received 0.8 percent of the funds to be used for weapons review by UNSCOM/UNMOVIC pursuant to Resolution 986;

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<sup>196</sup> BNP, “Statement of Account” (Feb. 28 and Dec. 31, 1997) (indicating balances in excess of \$150 million and \$1 billion, respectively); Suzanne Bishopric interview (May 26, 2005); Farooq Chowdhury interview (July 19, 2005); “Audit of the Iraq Escrow Account Treasury and Cash Management Functions,” AF2001/34/1, para. 19 (Dec. 11, 2001) (underscoring the need to diversify further the investments of Programme funds); UN-BNP banking services agreement, para. 2.3.6 (Sept. 12, 1996).

<sup>197</sup> S/RES/986, para. 8 (Apr. 14, 1995); “Interim Report of the Secretary-General on the Implementation of Security Council Resolution 986 (1995),” S/1996/978, paras. 34-35 and Annex III (Nov. 25, 1996) (detailing the various Programme accounts); S/RES/1330, para. 12 (Dec. 5, 2000); Katrina Nowlan interview (May 25, 2004). As discussed elsewhere in this Chapter, oil sales were transacted initially in USD and then deposited into a USD account at BNP. Beginning in November 2000, oil sales were transacted in euros and then deposited into a “euro sub-account” within the ESB Account at BNP. Suzanne Bishopric memorandum to 661 Committee (Feb. 26, 2001) (providing the 661 Committee, as requested, with “a report on the payment for Iraqi Oil in Euro”); S/RES/1330, para. 12 (Dec. 5, 2000).

<sup>198</sup> In its First Interim Report, the Committee reviewed the United Nations’ expenditures from the ESD Account. “First Interim Report,” pp. 195-219.

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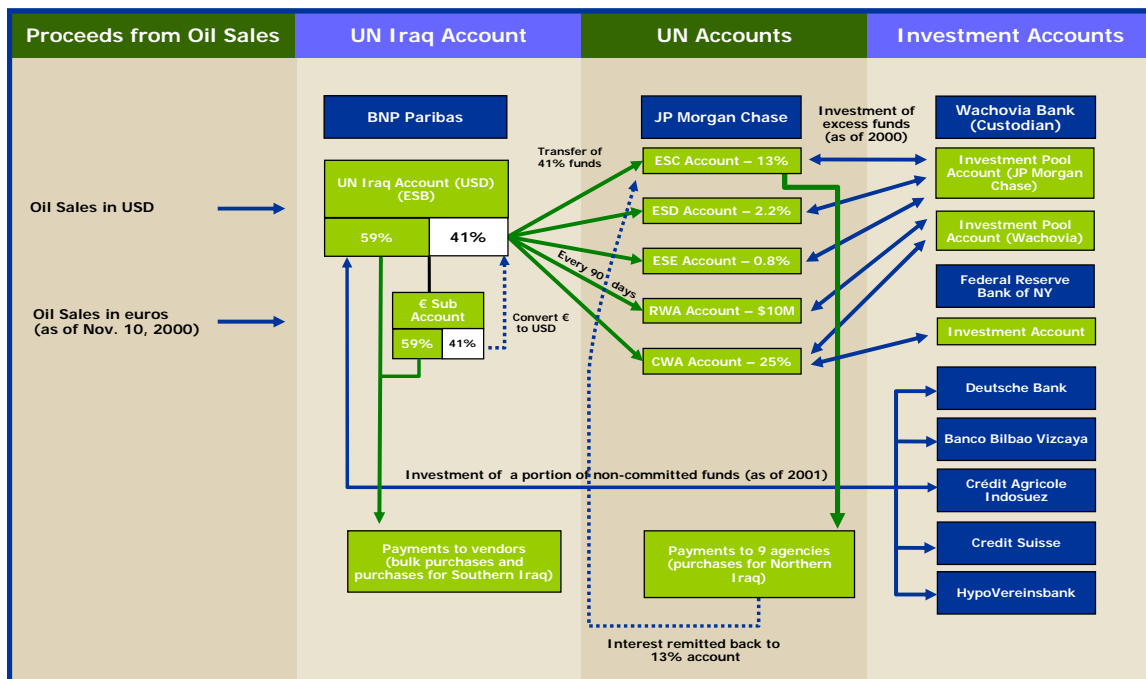
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- **RWA Account** – Funded with \$10 million every ninety days for reimbursement of assets frozen pursuant to Resolution 778<sup>199</sup>; and
- **CWA Account** – Received initially thirty percent and later twenty-five percent of funds for use by the United Nations Compensation Commission, established by Resolution 687, in order to compensate victims of Iraq’s 1990 invasion and occupation of Kuwait.

In addition, funds from the six Programme-related accounts were invested in certain other financial institutions as well as in the United Nations’ pooled investment account. Chart A below depicts the relationships among the various Programme bank accounts:<sup>200</sup>

Chart A – Programme Bank Accounts as of 2001



<sup>199</sup> S/RES/778, paras. 1-2 (Oct. 2, 1992) (discussing financial arrangements relating to the transfer of proceeds into the escrow account).

<sup>200</sup> Farooq Chowdhury interview (Mar. 24, 2005); Katrina Nowlan interview (May 25, 2004).

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## C. PROGRAMME INVESTMENTS

### 1. ESB Account

As stipulated in the banking services agreement between the United Nations and BNP, the escrow account needed funds, to be held as collateral, sufficient to cover the outstanding letters of credit issued to vendors for the Government of Iraq's purchases of humanitarian goods and the bank fees associated with the issuance of those letters of credit. Only excess funds—above and beyond the collateral requirements—were available to the United Nations for longer-term investments within or outside of BNP. As further described in Section IV.B, the ESB Account earned interest on both overnight funds as well as on longer-term fixed income investments held at BNP. In an effort to diversify risk in 2001, as discussed below, Treasury invested additional uncollateralized funds in five investment accounts outside of BNP.<sup>201</sup>

### 2. Other Programme Accounts

Funds held on deposit in the ESC, ESD, ESE, CWA, and RWA Accounts at JP Morgan were not subject to these same collateral requirements. Instead, Treasury determined the amount of funds that were needed within the JP Morgan accounts for operational and liquidity purposes, and it invested the remaining amounts (i.e., the “excess”) in the United Nations' pooled investment account. Treasury created this account in July 2000 to serve as an investment pool for the United Nations' various departments, funds, and programs. Pooling investments enabled Treasury to extend maturities, invest in higher-yield securities with better liquidity, reduce the number of investment transactions (and hence transaction fees), and place larger tranches of investments.<sup>202</sup>

As indicated in Table 1 below, excess Programme funds invested in the pooled account from the five JP Morgan accounts comprised a significant portion of the United Nations' entire investment pool.<sup>203</sup>

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<sup>201</sup> UN-BNP banking services agreement, para. 2.3.6 and Annex 5 (Sept. 12, 1996); “Audit of the Iraq Escrow Account Treasury and Cash Management Functions,” AF2001/34/1, paras. 19-20 (Dec. 11, 2001). Based on periodic cash flow analyses performed by Treasury, certain longer term investments were made with ESB funds held at BNP. Farooq Chowdhury interviews (Mar. 24 and July 19, 2005).

<sup>202</sup> Investment Committee meeting minutes (Dec. 11, 2000). A small portion of funds from the CWA Account was invested with the United States Federal Reserve. Teklay Afeworki e-mail to the Committee (June 24, 2004); Farooq Chowdhury interview (Mar. 24, 2005).

<sup>203</sup> Operations Processing Integration Control System reports, “Cash Pool Proof Reports” (Dec. 2000 to Dec. 2004).

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Table 1 – United Nations Investment Pool Account Balances (in USD millions)

<b>Date</b>	<b>Programme Funds</b>	<b>All Other UN Funds</b>	<b>Total Pool</b>	<b>% of Programme to Total</b>
Dec. 2000	\$4,602	\$1,393	\$5,995	76.80%
June 2001	\$5,171	\$2,028	\$7,199	71.80%
Dec. 2001	\$5,404	\$2,219	\$7,624	70.90%
June 2002	\$5,496	\$2,830	\$8,327	66.00%
Dec. 2002	\$5,602	\$2,305	\$7,907	70.80%
June 2003	\$4,465	\$2,641	\$7,106	62.80%
Dec. 2003	\$1,869	\$2,135	\$4,004	46.70%
June 2004	\$1,059	\$2,590	\$3,649	29.00%
Dec. 2004	\$991	\$2,501	\$3,493	28.40%

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### **III. TREASURY'S CONCERNS REGARDING THE MANAGEMENT OF PROGRAMME FUNDS**

During the course of the Programme, Treasury articulated its concerns regarding credit risk resulting from the concentration of funds within BNP as well as concerns relating to the conduct of oil sales in euros rather than in USD. In 2001, Treasury persuaded the Government of Iraq to consent to the investment of Programme funds in five additional banks, but diversification relating to the letter-of-credit process never materialized. Regarding the potential risks of transacting oil sales in euros, Treasury briefed the 661 Committee, which nonetheless approved Iraq's request.

#### **A. CREDIT RISK**

##### **1. Highlighting Credit Risk**

As early as June 5, 1997, in a memorandum from Suzanne Bishopric, the United Nations Treasurer, to Joseph Connor, the Under-Secretary-General for Management, Treasury identified the need to diversify the Programme's banking arrangements. Ms. Bishopric expressed concerns about the concentration of significant Programme assets at one bank. Mr. Connor subsequently raised the issue in a letter to the Government of Iraq. Although the ESB Account balance had grown to about \$950 million as of June 20, 1997, and despite Treasury's advice, the Government of Iraq opposed any change to the banking arrangements. Because of this, at the time, the United Nations took no action on diversification.<sup>204</sup>

The following year, as Programme funds continued to grow, Ms. Bishopric and Mr. Connor once again raised the diversification issue with the Government of Iraq. In June 1998, Mr. Connor wrote to the Government of Iraq reiterating the need to diversify, as the amounts held at BNP "exceeded the amount which would be prudent to maintain at a single bank." Later that month, during a visit to the Middle East, Ms. Bishopric met in Baghdad with Central Bank of Iraq officials to address the issue of diversification. She told the Committee that these officials appeared to support diversification, but indicated that—for political reasons—the Government of Iraq had denied the request. Around this time, Ms. Bishopric sought an opinion from the United Nations Office of Legal Affairs ("OLA") on whether or not the United Nations was required to

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<sup>204</sup> Suzanne Bishopric memorandum to Joseph Connor (June 5, 1997); Joseph Connor letter to Nizar Hamdoon (June 25, 1997); "Audit of the Iraq Escrow Account treasury and cash management functions," AF2001/34/1, para. 20 (Dec. 11, 2001) (stating that "[t]he fact that the [Government of Iraq] has not approved the proposed banks cannot be considered an acceptable rationale for not diversifying investments").

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obtain the Government of Iraq's consent to open a new bank account.<sup>205</sup> OLA responded as follows:

Paragraph 12 of the [Iraq-UN MOU] requires the Secretary-General *to consult* with the Government of Iraq *in selecting the bank* where the escrow account is established and to *keep the Government of Iraq fully informed* of his actions in choosing the bank and opening the account. We would interpret these obligations to apply to the opening of *any new or additional escrow accounts* with a financial institution other than BNP. However, we would not, as a legal matter, interpret the MOU as requiring the consent of the Government of Iraq to the *opening of a new account*, though we recognize that, for *political considerations*, the Government of Iraq's consent should probably be obtained before any new accounts are opened.<sup>206</sup>

Over the next year, as Programme funds held at BNP surpassed \$2 billion, the Secretariat continued to press the Government of Iraq on diversification. Ms. Bishopric raised concerns in a memorandum to Mr. Connor; she noted that the repercussions of the Russian monetary crises had affected banks worldwide, and threatened to lower BNP's credit rating, which was "a source of concern." Mr. Connor continued to notify members of the Government of Iraq and the 661 Committee of the need to diversify banking arrangements for both the investment of available funds and for the letter-of-credit process. In September 1999, the Secretary-General met at United Nations Headquarters with Mohammed Said Al-Sahaf, the Iraqi Minister of Foreign Affairs, to discuss the Programme's banking arrangements. The Secretary-General noted the United Nations' numerous attempts to facilitate diversification, and the Iraqi Minister agreed to pursue the matter and revert with Iraq's position. In April 2000, the Secretary-General wrote to the Iraqi Minister of Foreign Affairs to reiterate the need to diversify the Programme's banking arrangements. Ms. Bishopric then sent a similar letter to Ambassador Nizar Hassan of the Iraqi Mission.<sup>207</sup>

In addition to the Secretariat's efforts, both OIOS and the United Nations Board of Auditors ("BOA") identified credit risk as a serious issue throughout the course of their various audits. The internal audits conducted by OIOS, dated December 11, 2001 and November 19, 2003, noted the need to diversify both letter-of-credit operations and investment accounts. The auditors noted that CPPI limits the amounts that should be invested in a single institution and that balances for

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<sup>205</sup> Joseph Connor memorandum to Nizar Hamdoon (June 18, 1998); Suzanne Bishopric faxes to Benon Sevan (June 22 and 23, 1998) (regarding trips to Iraq and Jordan); Suzanne Bishopric memorandum to Bruce Rashkow (Sept. 17, 1998); Suzanne Bishopric interview (May 26, 2005).

<sup>206</sup> Bruce Rashkow memorandum to Suzanne Bishopric (Sept. 28, 1998) (emphasis added).

<sup>207</sup> Joseph Connor letter to Nizar Hamdoon (June 18, 1998); Suzanne Bishopric memorandum to Joseph Connor (Sept. 18, 1998); Notes of meeting between Kofi Annan and Mohammed Said Al-Sahaf (Sept. 28, 1999); Joseph Connor letter to 661 Committee, S/AC.25/1999/COMM.94 (Nov. 17, 1999); Kofi Annan letter to Mohammed Said Al-Sahaf (Apr. 19, 2000); Suzanne Bishopric memorandum to Nizar Hassan (Apr. 24, 2000).

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the ESB Account (i.e., the escrow account) exceeded the limits by a large margin. BOA also raised the diversification issue early on in the Programme. The external auditors noted, however, that the amounts available for the diversification effort were limited by the collateral requirements of the letter-of-credit operation at BNP.<sup>208</sup>

## 2. Diversification Efforts

### a. Letter-of-Credit Process

In December 2000, the Government of Iraq finally agreed to diversify the banking operations involved in issuing letters of credit for its humanitarian purchases under the Programme. Treasury immediately began identifying suitable financial institutions to share in issuing the letters of credit. Because of the time-sensitivity involved, Treasury requested an abbreviated bidding process. Although requests for proposals were circulated in spring 2001, no additional banks were engaged as of January 2002. Ms. Bishopric informed the 661 Committee that the quality and pricing of the responses received through the expedited bidding process had been inadequate and that a selection could not be made. Soon thereafter, Treasury enlisted the United Nations procurement department and OLA in an effort to achieve “a more satisfactory result.”<sup>209</sup>

Finally, in spring 2002, over one year after gaining the Government of Iraq’s approval to diversify, the United Nations identified Deutsche Bank as a suitable candidate to provide additional letter-of-credit services for the Programme. Because Deutsche Bank already was being

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<sup>208</sup> “Audit of the Iraq Escrow Account treasury and cash management functions,” AF2001/34/1, paras. 14-22 (Dec. 11, 2001); “Follow-up audit of UN Iraq Escrow Account Treasury and cash management functions,” AF03/105/1, paras. 18-19 (Nov. 19, 2003); “Report of the Board of Auditors on the audit of the United Nations Escrow Account (the Iraq Account) established under the provisions of Security Council resolution 986 (1995) for the period 10 December 1996 to 30 June 1997,” para. 22 (June 8, 1998); “Report of the Board of Auditors on the audit of the United Nations Escrow Account (the Iraq Account) established under the provisions of Security Council resolution 986 (1995) for the period 1 July to 31 December 1997,” para. 15 (Nov. 2, 1998); “Report of the Board of Auditors on the Audit of the United Nations Escrow Account (Iraq Account) Established under the Provisions of Security Council Resolution 986 (1995) for the Period 1 July to 31 December 1998,” para. 17 (June 29, 1999); “Report of the Board of Auditors on the Audit of the United Nations Escrow (Iraq) Account Established under the Provisions of Security Council Resolution 986 (1995) for the Period ending 31 December 1999,” para. 32 (Oct. 31, 2000); “Report of the Board of Auditors on the Audit of the United Nations Escrow (Iraq) Account Established under the Provisions of Security Council Resolution 986 (1995) for the Period ending 31 December 2001,” para. 34 (June 27, 2002); “Report of the Board of Auditors on the Audit of the United Nations Escrow (Iraq) Account Established under the Provisions of Security Council Resolution 986 (1995) for the Period ending 31 December 2002,” para. 47 (June 27, 2003).

<sup>209</sup> Saeed H. Hasan letter to the Secretary-General, S/2000/1204 (Dec. 18, 2000) (agreeing to the diversification of the Programme’s banking operations); Suzanne Bishopric memorandum to Bruce Rashkow (Jan. 12, 2001) (requesting OLA’s comments on the proposed selection process); Suzanne Bishopric memorandum to Joseph Connor (Jan. 19, 2001) (requesting an abbreviated bidding process); Suzanne Bishopric memorandum to 661 Committee (Feb. 1, 2002) (updating the 661 Committee on the procurement activities relating to the diversification of banking services under the Programme).

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used for investing non-committed ESB funds, the United Nations needed only to amend the existing banking services agreement to include the issuance of letters of credit. Once the Government of Iraq finalized its side of the contractual arrangements in August 2002, Treasury staff began meeting with Deutsche Bank to discuss implementation of the letter-of-credit process. However, in October 2002, Treasury received notice that Deutsche Bank's credit rating fell to an unacceptable standard as defined by CPPI. Consequently, despite Treasury's previous efforts, the proposed agreement with Deutsche Bank was abandoned. Ms. Bishopric told the Committee that—even though the Government of Iraq had requested the opening of letters of credit at Deutsche Bank between August and December 2002 in anticipation of a final agreement and related funding—no letters of credit actually had been opened, and no payments had been made. Diversification plans ultimately were abandoned after the passage of Resolution 1483, on May 22, 2003, which terminated the Programme.<sup>210</sup>

It took over three years for the Government of Iraq to approve the diversification initiative, and—despite the sense of urgency conveyed by the Secretariat earlier in the Programme—the United Nations' efforts during the following two-and-a-half years to implement the initiative ultimately failed. When interviewed, Ms. Bishopric indicated that a delay of this sort was not unusual because the United Nations is generally very risk averse and carefully considers the political ramifications of all such decisions. By originally requesting an abbreviated bidding process, Treasury had hoped to avoid such a delay. In any event, the United Nations' inability to secure alternate banking arrangements for the Escrow account, after the Government of Iraq's approval, seems unreasonably long in light of the financial risks involved.<sup>211</sup>

#### b. Investment Accounts

In addition to attempting to diversify the letter-of-credit operations, the United Nations sought to diversify the number of banks in which non-committed ESB funds were invested. Ms. Bishopric told the Committee that the Government of Iraq was adamant that its funds be invested only in financial institutions that it approved, which resulted in delays in identifying suitable financial institutions and prevented the United Nations from investing the funds in its pooled account. On April 14, 2000, during a meeting between Mr. Al-Sahaf and the Secretary-General in Havana, Cuba, the Government of Iraq indicated its agreement in principal to diversification of the investment accounts. However, it was not until December 2000 that the Government of Iraq formally agreed to this diversification. In April 2001, after four years of consultations between the United Nations and the Government of Iraq, Treasury successfully negotiated with five additional banks for the investment of uncollateralized funds from the ESB Account.

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<sup>210</sup> Suzanne Bishopric memorandum (Dec. 13, 2002) (summarizing developments in regard to Deutsche Bank); Bruce Rashkow memorandum to Suzanne Bishopric (Jan. 8, 2003) (evaluating a proposal to permit the German Government to provide collateral so that Deutsche Bank, despite its lowered credit rating, could issue letters of credit under the Programme); CPPI, para. 11 (prescribing minimum credit requirements); Rasheed Hameed Ghaib letter to Suzanne Bishopric (Jan. 28, 2003); Suzanne Bishopric e-mail to the Committee (June 30, 2005) (clarifying what transpired in regard to Deutsche Bank); S/RES/1483, para. 16 (May 22, 2003); Suzanne Bishopric interview (May 26, 2005).

<sup>211</sup> *Ibid.*



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Accordingly, as of May 2001, over \$2.5 billion and €1.2 billion were placed in medium-term time deposits at Deutsche Bank, Banco Bilbao Vizcaya, Credit Agricole, and Bayerische Hypo und Vereinsbank.<sup>212</sup>

## **B. SHIFT TO TRANSACTING OIL SALES IN EUROS**

At the Programme's inception, oil sales were transacted in USD and proceeds deposited into a USD account at BNP. On October 4, 2000, however, the Government of Iraq requested that an account denominated in euros be opened at BNP to receive funds derived from the sale of Iraqi oil. Prior to approving the request, the 661 Committee asked Ms. Bishopric for a written report on the implications of having purchasers of Iraqi oil pay in euros. Her report, which she delivered on October 26, 2000, highlighted several critical concerns and implications for various aspects of the Programme, including oil pricing, the receipt and investment of funds, financial reporting, and humanitarian goods purchases. Ms. Bishopric's report also estimated at about \$260 million the monetary impact from the effects on the pricing of crude and the lower return on euro-denominated investments; this estimate did not reflect the additional costs relating to the administrative, legal, and financial implications of this change. Despite the concerns raised by Ms. Bishopric, the 661 Committee approved the sale of Iraqi oil in euros, and, on October 31, 2000, authorized Treasury to open a euro-denominated account. The first oil sale denominated in euros was executed on November 2, 2000.<sup>213</sup>

The following month, during its December 2000 meeting, the Investment Committee expressed concerns about the Programme moving to the euro too soon because of a relative lack of euro investment options at the time. With fewer options, the euro investments were likely to have provided lower returns and potentially greater risks, and adverse market movements were possible in light of the Programme's considerable currency holdings relative to the broader market. In fact, the average interest rate differential between USD and the euro, from December

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<sup>212</sup> Ibid.; Farooq Chowdhury interview (Mar. 24, 2005); Teklay Afeworki memorandum to Benon Sevan (May 8, 2001). No deposits had been made in the fifth approved bank, Credit Suisse, as of May 2001. Ibid.; Saeed H. Hasan letter to the Secretary-General, S/2000/1204 (Dec. 18, 2000) (communicating formally the Government of Iraq's agreement to the diversification of banking arrangements); Mohammed Al-Humaimidi letter to Joseph Connor (Jan. 16, 2001) (providing a list of banks acceptable to the Government of Iraq); Suzanne Bishopric letter to Mohammed Al-Douri (Feb. 21, 2001) (confirming the list of acceptable banks); Suzanne Bishopric memorandum to 661 Committee (Feb. 1, 2002). Furthermore, Treasury did not invest excess ESB funds in the investment pooled account, as it did for the other Programme accounts, because of the Government of Iraq's opposition. Suzanne Bishopric interview (May 26, 2005).

<sup>213</sup> Suzanne Bishopric memorandum to 661 Committee (Oct. 26, 2000); Suzanne Bishopric memorandum to 661 Committee (Feb. 26, 2001); 661 Committee memorandum to Joseph Connor (Oct. 31, 2000); Saeed Hasan letter to Kofi Anan (Oct. 4, 2000).

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2000 to February 2001, was over 1.3 percentage points, resulting in an opportunity loss in interest income.<sup>214</sup>

At least in appearance, however, transacting oil sales in euros ultimately had a significant positive effect on Programme funds. As discussed in the next Section, the Programme's financial statements show over \$2.2 billion in currency exchange gains from 2000 to 2004 because of the fortuitous appreciation of the euro. In addition, although Ms. Bishopric identified the potential need to mitigate foreign exchange rate risk in her memorandum to the 661 Committee dated October 26, 2000, the United Nations ultimately did not hedge against foreign exchange fluctuations. Ms. Bishopric told the Committee that, because of political considerations, the United Nations generally does not hedge currencies, which would be tantamount to betting for or against a member state's currency.<sup>215</sup>

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<sup>214</sup> Suzanne Bishopric memorandum to 661 Committee (Feb. 26, 2001); United Nations Treasury Investment Committee meeting minutes (Dec. 11, 2000).

<sup>215</sup> Programme financial statements, currency exchange data (2000-2004) (totaling \$2.2 billion in currency exchange gains); Suzanne Bishopric interview (May 26, 2005); Suzanne Bishopric memorandum to 661 Committee (Oct. 26, 2000).

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**IV. RETURNS ON PROGRAMME FUNDS**

**A. ACCOUNTING FOR PROGRAMME INTEREST AND EARNINGS**

To track its investments as well as the interest and earnings on those investments, Treasury uses the Operations Processing Integration Control System (“OPICS”). OPICS generates a monthly report detailing the investment balance in and interest earned by each fund, which serves as the basis for accounting entries posted to the general accounting ledgers. The United Nations Accounts Division regularly reconciles investment balances between OPICS and the general ledger. Additionally, during the Programme, Treasury performed a daily reconciliation between OPICS and the BNP bank statements. Further, BOA and OIOS performed various tests of the OPICS throughout the course of their audits. As demonstrated in Table 2 below, the Programme earned more than \$3 billion in interest, \$750 million of which was earned on the ESC Account.<sup>216</sup>

In addition to interest revenue, cash held in euros resulted in over \$2.2 billion in net foreign currency exchange gains when translated back to USD for financial statement purposes. Because the Government of Iraq hedged its euro-denominated oil revenue by entering into euro-denominated contracts for humanitarian goods, the \$2.2 billion in “gains” were offset by \$1.6 billion in “losses” resulting in a net “gain” of \$600 million. This is because the euro-denominated humanitarian contracts became more expensive relative to contracts in USD. However, in accordance with the Financial Rules, these losses were not offset against currency exchange gains. Rather, under the Financial Rules, the underlying transactions (i.e., the oil sales and the humanitarian purchases) were denominated in euros and converted to USD only for financial statement purposes; accordingly, these gains and losses did not represent actual proceeds and expenses to the Programme.<sup>217</sup>

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<sup>216</sup> Farooq Chowdhury interview (Aug. 11, 2005); “Report of the Board of Auditors on the Audit of the United Nations Escrow (Iraq) Account Established under the Provisions of Security Council Resolution 986 (1995) for the Period Ending 31 December 1999,” para. 34 (Oct. 31, 2000); Sofia Gemora memorandum to Maurice Critchley (Nov. 3, 2001) (attaching a “matrix detailing [OIP] management’s comments on [BOA’s] recommendations”); “Audit of the Iraq Escrow Account Treasury and Cash Management Functions,” AF2001/34/1, para. 25 (Dec. 11, 2001); Programme financial statements, interest earnings data (1997-2004).

<sup>217</sup> Programme financial statements, currency exchange data (2000-2004); Treasury data, humanitarian contracts (2000-2003); Financial Rules 110.5 (Reservation of credits to meet expenditures), 110.7 (Increase in obligations); Katrina Nowlan e-mail to the Committee (June 20, 2005).

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Table 2 – Total Income as Recorded in the Programme’s Financial Statements through December 2004 (in USD thousands)

	1997/1998	1999	2000	2001	2002	2003/2004	Total
Oil revenues	\$9,837,182	\$11,639,353	\$17,554,317	\$11,599,353	\$10,240,332	\$3,307,780	\$64,178,317
Interest	\$152,839	\$233,150	\$761,197	\$904,431	\$609,079	\$520,452	\$3,181,148
Forex gains/(losses)			\$77,916	(\$143,613)	\$877,674	\$1,417,659	\$2,229,636
<b>Total income</b>	<b>\$9,990,021</b>	<b>\$11,872,503</b>	<b>\$18,393,430</b>	<b>\$12,360,171</b>	<b>\$11,727,085</b>	<b>\$5,245,891</b>	<b>\$69,589,101</b>

## B. ANALYSIS OF RETURNS

In accordance with the UN-BNP banking services agreement, two different rate structures were used to pay interest on the portion of ESB funds in USD (“ESB-USD Account”). The first interest rate for the ESB-USD Account applied to overnight deposits and was equal to the daily United States Federal Funds (“Fed Funds”) rate (i.e., the rate at which banks lend funds to each other overnight) minus one-sixteenth of one percent (“the adjusted Fed Funds rate”). The second interest rate for the ESB-USD Account related to additional investments with terms generally ranging from thirty days to one year—based on Treasury’s periodic liquidity analyses—and was equal to the London Interbank Offered Rate (“LIBOR”) less a range of twelve-and-a-half to eighteen basis points, depending on the investment size. For ESB funds in euros (“ESB-Euro Account”), the daily deposits earned interest at the rate of the Euro Overnight Index Average (“EONIA”) minus six basis points (“the adjusted EONIA rate”); the longer term euro-deposits were paid at the Euro Interbank Offered Rate (“EURIBOR”) minus nine basis points. Treasury strived to ensure that ESB funds, both in USD and euros, were placed in investments with the highest possible interest rates in order to maximize the Programme’s returns.<sup>218</sup>

To assess the reasonableness of Programme fund earnings, the Committee compared OPICS earnings data with several publicly available market indices. Specifically, earnings data for the ESB-Euro Account was compared to the EONIA rate from the European Central Bank, and earnings in ESB-USD accounts were compared to the adjusted Fed Funds rate, the ninety-day United States Treasury bill rate, and the six-month Certificate of Deposit rate.<sup>219</sup>

<sup>218</sup> UN-BNP banking services agreement, Annex 6 (Sept. 12, 1996); “United Nations Iraq Account Status Report as of 1 August, 2001”; Farooq Chowdhury interview (Aug. 11, 2005).

<sup>219</sup> Board of Governors of the Federal Reserve System, “Rate of interest in money and capital markets, Federal Reserve System, Short-term or money market, Private securities, Federal funds, Not seasonally adjusted Daily (Seven days),” <http://www.federalreserve.gov/releases/h15/data/m/fedfund.txt>; European Central Bank, “Market Indices,” <http://www.ecb.int/stats/money/indices/html/index.en.html#data>; Board of Governors of the Federal Reserve System, “Treasury Bill Secondary Market Rate,” <http://www.federalreserve.gov/releases/h15/data/m/tbsm3m.txt>; Board of Governors of the Federal Reserve System, “Certificates of Deposit,” <http://www.federalreserve.gov/releases/h15/data/m/cd6m.txt>.

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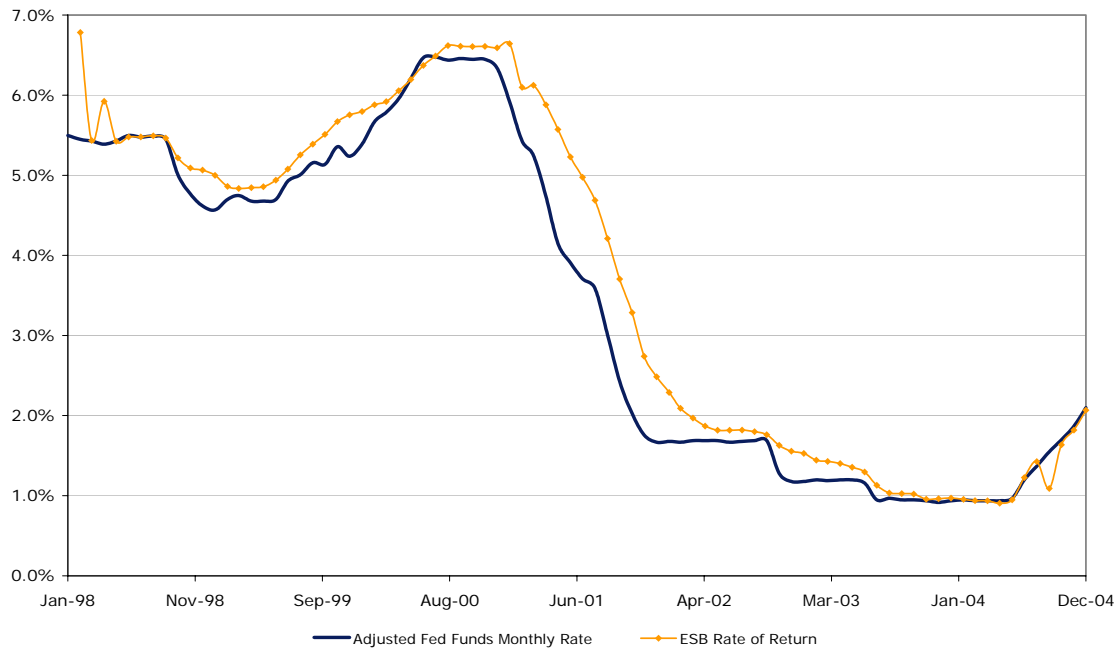
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As shown in Chart B below, earnings on the ESB-USD Account compared favorably to the adjusted Fed Funds rate throughout the course of the Programme. Earnings above the adjusted Fed Funds rate reflect Treasury’s successful efforts to invest in longer term securities based on liquidity needs.<sup>220</sup>

Chart B – ESB-USD Account Rate of Return versus Adjusted Fed Funds Benchmark



As shown in Chart C below, earnings on the ESB-Euro Account also generally compared favorably to the EONIA market index. This is consistent with the fact that, as mentioned above, euro deposits were paid at the EONIA rate of interest, and longer term deposits were paid at available market rates.<sup>221</sup>

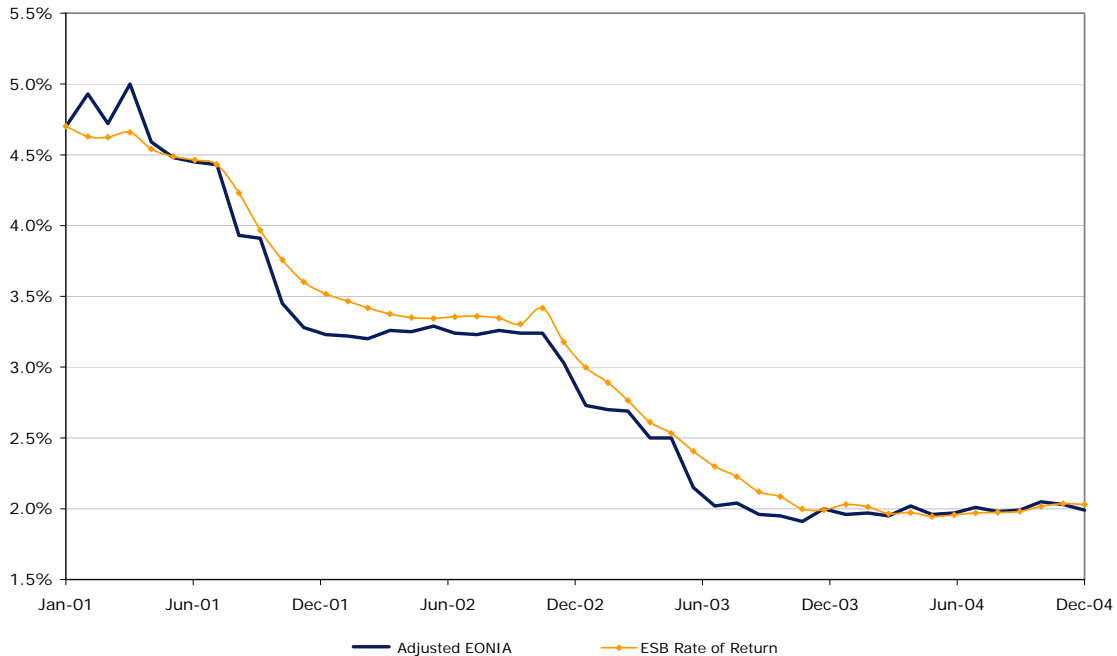
<sup>220</sup> OPICS earning data, ESB-USD Account (1998-2004); Board of Governors of the Federal Reserve System, “Rate of interest in money and capital markets,” <http://www.federalreserve.gov/releases/h15/data/m/fedfund.txt>.

<sup>221</sup> OPICS earning data, ESB-Euro Account (2001-2004); European Central Bank, “Market indices,” <http://www.ecb.int/stats/money/indices/html/index.en.html>.

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Chart C – ESB-Euro Account Rate of Return versus Adjusted EONIA Benchmark



As further depicted in Chart D, the returns earned from pooling excess funds from the ESC, ESD, ESE, CWA, and RWA Accounts were on average higher than a variety of market benchmarks, including the adjusted Fed Funds rate, the ninety-day United States Treasury bill rate, and the six-month Certificate of Deposit rate. Although returns from pooled investments were occasionally below certain benchmarks, most notably during 1999 and early 2000, the returns achieved from 2001 to 2003 far outweighed those lower returns.<sup>222</sup>

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<sup>222</sup> OPICS earning data, Investment Pool Account (1998-2004); Board of Governors of the Federal Reserve System, “Federal Funds,” <http://www.federalreserve.gov/releases/h15/data/d/fedfund.txt>; Board of Governors of the Federal Reserve System, “Treasury Bill Secondary Market Rate,” <http://www.federalreserve.gov/releases/h15/data/m/tbsm3m.txt>; Board of Governors of the Federal Reserve System, “Certificates of Deposit,” <http://www.federalreserve.gov/releases/h15/data/m/cd6m.txt>.

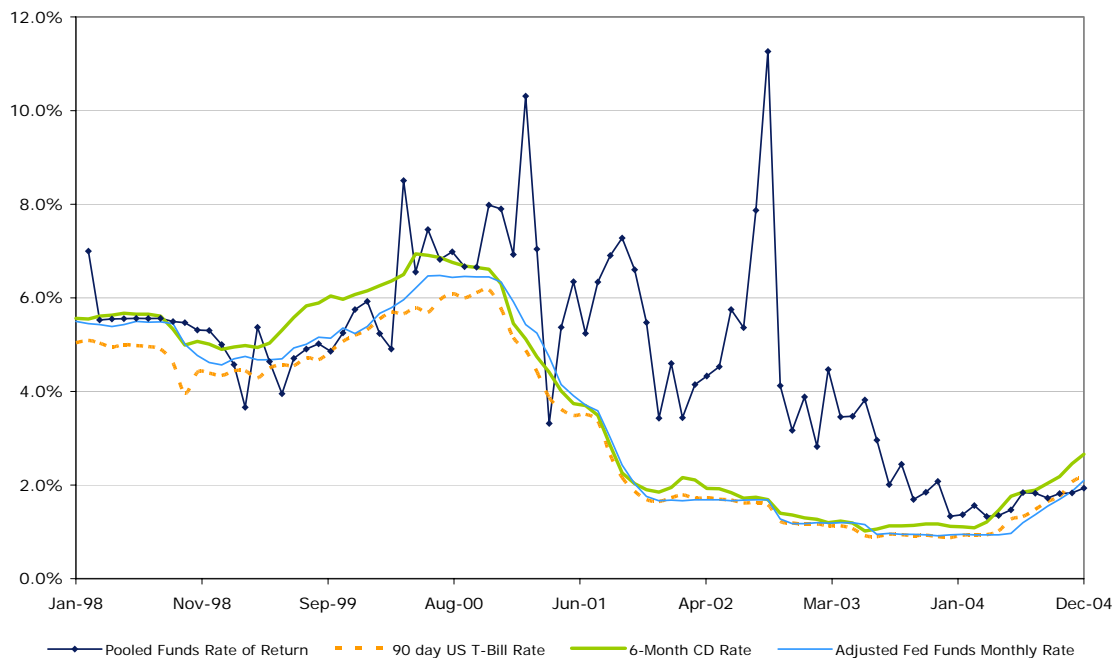
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Chart D – Combined Investment Pool Rate of Return versus Adjusted Monthly Fed Funds, T-Bill, and Certificate of Deposit Benchmarks



## C. INTEREST REMITTED BY THE UN-RELATED AGENCIES

In addition to interest earned on funds held by the United Nations in the various Programme bank accounts, interest was earned on Programme funds held by the UN-related Agencies implementing the Programme in northern Iraq. Seven of the nine Agencies received advances from the ESC Account to cover planned Programme expenditures. The sometimes significant time lag between the Agencies' receipt of funds and their actual disbursement of those funds enabled the Agencies to earn interest on the funds in their possession. Because any investment earnings were obligated to be spent on future humanitarian efforts, the United Nations requested that the Agencies remit back to the ESC Account any and all interest earned on Programme funds. OIP and the Accounts Division, but not Treasury, were responsible for collecting this interest.<sup>223</sup>

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<sup>223</sup> Jean-Pierre Halbwachs memorandum to Benon Sevan (Oct. 28, 1998); Maurice Critchley memorandum to Jayantilal Karia (Sept. 7, 2001). The World Food Programme ("WFP") and the United Nations Children's Fund ("UNICEF") elected to be reimbursed for actual expenditures instead of receiving advances on expenditures, thus eliminating the requirement to remit interest. See Jayantilal Karia

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The UN-related Agencies were required to submit monthly expenditure and cash forecast reports that indicated, in aggregate, the funds expended. Further cash advances were made to the Agencies based on their estimated monthly cash requirements. Because funds were advanced on a monthly basis, the Agencies' unspent balances were small relative to the balances in the ESC and ESB Accounts. This resulted in a relatively small amount of interest earned by the seven Agencies when compared to the over \$750 million in interest earned on ESC funds over the course of Programme. The following table details the total interest remitted to OIP by each of the Agencies throughout their involvement in the Programme.<sup>224</sup>

Table 3 – Interest Remitted back to OIP on ESC, ESD, and ESB Advances

	1996-1997	1998-1999	2000-2001	2002-2003	Total
WHO			\$1,837,710	\$1,633,460	\$3,471,170
FAO	\$673,382	\$1,064,404	\$216,061	\$403,744	\$2,357,591
UN-HABITAT		\$215,800	\$945,373	\$605,834	\$1,767,007
UNDP		\$293,355	\$715,824	\$675,309	\$1,684,488
UNESCO	\$78,044	\$152,420	\$225,678	\$157,623	\$613,765
UNOPS		\$189,788	\$216,239	\$43,752	\$449,779
ITU			\$5,315	\$36,352	\$41,667
<b>Total</b>	<b>\$751,426</b>	<b>\$1,915,767</b>	<b>\$2,324,490</b>	<b>\$1,922,614</b>	<b>\$10,385,467</b>

The Committee notes that OIP and the Accounts Division diligently followed up with the UN-related Agencies to request remittance of funds advanced for Programme administration. However, little effort was expended to ensure that the amounts remitted by the Agencies were accurate and reasonable. Although some reasonableness checks may have been performed, neither the Accounts Division nor the Executive Office of OIP systematically verified the amounts in question, and they did not request or receive details from the Agencies on how they derived these amounts. BOA had underscored the importance of collecting and recording such interest from the Agencies, but never identified the need to verify the amounts remitted or performed such checks in the course of its audits. Even though the amount of money involved was relatively small, systematic accuracy checks and review of supporting calculations from the

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memorandum to Benon Sevan (Feb. 18, 1999); Jean-Jacques Graise memorandum to Benon Sevan (Apr. 26, 1999); Memorandum of Understanding between OIP and WFP, para. 3.4.b (Mar. 29, 2000); Memorandum of Understanding between OIP and UNICEF, para. 3.4.b (Nov. 17, 2000).

<sup>224</sup> Maurice Critchley interview (Nov. 8, 2004); Programme accounting entries, accrued interest data (1997-2004); OIP memoranda to Accounts Division (May 6, June 24, and Sept 9 and 11, 1998; Mar. 9, Aug. 30, and Sept. 23, 1999; July 11 and Oct. 31, 2000; Feb. 1, Mar. 16, and Sept. 7, 2001; Mar. 15, 2002; May 28, 2003; Mar. 15, 2004) (detailing the interest accrued on advances to Agencies).



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Agencies would not have required significantly more time and effort than that actually expended.<sup>225</sup>

Moreover, during certain periods, some Agencies did not remit any interest to OIP. For example, WHO did not remit any interest until 2000—even though it had been receiving significant cash advances from OIP since 1997. Brendan Daly, WHO’s Chief Accountant, told the Committee that because the interest clause in the Memorandum of Understanding (between WHO and OIP) had not been finalized until 2000, WHO had not been contractually required to remit interest and therefore did not do so. Similarly, WFP and UNICEF failed to remit any interest during the periods in which they received advance payments from OIP. Both Agencies indicated that this would have violated their respective rules and regulations.<sup>226</sup>

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<sup>225</sup> Sabiniano Cabatuan, Pramesh Bhana, and Alain Gillette interview (Mar. 23, 2005) (representing the BOA during this interview); “Report of the Board of Auditors on the Audit of the United Nations Escrow Account (Iraq account) for the period 1 January to 30 June 1998” (May 17, 1999); “Report of the Board of Auditors on the Audit of the United Nations Escrow Account (Iraq account) for the period 1 July to 31 December 1998” (June 29, 1999); “Report of the Board of Auditors on the Audit of the United Nations Escrow Account (Iraq account) for the period ending 31 December 1999” (Oct. 31, 2000); Jayantilal Karia and Katrina Nowlan interview (Mar. 7, 2005). The Committee notes only two instances in which amounts remitted were questioned. See Jayantilal Karia memorandum to Hilary Wilde (Nov. 20, 2000) (requesting that the World Health Organization “provide full interest income calculations to [the United Nations] including the average balances during the period covered since June 1999, and the interest rate”); Maurice Critchley e-mail to David Baugh (Apr. 9, 2003) (asking the Food and Agriculture Organization to review and comment on interest calculations).

<sup>226</sup> Brendan Daly interview (Apr. 25, 2005); Benon Sevan memorandum to Jean-Pierre Halbwachs (Sept. 20, 1999); Maurice Critchley memorandum to K. Manjit Singh (Nov. 27, 1998); Jean-Jacques Graisse memorandum to Benon Sevan (Nov. 19, 1998); Benon Sevan memorandum to Carol Bellamy (Mar. 1, 1999).

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## V. FINDINGS AND CONCLUSIONS

The Committee set out to answer the following questions in regard to the management of Programme funds:

1. Did Treasury's investment of Programme funds comply with the relevant United Nations guidelines?
2. Did Treasury adequately assess and address the risks relating to: (a) the concentration of Programme funds at BNP; and (b) the Programme's shift to euro-denominated oil sales?
3. Were total investment returns reasonable for each Programme account, and were these returns properly credited to the accounts? In addition, was the interest earned by the UN-related Agencies on funds advanced to them for administration of the Programme properly credited to the Programme's escrow account?

#### Findings:

1. The Committee finds that, in managing Programme funds, Treasury adhered to all aspects of CPPI—except in respect to the concentration of funds on deposit at BNP and at the five other investing institutions, which well exceeded the limits allowable under CPPI.
2. The Committee finds that Treasury was cognizant of credit risks very early in the Programme and actively sought to resolve the matter with the Government of Iraq, which initially resisted Treasury's attempts at letter-of-credit and investment diversification. As early as 1997 and repeatedly thereafter, Treasury notified the Secretariat, the 661 Committee, and the Government of Iraq of this issue. Treasury succeeded in partially mitigating this credit risk by, soon after the Government of Iraq's approval, expeditiously diversifying a portion of the funds held at BNP. However, the Committee further finds that the United Nations' inability to diversify the Programme's letter-of-credit operations, once approved by the Government of Iraq in late 2000, unnecessarily subjected Programme funds to continued risk.
3. The Committee further finds that Treasury adequately assessed the risks relating to the Government of Iraq's request to shift to euro-denominated oil sales. Treasury analyzed the possible impact of this shift on several critical areas, including oil pricing, the receipt and investment of funds, financial reporting, and humanitarian goods purchases. In addition, Treasury estimated the monetary impact from pricing crude in euros and earning lower returns on euro-denominated investments.

The Committee finds that Treasury's overall investment results compared favorably to the relevant market indices. Funds held in the ESB Account earned a rate of return slightly higher than the Fed Funds and EONIA rates. Returns on the other Programme accounts far outpaced the Fed Funds rate and other market benchmarks,

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most notably after the United Nations' pooling of investments, which provided for longer maturities, larger tranches of investments, more favorable rates, and lower fees. Based on BOA's testing and the Committee's sample testing, investment earnings appear to have been properly credited back to each Programme fund. Finally, even though the amounts in question were not systematically verified, OIP and the Accounts Division diligently ensured that interest earned and reported by the Agencies on Programme funds was properly credited back to the escrow account.

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## I. INTRODUCTION AND SUMMARY

The Programme took a unique form in Iraq's three semi-autonomous three northern governorates. Resolution 986 and the Iraq-UN MOU created a framework in which nine United Nations-related agencies ("UN-related Agencies" or "the Agencies"),<sup>227</sup> under the aegis of the United Nations Inter-Agency Humanitarian Programme ("UNIAHP"), delivered emergency assistance and humanitarian aid to these regions. The Agencies also monitored aid distribution in areas controlled by Saddam Hussein's government (namely, the fifteen central and southern governorates), but this Chapter of the Report focuses solely on the Agencies' special implementation efforts in the three northern governorates.

Despite operating under extremely challenging circumstances, the Agencies contributed substantially improved living conditions in northern Iraq by markedly reducing malnutrition and providing critical access to medical care. The Agencies were responsible for a number of notable achievements, including implementing the food distribution program, removing mines from the countryside, and increasing access to electricity throughout the region. A separate study entitled "Impact of the Oil-for-Food Programme on the Iraqi People," released in connection with this Report, specifically highlights the Programme's positive impact in the three northern governorates.

In attempting to effectuate their mandates, the Agencies were confronted with several obstacles. One such obstacle stemmed from the very nature of the Programme: It was initially intended to deliver emergency humanitarian relief for a six-month period and, as such, did not contain a mechanism that encouraged longer-term planning. This lack of planning was endemic throughout the Programme, even as some of the Agencies began undertaking development projects. Many managers within the Agencies and UNOHCI who were interviewed pointed to this lack of planning, stemming from the Programme's six-month renewal process, as a major impediment to their implementation efforts. This design flaw created unnecessary difficulties for the Agencies and contributed to some of the problems that they experienced during the Programme.<sup>228</sup>

This Chapter addresses significant shortcomings in the Programme's implementation in the three northern governorates. This is not to diminish the very real achievements of particular Agencies,

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<sup>227</sup> For ease of reference, the Report refers to this group of agencies and programs as "UN-related Agencies" or "the Agencies"—though each had a distinct legal relationship with the United Nations.

<sup>228</sup> Balanchandran Kurup interviews (Mar. 19-20, 2005) (regarding his role as Chief of UNOHCI's Planning and Coordination Section from June 2000 through the Programme's end); Cecilia Mou Charles interview (Mar. 15, 2005) (regarding her role as the Chief of the UNOHCI's Planning and Coordination Section); Samir Ben Yahmed, Paolo Piva, and Dorothy Van Schooneveld interview (Sept. 29, 2004) (regarding their respective positions as Director, Technical Officer and Programme Officer, respectively, within WHO's Office of the Iraq Programme); Robert Goodwin interview (Apr. 19, 2005) (regarding his work while holding several positions for UN-Habitat during the Programme); S.K. Murthy interview (May 22, 2005) (regarding his work for DESA during the Programme); Seifeldin Abarro interview (Apr. 16, 2005) (regarding his role as UNDP's Deputy Director of the Electricity Network Rehabilitation Program).

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but rather, to focus on important, systemic problems uncovered in the course of the investigation—problems which prevented the Programme in the three northern governorates from being as effective as it should have been.

Part II of this Chapter introduces the historical and political context in which the Programme was implemented in the three northern governorates, describing Saddam Hussein's systematic oppression of the Kurds, their subsequent rebellion, and the broad contours of Kurdish politics in the governorates. In addition, it describes how the Programme functioned in the three northern governorates, including the funding of the Agencies. Part III provides an overview of the Agencies that administered humanitarian relief in the three northern governorates, outlining and at times contrasting each agency's core competencies and particular roles in the Programme.

Parts IV through VI form the majority of this Chapter and detail recurring problems exhibited by United Nations humanitarian relief projects in the three northern governorates. In particular, three types of shortcomings have appeared time and again among the Agencies: (1) many Agencies tackled projects beyond their core competencies (Part IV); (2) implementation efforts were plagued by management, coordination, and oversight difficulties (Part V); and (3) several of the Agencies, for reasons within and beyond their control, poorly executed particular responsibilities (Part VI). The examples in these Parts are emblematic rather than comprehensive, illustrating difficulties experienced by many of the Agencies to varying degrees and with varying consequences.

Last, Part VII presents the Committee's findings and conclusions regarding the UN-related Agencies' implementation of the Programme in the three northern governorates of Iraq.

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## II. THE THREE NORTHERN GOVERNORATES

### A. SADDAM HUSSEIN AND THE THREE NORTHERN GOVERNORATES

As acknowledged by Resolution 986, the situation in the three northern governorates of Erbil, Dohuk, and Suleimaniyah presented special problems to the Programme's architects. These governorates operated semi-autonomously, while still legally part of the sovereign nation of Iraq and subject to Iraqi President Saddam Hussein's rule.<sup>229</sup>

During the 1980s, Saddam Hussein began a systematic genocide and relocation program against Kurdish populations in northern Iraq. Tens of thousands of Kurds were killed during this campaign. In 1991, after the First Gulf War, the Kurds rebelled against Saddam Hussein, resulting in the withdrawal of Iraqi military forces, political officials, and administrative services from the region. The United States subsequently created and enforced a no-fly zone over the three northern governorates.<sup>230</sup>

After parliamentary elections in 1992, the two largest Kurdish parties—the Kurdistan Democratic Party (“KDP”) and the Patriotic Union of Kurdistan (“PUK”)—formed a coalition government called the Kurdistan Regional Government (“KRG”). However, the parties had a long history of mutual acrimony. This pattern continued in spite of the coalition, yielding two regional capitals: one including Erbil and Dohuk, controlled by KDP; and the other covering Suleimaniyah, controlled by PUK.<sup>231</sup>

In addition, following the First Gulf War and the withdrawal of Iraqi troops from the three northern governorates, Saddam Hussein imposed an embargo on the region that remained in effect until the start of the Programme. As a result, Kurdish populations in the north suffered doubly: from sanctions imposed by Resolution 661 and those imposed by Baghdad.<sup>232</sup>

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<sup>229</sup> S/RES/986, para. 8(b) (Apr. 14, 1995) (recognizing “the exceptional circumstances prevailing in the [three northern governorates]”).

<sup>230</sup> Sabrina Tavernise, “After the War: Northern Iraq; Trying to Set Up Democracy in a Divided Kurdish Region,” *New York Times*, July 1, 2003, p. A15; Unrepresented Nation and Peoples Organisation, “Iraqi Kurdistan,” <http://www.unpo.org/member.php/arg=34>.

<sup>231</sup> *Ibid.*; Save the Children (UK), “Understanding Kurdish Livelihoods in Northern Iraq: Final Report” (Jan. 2002).

<sup>232</sup> Kurdistan Regional Government, “How the UN Oil-for-Food Program Failed the Iraqi Kurds: The Story of the 13% Account” (Apr. 2004); UNOPS Consolidated Terminal Report, “UNOPS Implemented Programme in Northern Iraq, under SCP 986 (Oil-for-Food) Erbil, Dahuk and Sulaymaniyah” (Mar. 31, 2004); Dawit Getachew interview (Nov. 25, 2004) (discussing his work as a Field Associate and Programme Coordinator for UNOHCI and, later, as the head of FAO's Suleimaniyah sub-office); Azad I. Mulla Afandy and Ahmed Taher Omer interview (Dec. 13, 2004) (regarding Mr. Afandy's observation as Minister of Agriculture and Irrigation in Erbil that the three northern governorates suffered from two separate embargoes); Howard Ziad statement to the United States House of Representatives, International

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## B. THE PROGRAMME IN THE THREE NORTHERN GOVERNORATES

Because of Saddam Hussein's brutal treatment of Iraqi Kurds and the Government of Iraq's withdrawal of its administration from the three northern governorates, Resolution 986 and the Iraq-UN MOU established a framework for delivering humanitarian aid in the three northern governorates that differed from implementation efforts in the central and southern governorates. Specifically, UNIAHP, on behalf of the Government of Iraq, was given responsibility for delivering humanitarian aid to the three northern governorates, home to the majority of Iraq's Kurdish population. Nonetheless, both Resolution 986 and the Iraq-UN MOU stated that UNIAHP's activities were not intended to impact adversely Iraq's sovereignty.<sup>233</sup>

Under the aegis of UNIAHP, the UN-related Agencies were entrusted with important roles under the Programme. The Agencies were: the Food and Agriculture Organization ("FAO"); the International Telecommunication Union ("ITU"); the United Nations Children's Fund ("UNICEF"); the United Nations Development Programme ("UNDP"); the United Nations Educational, Scientific and Cultural Organization ("UNESCO"); the United Nations Human Settlements Programme ("UN-Habitat"); the United Nations Office for Project Services ("UNOPS"); the World Food Programme ("WFP"); and the World Health Organization ("WHO").<sup>234</sup>

OIP, based in New York, was responsible for managing and coordinating all of the United Nations' humanitarian activities in Iraq under Resolutions 661 and 986. The responsibility for implementing the Programme in the field, however, was delegated to the United Nations Office of the Humanitarian Coordinator for Iraq ("UNOHCI"). UNOHCI was headed by a Humanitarian Coordinator stationed in Baghdad who reported directly to OIP. A Deputy Humanitarian Coordinator in Erbil supervised the Programme's implementation in the three northern governorates and reported to the Humanitarian Coordinator.<sup>235</sup>

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Relations Committee (Apr. 28, 2005). Mr. Ziad was a Representative of the Kurdistan Regional Government. *Ibid.*

<sup>233</sup> S/RES/986, para. 8(b) (Apr. 14, 1995); Iraq-UN MOU, paras. 7, 20, 33, Annex I. In 1991, the United Nations established UNIAHP in Iraq as a response to the deterioration of health conditions in Iraq in the aftermath of the First Gulf War. The Programme initially was coordinated by DHA through UNOHCI. United Nations Office for the Coordination of Humanitarian Affairs, "Humanitarian Report 1997—Iraq: The Humanitarian Programme and The Implementation of Security Council Resolution 986 (1995)," [http://www.reliefweb.int/ocha\\_ol/pub/humrep97/iraq.html](http://www.reliefweb.int/ocha_ol/pub/humrep97/iraq.html).

<sup>234</sup> OIP, "Northern Governorates," <http://www.un.org/Depts/oip/north.html>.

<sup>235</sup> OIP, "About the Programme," <http://www.un.org/Depts/oip/background/index.html>; "Report of the Secretary-General pursuant to Paragraph 3 of Resolution 1111 (1997)," S/1997/935, para. 4 (Nov. 28, 1997); "Report of the Secretary-General pursuant to Paragraph 7 of Resolution 1143 (1997)," S/1998/90, para. 2 (Feb. 1, 1998).

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Originally, the Programme was envisioned as a temporary vehicle for emergency assistance and humanitarian relief. However, as it evolved into a long-term effort, the Agencies placed increasing emphasis on projects to rehabilitate the three northern governorates' dilapidated infrastructure. While the Iraq-UN MOU directed that "[s]pecific rehabilitation needs in the three northern governorates . . . receive the necessary attention," it was understood generally by the Agencies that "capacity building"—development aimed at enhancing infrastructure beyond earlier conditions—was not permitted under the Programme.<sup>236</sup>

In addition to their work in northern Iraq, the Agencies were charged with ensuring equitable humanitarian aid distribution by Saddam Hussein's government in the fifteen southern and central governorates.<sup>237</sup>

On March 28, 2003, following the ouster of Saddam Hussein, the Security Council passed Resolution 1472, establishing special emergency procedures to provide humanitarian relief under the Programme in the southern and central governorates for forty-five days. Security Council Resolution 1476 extended Resolution 1472 for six months. During this time, the Agencies prioritized, renegotiated, amended, and ensured the execution of contracts previously entered into by Saddam Hussein's government. Some of the Agencies were tasked also with executing new contracts for essential food and medical items. On May 22, 2003, the Security Council passed Resolution 1483, creating a six-month framework for terminating the Programme. During the

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<sup>236</sup> Iraq-UN MOU, para. 2 (May 20, 1996); Benjamin Badjeck interview (Jan. 27, 2005) (regarding his tenure as FAO's Programme Manager and Officer-in Charge in Dohuk); Emilie Atallah interview (Mar. 11, 2005) (regarding her tenure as a UNESCO Administrative Officer); Samir Ben Yahmed and Paolo Piva interview (Sept. 29, 2004); Michael Croft interview (Oct. 4, 2004) (discussing his tenure as a UNESCO Project Officer and Assistant to the Officer in Chief of the Iraq Programme); Dawit Getachew interview (Nov. 25, 2004); Robert Goodwin interview (Nov. 1, 2004) (regarding his role as Chief Technical Advisor for UN-Habitat in Erbil); Neel Mani interview (May 18, 2005) (regarding his role as Director of WHO's Iraq Programme); Rolf Sprauten, Lisa Gomer, Jaap Van Hierden, Michael Dudley, Mohamed Yar, and Vanessa Heywood interview (Oct. 29, 2004) (regarding their work for UNOPS during the Programme); Dorothee von Brentano interview (Nov. 16, 2004) (regarding her role as UN-Habitat's Iraq Programme Director).

<sup>237</sup> UN-Iraq MOU, paras. 34-44; John Almstrom memorandum to Abu Zeid M. Salih, Mark Barrett, Jens Toyberg-Frandzen, Paul Gomis, Ramesh Shrestha, Joseph Wenkoff, Mohamed El-Kouhene, and A.A. Koleade (July 24, 2000) (providing direction as Deputy Humanitarian Coordinator to representatives of the Agencies regarding relationships between the observers working for the Agencies and those working for UNOHCI); Gregoire de Brancovan interview (July 15, 2004) (regarding his experience as the Chief of the Observation and Analysis Section of OIP); Ramiro Lopes Da Silva interview (May 7, 2005) (regarding his tenure as Humanitarian Coordinator); Michael Stone interview (May 12, 2005) (regarding his tenure as Head of UNOHCI's Multi-Disciplinary Observer Unit); Seth Kumi interview (May 4, 2005) (regarding his tenure as an observer, Programme Officer, and Special Projects Officer in UNOHCI); Samir Ben Yahmed and Dorothy Schooneveld interview (Sept. 30, 2004); Mevin Ndarusigiye interview (Nov. 23, 2004) (regarding his tenure as a UNOHCI observer and Head of the Agricultural Machinery sub-sector at FAO). The Programme's observation mechanism, including the role of the Agencies, is discussed in detail in Chapter 2 of Volume III of this Report.



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final stage of the Programme, the Agencies prioritized and renegotiated pending contracts in preparation for transitioning them to CPA.<sup>238</sup>

## C. FUNDING

The Programme defied long-established patterns of the Agencies' operations. It was the largest humanitarian relief project many of the Agencies ever had been involved with, and it was funded in ways that generally were novel to them. In most cases, when UN-related Agencies plan an aid program, they must appeal to member states for funding. The Agencies therefore have a strong incentive to implement programs effectively and efficiently; their performance—as reflected in progress reports they must provide their donors—impacts their ability to raise funds for future projects. However, the Agencies did not have to obtain their own funding during the Programme. They were instead financed by income from the sale of oil by the Government of Iraq, to whom the Agencies were not directly responsible.<sup>239</sup>

As indicated in Chart A in Part III of this Chapter, the Agencies received funding both for administrative expenditures (about \$787 million) and for the costs of providing humanitarian aid

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<sup>238</sup> S/RES/1472, paras. 2-4 (Mar. 28, 2003); S/RES/1476, para. 1 (Apr. 24, 2003); S/RES/1483, para. 16 (May 22, 2003); “Briefing on the Implementation of Security Council Resolution 1472 (2003) of 28 March 2003” (Apr. 22, 2003); Maurice Critchley fax to the Agencies (Apr. 25, 2003); Maurice Critchley fax to the Agencies (Jan. 12, 2004); Michael Cora and Eero Porko interview (Oct. 4, 2004) (regarding their respective tenures as UNESCO’s Chief of Procurement Services and a UNESCO Procurement Officer); Michael Croft interview (Oct. 4, 2004); Laurent Thomas and Rodrigue Vinet interview (Sept. 22, 2004) (discussing their observations as Officer-in-Charge and Operations Officer, respectively, in FAO’s Technical Cooperation Department – Special Emergency Programmes Service).

<sup>239</sup> Maxwell Gaylard interview (May 3, 2005) (stating, based upon his experience as Assistant Deputy Humanitarian Coordinator in the three northern governorates that, by the time of the fourth distribution plan, the Agencies were receiving more resources as part of their Programme activities than the total of their budgets worldwide); Mohammed Farah interviews (Mar. 12-13, 2005) (regarding his role as FAO’s Coordinator in the three northern governorates and Head of its Observation Programme); Benjamin Badjeck interview (Jan. 27, 2005) (stating his observation that the Programme only was supposed to be a humanitarian emergency program with a large budget, whereas the Agencies were used to working on smaller budgeted programs inside a more structured framework); Elkheir Khalid interviews (Mar. 10-11, 2005) (regarding his roles as Coordinator of FAO and, later acting FAO Representative); Laurent Thomas and Rodrigue Vinet interview (Sept. 22, 2004) (stating that the Programme was “by far the largest project that FAO has implemented to date”); Neel Mani interview (May 18, 2005) (noting that WHO’s participation in the Programme was unique because of the size of the Programme and that its initial limited emergency humanitarian aid phases caused many problems); Frederic Lemaire interview (Apr. 26, 2005) (regarding his role as a member of the Programme Analysis, Monitoring and Support Division of OIP after having been a consultant for UNESCO and noting that UNESCO’s six-month Programme procurement budget during some phases was greater than its annual budget for the same year); Dorothee von Brentano interview (Nov. 16, 2004); Amir Khalil interviews (May 6-7, 2005) (regarding his tenure as FAO Representative in Iraq); Jean Jacques Massima-Llandji interview (May 24, 2005); Thomas McDermott interview (Jan. 12, 2005) (regarding his observations as UNICEF’s Regional Director of the Middle East and North Africa Regions).

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and services (more than \$2.5 billion).<sup>240</sup> Administrative funding included: (1) payments for direct costs incurred as a result of the Programme, such as staffing, office equipment, and vehicles; (2) PSC intended to cover indirect costs of the Programme, such as human resources, international procurement, and other headquarters functions; (3) fees paid to the Agencies for activities conducted pursuant to Resolutions 1472 and 1476; and (4) fees paid to the Agencies for activities conducted pursuant to Resolution 1483.<sup>241</sup>

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<sup>240</sup> Monthly expenditure reports of the Agencies (1997-2003) (detailing the Agencies' aggregate Programme expenditures). The amounts in Chart A represent advances on budgetary requests and include post-war emergency relief efforts funded from the ESB Account. They do not include expenditures for bulk purchases and spare parts out of the ESC Account.

<sup>241</sup> FAO-UN memorandum of understanding, paras. 3.1-.3 (Oct. 14, 1997); ITU-UN memorandum of understanding, paras. 3.1-.3 (Mar. 13, 2000); UNICEF-OIP memorandum of understanding, paras. 3.1-.3 (Nov. 17, 2000); UNDP-OIP memorandum of understanding, paras. 3.1, 3.3-.4 (Mar. 11, 1998); UNESCO-UN memorandum of understanding, paras. 3.1-.3 (Sept. 2, 1998); UN-Habitat-UN memorandum of understanding, paras. 3.1-.3 (Aug. 10, 1998); UNOPS-DPKO-OIP memorandum of understanding, paras. 3.1-.2 (Feb. 20, 1998); WFP-OIP memorandum of understanding, paras. 3.1-.3 (Mar. 29, 2000); WHO-UN memorandum of understanding, paras. 3.1-.3 (June 21, 2000); S/RES/1472, paras. 2-4 (Mar. 28, 2003); S/RES/1476, para. 1 (Apr. 24, 2003); "Briefing on the Implementation of Security Council Resolution 1472 (2003) of 28 March 2003" (Apr. 22, 2003); Maurice Critchley faxes to the Agencies (Apr. 25, 2003 and Jan. 12, 2004); Mark Malloch Brown memorandum to Benon Sevan (Dec. 9, 2003); Benon Sevan memorandum to Mark Malloch Brown (Dec. 9, 2003); Mark Malloch Brown interview (June 20, 2005).

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### **III. PROGRAMME-RELATED RESPONSIBILITIES OF THE AGENCIES**

This Part reviews the Agencies' Programme-related responsibilities. Chart A, at the end of this Part, summarizes the Agencies' missions, Programme responsibilities, and their humanitarian and administrative Programme expenditures.

#### **A. FOOD AND AGRICULTURE ORGANIZATION**

FAO was the lead agricultural agency during the Programme, operating under the direction of its headquarters in Rome. The agency also had a Programme Coordinator in Baghdad, a Deputy Coordinator in Erbil, and field offices in each of the three northern governorates. FAO's specific roles in the Programme included: (1) implementing the agricultural portion of the Programme in the three northern governorates; (2) observing/monitoring the provision of humanitarian aid in central and southern Iraq; and (3) renegotiating contracts pursuant to Resolutions 1472, 1476 and 1483. FAO cites positive results in water resource management and irrigation, as well as animal and plant health, production, and protection.<sup>242</sup>

#### **B. INTERNATIONAL TELECOMMUNICATION UNION**

ITU, an international organization combining governments and actors in the private sector to coordinate global telecommunication networks and services, ran the Programme's telecommunication sector in the three northern governorates. Its responsibilities included: (1) implementing telecommunication network projects in the three northern governorates; (2) verifying that equipment exported to Iraq was used only for permitted purposes; (3) assessing telecommunication requirements for humanitarian needs; (4) reviewing specifications and contracts before they were presented to the 661 Committee; (5) defining priorities among telecommunication network requirements; and (6) advising other Agencies on telecommunication matters.<sup>243</sup>

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<sup>242</sup> FAO report, "FAO's Activities in Iraq: A Fact Sheet" (undated); FAO external assessment report, "Performance and Results SCR 986 Agricultural Programme, Northern Iraqi Governorates" (Jan. 2005) (evaluating FAO's performance during Phases I through VII). Specifically, FAO reported that it: (1) supplied training programs and materials in numerous fields; (2) increased production and productivity of key crops, livestock, poultry, and fish; (3) ensured appropriate nutritional intake and maintained the health standards of key vulnerable groups; (4) supported efficient and sustainable increases in food and agriculture production; (5) maintained and enhanced environmental protection and conserved the natural resource base; (6) constructed numerous plant and animal production facilities; and (7) rehabilitated and improved the irrigation system. Ibid.

<sup>243</sup> OIP/UNOHCI, "Oil for Food: Information Kit" (July 2001); see also ITU, "Purposes," <http://www.itu.int/aboutitu/overview/purposes.html> (containing additional information on ITU's organizing principles).

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#### C. UNITED NATIONS DEVELOPMENT PROGRAMME

UNDP was charged with rehabilitating the electrical network in the three northern governorates. Because the Government of Iraq insisted that the Programme merely provide short-term humanitarian relief, rather than become a traditional development program, UNDP's objective was to meet the minimum requirements of the local population. At its inception, the operation was sub-contracted by UNDP to the United Nations Department of Economic and Social Affairs ("DESA"), under the moniker of the Electricity Network Rehabilitation Programme ("ENRP"). After Phase IV of the Programme, because of delays encountered in DESA's implementation of the ENRP, UNDP changed strategies by directly implementing Programme needs from the field (labeled the Direct Execution modality). UNDP highlighted its various Programme successes as including: (1) training local workers; (2) rehabilitating hydropower stations; (3) providing emergency and long-term electric generation during a three-year drought; and (4) installing and rehabilitating power substations.<sup>244</sup>

#### D. UNITED NATIONS EDUCATIONAL, SCIENTIFIC AND CULTURAL ORGANIZATION

UNESCO began participating in the Programme in 1996. In 1999, it became the lead agency for education in the three northern governorates (working in tandem with UNICEF, UN-Habitat, and WHO), with primary responsibility for secondary and higher education. As part of its mandate under Resolution 986, UNESCO had two roles: (1) assisting the three northern governorates in re-establishing basic educational capacity; and (2) observing secondary and higher education sectors in central and southern Iraq. UNESCO observers were required to ensure adequate, equitable, and effective distribution of education-related supplies obtained through the Programme. UNESCO identified its positive Programme achievements as including: (1) improving access to, and the state of, schools; (2) providing vital school supplies; (3) training teachers and administrators; and (4) rehabilitating and constructing school facilities.<sup>245</sup>

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<sup>244</sup> UNDP, "Electricity Network Rehabilitation Programme In The Three Northern Governorates In Iraq" (undated). Specifically, in its terminal report, UNDP mentions: (1) implementing a \$780 million rehabilitation and reconstruction program; (2) training more than 2,500 local workers; (3) delivering and installing electrical assets; (4) fully rehabilitating the Dokan and Derbandikhan hydropower stations; (5) installing emergency and longer-term electric generation to cover acute deficits during the three-year drought; (6) transmitting line repair and development; and (7) installing or rehabilitating some seventy substations. Ibid.

<sup>245</sup> UNESCO, "Situation Analysis of Education in Iraq 2003" (Apr. 2003). Specifically, UNESCO lists the following as its achievements under the Programme: (1) notably improved the state of educational facilities; (2) increased access to education; (3) supplied textbooks, desks and furniture to schools; (4) supported the training of teachers and school administrators; (5) provided transportation to school teachers and students living in remote areas; (6) in higher education, renovated/constructed fourteen academic buildings, three technical institutes, eight dormitories, two staff houses, and a library; and provided schoolbooks, laboratory equipment, reference books and periodicals; (7) for primary/secondary education,

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#### E. UNITED NATIONS HUMAN SETTLEMENTS PROGRAMME

UN-Habitat is the United Nations agency for human settlements. UN-Habitat was responsible primarily for providing housing and shelter-related aid under the Programme. In particular, the agency took on three roles: (1) in the three northern governorates, the Settlements Rehabilitation Programme (“SRP”) assisted internally displaced persons (“IDPs”) and other vulnerable groups; (2) in Baghdad, the Neighborhood Rehabilitation Project addressed deteriorated living conditions in urban neighborhoods; and (3) in southern and central Iraq, the Housing Sector Observation Program assessed the distribution and use of imported housing sector commodities. UN-Habitat noted its Programme successes in constructing and rehabilitating houses and related infrastructure, and positively impacting the construction industry in the three northern governorates.<sup>246</sup>

#### F. UNITED NATIONS CHILDREN’S FUND

UNICEF, the United Nations agency devoted to children’s rights and welfare, began participating in the Programme in 1996. The agency was primarily responsible for primary education and water and sanitation needs, in conjunction with UNESCO and WHO. UNICEF took on two primary roles: (1) assisting the three northern governorates in re-establishing basic primary educational capacity and meeting the need for potable water; and (2) in central and southern Iraq, observing the primary education and the water and sanitation sectors. Under this mandate, United Nations observers were charged with ensuring adequate, equitable, and effective distribution of supplies obtained by the Government of Iraq through the Programme. In assessing its performance under the Programme, UNICEF highlighted successes in health, nutrition, education, water and sanitation, and child protection.<sup>247</sup>

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renovated/constructed 157 buildings; (8) launched School Mapping Project in 2001 to collect and provide statistical data relating to education; and (9) established Multi-Media Resource Centers in 2002 in each of the three northern governorates to serve as centers for documentation/materials in the fields of education, science, culture, and other areas pertinent to UNESCO’s mandate. Ibid.

<sup>246</sup> UN-Habitat, “UN-Habitat in Iraq” (Apr. 2003); UN-Habitat, “The Settlements Rehabilitation Programme in Northern Iraq (1997-2003)” (Feb. 2004). Specifically, UN-Habitat lists: (1) 2,734 projects involving the delivery of 21,268 houses for IDPs and other vulnerable groups; (2) 706 kilometers of water mains and 199 kilometers of sewers; (3) 534 new schools and 231 renovated schools; (4) 134 health centers and 175 community centers; (5) over fifty veterinary surgeries, markets, irrigation and other economic facilities, 2,940 kilometers of roads, and 34 bridges; (6) stimulating the development of the construction industry; (7) creating over 80,000 jobs in construction that proved critical in sustaining livelihoods; and (8) delivering building materials, spare parts, and equipment. Ibid.

<sup>247</sup> UNICEF, “UNICEF in Iraq during the Oil-for-Food Programme” (July 13, 2005). UNICEF cited successes in: (1) improving morbidity rates as well as mortality rates for children under five; (2) eliminating polio in 1998; (3) controlling cholera outbreaks; (4) improving malnutrition indicators; (5) distributing important nutritional supplements; (6) rehabilitating or constructing 605 primary schools and forty-four kindergartens; (7) training 32,000 teachers; (8) renovating printing presses in Suleimaniyah and

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## G. UNITED NATIONS OFFICE FOR PROJECT SERVICES

UNOPS is a self-financing organization in the United Nations system, providing technical and administrative support to other United Nations programs on a per-project basis. Over the course of the Programme, UNOPS was recruited for four distinct projects: (1) the Mine Action Program in 1997; (2) the Internally Displaced and Vulnerable Persons Project in 2000; (3) the Joint Humanitarian Information Centre in 2000; and (4) the Urban Water and Sanitation Program in early 2002. In addition, a centralized administrative and financial unit for the Programme—called the Field Administrative Support Service—was established by UNOPS in 2001. UNOPS identifies its Programme successes as involving landmine/unexploded ordnance (UXO) clearance, landmine/UXO victim assistance, and provision of relief to internally displaced persons.<sup>248</sup>

## H. WORLD FOOD PROGRAMME

The WFP is the United Nations organization devoted to food access and distribution. Prior to the Programme, WFP was involved heavily in several large-scale programs in Iraq. Upon the Programme's onset, WFP phased out its own programs, taking on two primary roles instead: (1) distributing food in the three northern governorates; and (2) monitoring the distribution of food in the central and southern governorates. The process of distributing food was known as the "food basket." WFP highlights its Programme successes in the distribution of food to the citizens of the three northern governorates as well as the implementation of supplementary nutrition, school-feeding, and other programs designed to increase nutrition and food security.<sup>249</sup>

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Erbil; (9) providing essential supplies to 3,300 schools; (10) conducting over 2000 rural water projects; (11) building 850 km of water networks; (12) constructing a 100 km sewer/water drain; providing continuous support to twenty-three childcare institutions; (13) training social workers, teachers, policy-makers, and academicians; and (14) offering psychosocial care training for 200 volunteers and 1,500 child care staff. Ibid.

<sup>248</sup> UNOPS, "Terminal Report Consolidated: UNOPS Implemented Programme in Northern Iraq, under SCR 986 (Oil-for-Food); Erbil, Dahuk and Sulaymaniyah" (Mar. 31, 2004). Specifically, UNOPS listed the following successes: (1) clearing 12.2 million square miles of high priority landmine/unexploded ordnance contaminated land; (2) decreasing incidence rates by more than fifty percent between 1999 and 2002; (3) developing a comprehensive landmine/UXO victim assistance system; (4) distributing relief items to 47,677 internally displaced families; (5) renovating fifty hard shelters and tent camps; (6) establishing a tent camp at Takya in Suleimaniyah for 100 families; (7) assessing water and sanitation sectors in the three northern governorates; (8) launching, in conjunction with various companies and non-governmental organizations, five strategic water and sanitation projects; and (9) establishing an Iraq Task Force to consolidate the various sectors and actors dealing with the Programme. Ibid.

<sup>249</sup> WFP, "UN World Food Programme: History of WFP Activities in Northern Iraq" (Nov. 2003). Because of economies of scale, a decision was made at the Programme's inception that foodstuffs would be purchased for the entire country by the Government of Iraq. This food was delivered to warehouses in Kirkuk and Mosul. WFP transferred the food to warehouses in each of the three northern governorates from which it would be distributed, in conjunction with the local authorities, to the people in the area.

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## I. WORLD HEALTH ORGANIZATION

WHO effectively had a dual role under the Programme: (1) verifying that the Government of Iraq equitably distributed medical supplies and equipment in southern and central Iraq; and (2) helping to distribute medical supplies and equipment in the three northern governorates. At the Programme's outset, WHO focused on delivering emergency relief. As time passed, the agency shifted its focus towards rehabilitating health services in the three northern governorates. In particular, WHO focused on five major public health sectors in the north: (1) distribution of medicines; (2) water and sanitation (in conjunction with UNOPS and UNICEF); (3) medical education; (4) secondary and tertiary health care (though UNICEF was primarily responsible for health care under the Programme); and (5) procurement of medical equipment. In a self-assessment concerning its involvement in the Programme, WHO notes successes in reducing certain diseases, increasing immunizations, and constructing and rehabilitating health facilities.<sup>250</sup>

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Because the Government of Iraq purchased most of the food under the Programme, WFP's procurement role was limited. The agency did, however, have several small programs in the three northern governorates, including ones providing food to school children and vulnerable groups, for which it procured equipment through its headquarters in Rome. *Ibid.* WFP highlighted several specific successes: (1) distributing food to 3.7 million beneficiaries in the three northern governorates; (2) implementing a supplementary nutrition programme targeting more vulnerable groups, with an average of 100,000 beneficiaries monthly; (3) implementing a school-feeding project for 700,000 children in 2,000 primary schools; (4) implementing food-security, income-generating, and skills-enhancing projects for 12,000 female-headed households; and (5) forming a regional task force "to serve as the central supervisory body responsible for coordinating the handover in the three northern governorates." *Ibid.*

<sup>250</sup> WHO, "Oil for Food Programme 1997-2003: Achievement Summary and Exit Strategy" (Nov. 2003). Specifically, WHO listed: (1) expanding surveillance of diseases; (2) providing data management and communications equipment; (3) immunizing eighty-nine percent of targeted children (between the ages of nine months and five years) against measles; (4) administering vitamin A supplements; (5) reducing the incidence of malaria; (6) establishing six fully-equipped water quality control laboratories; and (7) increasing the total number of working health facilities from 389 in 1997 to 773 in 2003. *Ibid.* As was the case with WFP and the food basket, WHO did not directly procure medicines, drugs, vaccines, and medical supplies; rather, the Government of Iraq fulfilled this role through its drug import and distribution company, Kimadia. However, WHO was responsible for taking the share allocated to the north under the ESC Account from Kimadia warehouses and distributing it. WHO audit report, "Oil for Food Programme, Iraq, 00/583, para. 104 (Sept. 2000); WHO, "SCR 986 WHO Project In the Northern Governorates of Iraq" (2001).

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Chart A – Assignments of Agencies under the Programme<sup>251</sup>

Agency	Mission	Programme Responsibilities	Humanitarian Expenditures	Administrative Expenditures	Total
<b>FAO</b>	A “neutral forum” for nations to negotiate agreements and debate policy related to international efforts to defeat hunger. A “source of knowledge and information,” the Organization advises developing countries on improving agriculture.	<i>Agriculture</i>	\$523,219,519	\$128,872,130	\$652,091,649
<b>ITU</b>	Combines government and private sector actors to “coordinate global telecom networks and services.”	<i>Telecommunication</i>	\$890,741	\$10,414,345	\$11,305,086
<b>UNICEF</b>	Children’s rights advocates, focusing on education, health care, domestic welfare, economic exploitation and protection, and access to food issues.	<i>Nutrition Water/Sanitation Health Education</i>	\$409,109,619	\$90,330,964	\$499,440,583
<b>UNDP</b>	The UN’s global development network, focusing on “democratic governance, poverty reduction, crisis prevention and recovery, energy and environment, and HIV/AIDS.” It further “helps developing countries attract and use aid effectively.”	<i>Electricity</i>	\$479,737,689	\$114,246,443	\$593,984,132
<b>UNESCO</b>	Promotes international cooperation in the fields of education, science, culture, and communication.	<i>Education</i>	\$110,308,386	\$34,974,508	\$145,282,894
<b>UN-Habitat</b>	The UN human settlements program, promoting “socially and environmentally sustainable towns with the goal of providing adequate shelter for all.” UN-Habitat also focuses on urban governance, poverty, disaster mitigation, and post-conflict rehabilitation.	<i>IDPs Education</i>	\$351,104,838	\$81,878,586	\$432,983,424
<b>UNOPS</b>	Self-financing technical and support agency, providing assistance to UN programs on a per-project basis. UNOPS specializes in management and, unlike other Agencies, is not driven by a particular mandate.	<i>Mines Water/Sanitation IDPs</i>	\$179,662,931	\$67,366,664	\$247,029,595
<b>WFP</b>	The “food arm” of the UN, it provides food to “meet emergency needs” and “support economic and social development.” It offers logistics support to “get food aid to the right people at the right time and in the right place.”	<i>Food Nutrition Agriculture</i>	\$283,694,927	\$184,080,895	\$467,775,822
<b>WHO</b>	The United Nations’ “specialized agency for health.” Activities combine scholarship, advocacy, governmental consulting, and international disease prevention and response, with the aim of improving global health.	<i>Health Education Water/Sanitation</i>	\$224,444,872	\$75,194,019	\$299,638,891
		<b>Total</b>	<b>\$2,562,173,522</b>	<b>\$787,358,554</b>	<b>\$3,349,532,075</b>

<sup>251</sup> OIP, “Northern Governorates,” <http://www.un.org/Depts/oip/north.html>; FAO, “FAO at Work,” [http://www.fao.org/UNFAO/about/index\\_en.html](http://www.fao.org/UNFAO/about/index_en.html); ITU, “Purposes,” <http://www.itu.int/aboutitu/overview/purposes.html>; UNICEF, “Who We Are,” <http://www.unicef.org/about/who/index.html>; UNDP, “Who We Are & What We Do,” <http://www.undp.org/about>; UNESCO, “What it is What it Does” (2003); UN-Habitat, “Mandate,” <http://www.unhabitat.org/about/mandate.asp>; UN-Habitat, “Activities,” <http://www.unhabitat.org/about/activities.asp>; UNOPS, “Our Service Provision,” <http://www.unops.org/UNOPS/Services/Overview>; WFP, “Introduction,” [http://www.wfp.org/operations/introduction/index.asp/section=5&sub\\_section=1](http://www.wfp.org/operations/introduction/index.asp/section=5&sub_section=1); WHO, “About WHO,” <http://www.who.int/about/en>; Monthly expenditure reports of the Agencies (1997-2003) (detailing the Agencies’ aggregate Programme expenditures); Monthly expenditure reports of the Agencies (1997-2003). Italics denotes the lead agency in a particular sector. Chapter 1 of this Volume details the funding of the Agencies’ administrative costs.



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## IV. PROJECTS OUTSIDE THE AGENCIES' CORE COMPETENCIES

The Agencies operating in the three northern governorates frequently failed to implement projects they undertook. Their record with constructing and rehabilitating infrastructure was particularly poor. ITU, UNESCO, UN-Habitat, and WHO encountered significant difficulties in these areas; they often were equipped insufficiently or simply too inexperienced to execute competently projects they accepted. These Agencies traditionally have provided technical advice and assistance, formulated rules and policy, and regulated the work of other entities—governments, NGOs, and so forth—operating within their particular areas of expertise. Yet in the three northern governorates, these Agencies engaged in projects demanding ground-level implementation. Many senior United Nations staff members and managers confirmed that these Agencies lacked competence for some of the projects that they undertook.<sup>252</sup> In some cases, these deficiencies were identified during the course of the Programme but remained unaddressed by OIP and the relevant Agencies. In many cases, an implementing agency's lack of competence, in conjunction with other factors, played a role in the failure to successfully complete a project. This Part presents several striking examples of this shortcoming, in conjunction with the attendant problems of implementation that the Agencies experienced.<sup>253</sup>

### A. UNESCO'S CHALK FACTORY CONSTRUCTION PROJECT

#### 1. Misplaced Expertise

In Phase I of the Programme, UNESCO proposed and received approval to construct a chalk factory in the Suleimaniyah governorate. The factory was intended to produce twenty-five million pieces of quality chalk per year for distribution to schools in the three northern governorates. As will be discussed below, UNESCO's management of this project was deemed highly unsatisfactory by OIP, UNOHCI, local authorities, and various UNESCO staff members.

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<sup>252</sup> J. Christer Elfverson interview (Mar. 15, 2005) (regarding his tenure as Director of the Programme Analysis, Monitoring and Support Division of OIP and Deputy Humanitarian Coordinator in the three northern governorates); Tun Myat interview (May 8, 2005) (regarding his work as Humanitarian Coordinator in Iraq); Neel Mani interview (May 18, 2005); Cheherezade Ghazi interview (May 13, 2005) (regarding her role as WHO's Area Field Coordinator); Krishna Kant interview (May 17, 2005) (regarding his role as WHO's Project Coordinator for the Suleimaniyah Hospital).

<sup>253</sup> This Section sets out some of the more notable examples of the Agencies taking on tasks beyond their core competencies; however, there are other examples that are not of the same magnitude. For example, UNICEF undertook a project to rehabilitate printing presses in northern Iraq. While well-intentioned, this project was ill-conceived because UNICEF never had engaged in the construction and procurement of a printing press before. According to Carol Bellamy, UNICEF's former Executive Director, UNICEF "facilitates the printing [of textbooks] in other countries . . . but never did it themselves." Carol Bellamy interview (May 6, 2005).

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To a large degree, UNESCO underperformed because it overreached. UNESCO's constitution reveals that the agency focuses on advice, coordination, and communication rather than on implementation of construction projects.<sup>254</sup>

## 2. Implementation

As described below, though UNESCO's efforts to construct a chalk factory differed from WHO's hospital project (described in Section IV.C of this Chapter)—since UNESCO both started and completed construction of the factory—UNESCO's implementation was beset similarly by delays and repeated failures to meet deadlines, ultimately proving just as fruitless given that the factory's chalk ended up being brittle and unusable. Once it became apparent that the factory could not produce usable chalk, UNESCO's failure to negotiate appropriate warranties for equipment left it with few remedies.

UNESCO received approval for this project during Phase I of the Programme (late in 1996). It remains unclear why a chalk factory became a major expenditure during the first phase of what was meant to be an emergency humanitarian relief program. Early in 1997, the agency hired a consultant, B. Steen Christensen, to study the project. Mr. Christensen visited the region in May 1997, after he already had selected a German company, Pythago Color GmbH ("Pythago") to provide the entire chalk production line. As late as October 1997, UNESCO continued reporting that "prices for the purchase of various supplies for the rehabilitation of the Chalk Factory in Suleimaniyah [are] still being collected and finalized."<sup>255</sup>

In March 1998, UNESCO began groundwork preparation for the project, announcing in August 1998 that the factory would be completed by September 1998 and that chalk would be produced and distributed by February 1999. As noted below, UNESCO did not even have a contract with Pythago by that date.<sup>256</sup>

It was only in December 1998 that Mr. Christensen submitted a manual on producing chalk to UNESCO, which the agency construed to be a feasibility study. Mr. Christensen then negotiated a contract with Pythago in early 1999—nearly two years after he had pre-selected the company

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<sup>254</sup> Inter-Agency Technical Working Group 1 meeting minutes (Oct. 21, 1996); UNESCO, "Exit Strategy and Hand Over of UNESCO's OFFP in the Three Northern Governorates" (Aug. 29, 2003); UNESCO, "Constitution of the United Nations Educational, Scientific and Cultural Organization," <http://www.unesdoc.unesco.org/images/0012/001255/125590e.pdf#constitution>.

<sup>255</sup> Inter-Agency Technical Working Group 1 meeting minutes (Oct. 21, 1996); Abdel El-Amrani, "The Chalk Factory Summary of Events" (Sept. 12, 2002) (setting forth a timeline prepared by Mr. El-Amrani, UNESCO's Chief of Operations in the three northern governorates); UNESCO, "SCR 986 Weekly Progress Report No. 42" (Oct. 15, 1997).

<sup>256</sup> UNESCO, "Monthly Implementation Report SCR 986 Phases I and II Erbil, Dohuk and Suleimaniyah" (Mar. 1998); Onukaba A. Ojo note-to-file (Aug. 8, 1998).

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for the contract. Experts from Pythago finally arrived in Suleimaniyah in March 1999 to assess the site for installing and commissioning equipment.<sup>257</sup>

In May 2000—despite having installed the production line and drying chamber—Pythago continued to tender mechanical and electrical equipment and furniture for the factory. Chalk production, at that point, was expected to begin in the summer months. By June 2000, the factory was producing sample batches of chalk. However, that chalk proved to be unusable. As an August 2000 OIOS audit noted, the chalk factory “was still not operational” and “problems encountered during [a test run of the factory] necessitated further consultation with the equipment manufacturer to resolve them. We also questioned whether this plant is an economical alternative to purchasing chalk products needed for local schools.” In the end, the factory never became fully operational.<sup>258</sup>

### 3. Evaluations During and After the Project

UNESCO’S lack of technical expertise in establishing a chalk factory resulted in continuous delays, as documented by numerous reports and correspondence among UNOHCI, OIP, and UNESCO. Indeed, UNESCO demonstrated such a lack of expertise that OIP, in January 2002, considered removing UNESCO’s responsibility for construction altogether.<sup>259</sup>

Senior OIP managers regularly noted UNESCO’s substandard performance during the Programme. Both J. Christer Elfverson, who served at different times as OIP’s Director of the Programme Analysis, Monitoring and Support Division and Deputy Humanitarian Coordinator in the three northern governorates, and Frances Kinnon, a Political Analyst for OIP, described

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<sup>257</sup> Abdel El-Amrani, “The Chalk Factory Summary of Events” (Sept. 12, 2002).

<sup>258</sup> UNESCO, “Update on the Implementation of Security Council Resolution 986 (1995) and the Memorandum of Understanding” (May 3, 2000); “Report of the Secretary-General Pursuant to Paragraph 5 of Security Council Resolution 1281 (1999),” S/2000/520, para. 89 (June 1, 2000); “Review of the Office of the Iraq Programme (OIP)/The United Nations Office of the Humanitarian Coordinator in Iraq (UNOHCI) – Coordination and Monitoring Issues in Northern Iraq,” AF00/48/1, para. 13 (Aug. 25, 2000); Frederic Lemaire interview (Apr. 27, 2005) (noting that the chalk factory was never operational).

<sup>259</sup> Onukaba A. Ojo note-to-file (Aug. 8, 1998) (regarding agenda for meeting involving UNOHCI, the Agencies and the local authorities); Maxwell Gaylard memorandum to Denis Halliday (Sept. 30, 1998); Sectoral Coordination meeting minutes (Oct. 13 and Nov. 14, 1999; Feb. 1, 2000); OIP, “Issues Raised During Weekly Telephone Call Between PMD And UNOHCI (North)” (Jan. 31, 2002). It seems that, as early as November 1999, UNESCO itself realized that it had engaged in a project that was, perhaps, outside of its expertise. During a sectoral meeting between UNOHCI and the Agencies, a representative of UNESCO stated—in response to a comment by a member of the local authorities that the Chalk Factory already should have been delivered given that it was ordered under Phase I—that “when UNESCO accepted responsibility for the project the complexity of the project was not fully appreciated.” Sectoral Coordination meeting minutes (Nov. 14, 1999). The Sectoral Coordination meetings, attended by representatives of UNOHCI, the Agencies, and the local authorities, were conducted occasionally to discuss issues that arose in the implementation of the Programme in the three northern governorates. See Sectoral Coordination meeting minutes (Oct. 13 and Nov. 14, 1999; Feb. 1, 2000).

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UNESCO's performance as poor overall. Maxwell Gaylard, Assistant Humanitarian Coordinator and Acting Deputy Humanitarian Coordinator in UNOHCI from 1997 until 1999, told the Committee that, unlike other Agencies, UNESCO is not a "field-implementer" and has little experience with the type of work it was asked to do in northern Iraq. Mr. Gaylard explained that UNESCO's strengths lie in identifying experts who can assist governments in capacity building, rather than directly engaging in field deployments.<sup>260</sup>

UNESCO's chalk factory project was criticized consistently for delays and mismanagement. In an April 2000 audit, OIOS noted that "[t]he UNESCO Chalk Factory in Suleimaniyah is a good example of a highly technical project at the edge of, if not outside, the core expertise of the implementing Agency." Similarly, an Independent Technical Evaluation ("ITE") of UNESCO activities in northern Iraq commissioned by UNESCO concluded that UNESCO "encountered many difficulties in construction projects." The ITE found that:

[T]he chalk factory . . . is a concrete example [of UNESCO's difficulties with construction projects]. In this case, the mission stated that in general, the entire process of definition and acquisition of the factory shows serious deficiencies, which seem to indicate a lack of clear lines of responsibility as well as professional capacity and experience for contracting such services, works and plants.<sup>261</sup>

Specifically, the ITE found that UNESCO's decision to allow a single consultant to conduct the feasibility study, select a supplier, and then negotiate a contract with the supplier, was unprofessional and violated UNESCO's own procurement regulations. Those regulations require that UNESCO only select a supplier and award a contract after (1) preparing an Invitation to Bid ("ITB") based on the technical specifications required for the project; (2) selecting suppliers to receive the ITB; (3) receiving and opening the offers from various bidders; and (4) evaluating the bids based upon technical soundness—an objective process that, according to the ITE, was not followed in selecting Pythago. Moreover, the ITE found it difficult to justify UNESCO's decision to "waive competitive bidding and buy a partly second-hand line [of equipment]" for the factory. The evaluation concluded that this decision obviously was "a mistake given the current

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<sup>260</sup> J. Christer Elfverson interview (Mar. 15, 2005); Frances Kinnon interview (May 12, 2005); Maxwell Gaylard interview (May 3, 2005).

<sup>261</sup> OIOS, "Draft Review of the Office of the Iraq Programme (OIP)/The United Nations Office of the Humanitarian Coordinator in Iraq (UNOHCI) – Coordination and Monitoring Issues in Northern Iraq" (July 28, 2000); OIOS, "Review of the Office of the Iraq Programme (OIP)/The United Nations Office of the Humanitarian Coordinator in Iraq (UNOHCI) – Coordination and Monitoring Issues in Northern Iraq" (Aug. 25, 2000); UNESCO, "Independent Technical Evaluation Of UNESCO's Services In The Education Sector For The Three Northern Governorates Of Iraq Within The United Nations Inter-Agency Humanitarian Programme Pursuant To Security Council Resolution 986 (1995)" (May 2001).

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problems as well as the additional costs that have incurred, without having a functional production line in place.”<sup>262</sup>

Frederic Lemaire, a consultant for UNESCO in Iraq from February 1999 to July 2000 and thereafter a member of the Programme Analysis Monitoring and Support Division of OIP, stated that the agency took on the factory project much too early. He suggested that it should have waited until more money had been allocated to it, rather than spending funds on a factory that, during the eight year of the Programme, was never fully operational. Mr. Elfverson of OIP asserted that the entire project was a “scandal,” since in the end, all that the factory ever produced was a small amount of unusable chalk. Finally, the ITE noted that “the contract with the supplier ha[d] many serious deficiencies. No retention money or performance guarantee was kept as an incentive to the supplier to perform and hand-over the plant producing chalk according to agreed specifications.”<sup>263</sup>

UNESCO claims that the poor chalk quality resulted from faulty equipment. Yet, as UNOHCI Legal Advisor Nnenna Uchegbu noted in a meeting with UNESCO’s Chief of Operations in the three northern governorates, Abdel El-Amrani, “the replacement of defective equipment may be possible if warranties were provided in the contract between UNESCO and [Pythago].” UNESCO vested a great deal of authority in a single consultant who negotiated a contract that lacked any warranties with a contractor that delivered faulty equipment. Investing so much authority in the consultant person creates a situation in which such mistakes, and potentially even corruption, easily can occur. In recent interviews, UNESCO staff has acknowledged that the chalk factory project was flawed.<sup>264</sup>

## B. UN-HABITAT’S CONSTRUCTION OF RESIDENCES

### 1. Misplaced Expertise

UN-Habitat was assigned as the lead agency dealing with IDPs during the Programme. Various senior managers during the Programme have told the Committee that UN-Habitat had no

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<sup>262</sup> UNESCO, “Independent Technical Evaluation Of UNESCO’s Services In The Education Sector For The Three Northern Governorates Of Iraq Within The United Nations Inter-Agency Humanitarian Programme Pursuant To Security Council Resolution 986 (1995)” (May 2001); UNESCO, “OFFP Procurement Manual,” secs. 3.1-5 (Apr. 29, 2003); Michael Cora and Eero Porko interview (Oct. 4, 2004).

<sup>263</sup> Frederic Lemaire interview (Apr. 27, 2005); J. Christer Elfverson interview (Mar. 15, 2005); UNESCO, “Independent Technical Evaluation Of UNESCO’s Services In The Education Sector For The Three Northern Governorates Of Iraq Within The United Nations Inter-Agency Humanitarian Programme Pursuant To Security Council Resolution 986 (1995)” (May 2001).

<sup>264</sup> Nnenna Uchegbu note-to-file (Mar. 4, 2001) (regarding a meeting with UNESCO); John Parsons, Regina Kusuma, G. Engida interview (Aug. 15, 2005) (regarding acknowledgement by Mr. Parsons, UNESCO’s Director of Internal Oversight Service, that the chalk factory project “was not a good story at all”); Michael Croft interview (June 4, 2005) (noting that UNESCO previously had never assumed a project similar to the chalk factory and that a feasibility study was only done after the project commenced).

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experience in dealing with IDPs and was unprepared to handle its responsibilities in that sector. For example, Antonio Yachan, who held various management positions for UN-Habitat, stated that UN-Habitat's mandate is generally advisory—setting policies for housing construction and creating local capacity for construction—and so it normally does not conduct actual construction. Iraq was different, he explained, because the Government of Iraq did not permit the Agencies to build local capacity, and Resolution 986 solely permitted rehabilitation. As a result, UN-Habitat undertook the actual construction of housing.<sup>265</sup>

Maria Keating of OIP noted that UN-Habitat faced two barriers in northern Iraq: It had no experience in handling IDPs, and the Programme constituted the largest project it ever had undertaken. Because of UN-Habitat's lack of experience with IDPs and multi-sectoral programs, the first few years of its involvement in the Programme proved problematic. Other individuals involved with the Programme echoed Ms. Keating's sentiment that UN-Habitat was not prepared for the task it was assigned.<sup>266</sup>

## 2. Implementation

UN-Habitat's implementation of the Settlements Rehabilitation Programme ("SRP") at times failed to meet its mandate. As described below, that mandate was clearly defined: attending to the humanitarian needs of IDPs and the other vulnerable groups in the three northern governorates. And yet, as described below, UN-Habitat's administration of SRP frequently took a form that was highly at odds with this defined focus.<sup>267</sup>

Beginning in 1999, in a pattern that persisted for several years, senior management at OIP and UNOHCI pointedly reminded UN-Habitat and local authorities that UN-Habitat's mandate was to provide humanitarian assistance to IDPs and vulnerable groups, rather than undertake major infrastructure projects being requested by the local authorities. In a June 1999 meeting with UN-Habitat officials, Mr. Sevan strongly urged the agency to focus on building facilities for IDPs, a message reiterated by Gregoire de Brancovan, the head of Programme Management at OIP. In

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<sup>265</sup> Antonio Yachan interviews (June 6-7, 2005). Discussing his current position as Senior Human Settlements Adviser in UN-Habitat's Regional Office for Africa and the Arab States (ROAAS), Mr. Yachan stated, "I have ten countries for which I am responsible in Africa, we are not building a single house in those ten countries." Ibid.

<sup>266</sup> Maria Keating interview (Mar. 9, 2005) (regarding her status as Officer-in-Charge of OIP's Operations Support Section); see also Robert Goodwin interview (Apr. 19, 2005) (stating that UN-Habitat never saw a need to run or staff the Programme properly); Hans Bruyntjes interviews (Apr. 21-22, 2005) (regarding his role as Chief Technical Advisor for UN-Habitat in Erbil and noting that there was little capacity in UN-Habitat headquarters and, as a result, no one understood its technical needs during the Programme).

<sup>267</sup> Jorge Gavidia fax to Antonio Yachan (Sept. 30, 1999); Antonio Yachan interviews (June 6-7, 2005).

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correspondence with Mr. Sevan, local authorities similarly raised concerns about UN-Habitat's ability to implement its mandate.<sup>268</sup>

These concerns were validated in both a survey and technical review commissioned by UN-Habitat and published in 2001. The survey noted UN-Habitat's low housing output for IDPs, pointing out that only 3.3 percent of all IDPs lived in UN-Habitat houses built by 2001. The technical review, in turn, highlighted the substantial risk that, because of the better quality of UN-Habitat housing, IDPs would rent or sell their homes to non-IDPs, simply be forced out, or never be given homes to begin with.<sup>269</sup>

The latter fear proved particularly accurate. UN-Habitat relied entirely upon the local authorities for lists of housing beneficiaries with limited oversight or verification of the lists. UN-Habitat housing therefore often ended up in the hands of families that were not members of any vulnerable groups, but rather were favored by Kurdish officials. In addition, UN-Habitat bowed to pressure from local authorities by seeking fewer allocations for housing as the Programme progressed, while soliciting more for infrastructure (especially roads and bridges).<sup>270</sup>

In September 2001, Mr. Yachan, as SRP Programme Coordinator, filed a report recommending that SRP use an integrated approach to target needy IDPs and vulnerable groups. Yet, when Mr. Yachan returned to the region in November 2001, he found that:

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<sup>268</sup> Gregoire de Brancovan fax to Hans von Sponeck (Feb. 8, 1999); Maxwell Gaylard letter to Shafiq Qazzaz and Sadi Ahmed Pire (Feb. 28, 1999); Maria Keating note-to-file (June 30, 1999) (regarding topics to be discussed during Benon Sevan's upcoming trip to Iraq); Benon Sevan and UN-Habitat meeting minutes (June 22, 1999); Bernardo Moolman note-to-file (Nov. 2, 1999) (regarding a meeting involving UNOHCI, Mr. de Brancovan, and some of the Agencies); "Joint PUK/KDP Administration Recommendations for Submission to OIP" (June 27, 2000).

<sup>269</sup> Institute of Social Studies, "UNCHS / Habitat's Programme in Northern Iraq during the last Four Years: Independent Technical Evaluation" (Jan. 2001); UN-Habitat, "IDP Site & Family Survey: Final Report" (Jan. 2001).

<sup>270</sup> Robert Goodwin interview (Apr. 19, 2005); Monica Noro interview (Apr. 17, 2005) (regarding her tenure as a Community Programme Officer in UN-Habitat's Core Team); Antonio Yachan interviews (June 6-7, 2005); Erhard Berner interview (Dec. 7, 2004) (regarding his contract with UN-Habitat to conduct an independent technical evaluation of the SRP); Hans Bruyntjes interviews (Apr. 21-22, 2005); Zina Habib (Apr. 17, 2004) (regarding her employment with UN-Habitat); Rimmelt Hummelen interview (Apr. 13, 2005) (regarding her tenure as a UN-Habitat Programme Management Officer in Dohuk); Maria Keating interview (Mar. 9, 2005); Maurizio Pieroni interviews (June 3 and 9, 2005) (regarding his work as a UN-Habitat Field Coordinator); see also UNOHCI, "Draft Report on Highlights/Events UNOHCI Suleimaniyah (14 October - 5 November 2000)" (citing case of housing being given to persons who were not on the list of beneficiaries); Saddig Ibrahim letter to John Almstrom (June 18, 2001) (reporting his observation, as a UNOHCI Field Delegate in Erbil, that the structure of UN-Habitat's resettlement program "has diverted attention and focus away from the main target group of beneficiaries"); Institute of Social Studies, "UNCHS / Habitat's Programme in Northern Iraq during the last Four Years: Independent Technical Evaluation" (Jan. 2001).

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The programme has completed over 1,600 projects and has over 1,000 projects in different stages of implementation, however there was no visible plan to clearly target the most needy IDPs and vulnerable groups. This exposed the Agency to criticisms and opened the door to other Agencies (especially UNOPS) to intervene in the IDP sector.<sup>271</sup>

A February 2002 report by UNOHCI's Field Office in Suleimaniyah underscored UN-Habitat's failure to address the dire conditions faced by IDPs. The report noted that 3,288 families (17,313 individuals) lived in "dilapidated" public buildings "with windows and doors broken and covered with plastic sheets. The water and sanitation systems were not working properly and in some cases did not exist. The buildings were overcrowded and generally not fit to live in." The report further noted that no one living in these facilities was on the priority list for the 8,000 houses that UN-Habitat had built or was building. Around the same time, Mr. Elfverson noted that UN-Habitat was assuming the role of the "UN 'construction agency,'" to the detriment of its mandate of resettlement. He described this trend as "concerning . . . in view of the magnitude of outstanding needs of IDPs."<sup>272</sup>

An April 26, 2002 fax from Mr. de Brancovan reiterated the concern that local authorities, rather than IDPs and other vulnerable individuals, were the beneficiaries of SRP. Mr. de Brancovan specifically cited media reports that local authorities in Dohuk and Erbil had distributed 1,000 housing units built by UN-Habitat to families of "'martyrs' and the disabled." Another report noted that the Council of Ministers planned to continue these distributions to executive governmental staff, "martyrs," peshmergas (militia), teachers, members of the internal security forces, and civil servants. Mr. de Brancovan asked UNOHCI to clarify whether UN-Habitat had built the 1,000 units in Dohuk and stated that, if so, the agency needed to verify the status of recipients as IDPs and vulnerable individuals.<sup>273</sup>

Soon thereafter, Mr. Yachan noted that UN-Habitat's policy of delaying housing construction until local authorities submitted the beneficiary lists apparently had lapsed. The agency was building houses in Suleimaniyah regardless of these lists. As a result, approximately 1,000 houses remained vacant. Mr. Yachan further feared that the beneficiary lists were falsified and that the intended beneficiaries were being evicted. An OIP report of the same month voiced similar concerns.<sup>274</sup>

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<sup>271</sup> Antonio Yachan, "Mission Report" (Sept. 7-18, 2001); Antonio Yachan, "Mission Report" (Nov. 30, 2001).

<sup>272</sup> Suleimaniyah Field Office/UNOHCI, "Assessment of Public Buildings Occupied by IDPs" (Feb. 19, 2002); J. Christer Elfverson fax to John Almstrom (Mar. 4, 2002).

<sup>273</sup> Gregoire de Brancovan fax to Tun Myat, John Almstrom, and J. Christer Elfverson (Apr. 26, 2002).

<sup>274</sup> John Almstrom handover notes to Benon Sevan (Aug. 6, 2002); John Almstrom note to Hussein Al-Alfi (May 5, 2002); OIP, "Comments of Habitat's Independent Technical Review" (May 24, 2002); Gregoire de Brancovan fax to Tun Myat (May 24, 2002).



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Nonetheless, UN-Habitat continued to build houses that were not occupied by IDPs. In June 2002, Mr. Yachan sent a memorandum to UN-Habitat's Chief Technical Advisor, Hans Bruyntjes, citing a report that over 2,000 UN-Habitat houses remained unoccupied. He instructed Mr. Bruyntjes to take immediate action to ensure that the houses were given to needy IDPs, arguing that the problem should have been solved twelve months earlier and that further delays were unacceptable. Two weeks later, Mr. Yachan sent a memorandum to Humanitarian Coordinator Tun Myat reporting that houses in Suleimaniyah remained empty for political, rather than technical reasons. Unsurprisingly, beneficiary lists appeared to be the core of the problem. He also noted that an assessment of 907 empty houses in Suleimaniyah (valued at over \$6 million) revealed that the houses lacked services including sewer and water service, access roads, internal roads, and electricity.<sup>275</sup>

These problems persisted in autumn 2002. Maurizio Pieroni recalled that when he took over as Field Coordinator for UN-Habitat in Suleimaniyah in September 2001, he discovered 3,400 unoccupied houses constructed by UN-Habitat. Mr. Pieroni blamed these numbers on his predecessor, Shraavan Kashyap, stating that local authorities had "push[ed] him around."<sup>276</sup>

Only in early 2003 did UN-Habitat finally make substantial progress in resettling IDPs and other vulnerable groups. Acting Chief Technical Advisor Robert Goodwin wrote in an e-mail that UN-Habitat "finally" had taken the first step in solving the problem of empty houses in Suleimaniyah. Fifty-two families had been moved into empty houses, and the local authorities were being encouraged to move IDPs from the camps into the remaining houses. Mr. Goodwin also reported that UN-Habitat was trying to speed up efforts to provide basic services to homes that lacked them. In sum, it took UN-Habitat nearly six years to come to terms with its mandate and begin to effectively implement SRP.<sup>277</sup>

## C. WHO'S HOSPITAL CONSTRUCTION PROJECTS

WHO was the lead agency in the Programme's health sector. In this capacity, the agency assumed responsibility for constructing fifteen 100-bed and one 400-bed hospitals, but never actually constructed them. As described below, the Committee's investigation reveals that one of the main reasons for WHO's inability to construct any of these hospitals was its lack of relevant experience and technical skills. In addition, senior officials within the Programme were aware of this problem, but nevertheless failed to address it.<sup>278</sup>

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<sup>275</sup> Antonio Yachan memorandum to Hans Bruyntjes (June 5, 2002); Antonio Yachan memorandum to Tun Myat (June 19, 2002).

<sup>276</sup> Maurizio Pieroni interviews (June 3, 9, 2005); see also Robert Goodwin interview (Apr. 19, 2005) (opining that Mr. Kashyap was "too closely aligned with the local authorities").

<sup>277</sup> Robert Goodwin e-mail to Daniel Biau (Jan. 6, 2003).

<sup>278</sup> Benon Sevan note to Louise Fréchette (Jan. 29, 2002) (regarding his trip to the three northern governorates in January 2002).

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#### 1. Lack of Expertise

WHO describes itself as “the United Nations specialized agency for health,” aiming for “the attainment by all peoples of the highest possible level of health.” WHO’s Constitution lists over twenty agency functions, none of which can be read to include the construction of major health care facilities. Rather, WHO’s primary function is best described as setting standards and providing advice.<sup>279</sup>

Senior managers in both OIP and WHO have acknowledged to the Committee that WHO should not have assumed responsibility for building hospitals in Iraq. Mr. Myat, for example, acknowledged that UNOPS, not WHO, would have been the best choice to build a much-needed 400-bed hospital in Suleimaniyah.<sup>280</sup>

Similarly, Neel Mani, Director of WHO’s Iraq Program from September 2001 until August 2003, stated that WHO never should have taken responsibility for building the Suleimaniyah hospital, because it was outside the agency’s expertise. Mr. Mani noted that the last time WHO built a hospital was approximately twenty to thirty years earlier in Vietnam. This lack of experience, he argued, led to reluctance on the part of many WHO employees to follow through on the project—even after the agency had committed to it. This reluctance, in turn, caused extensive construction and project delays.<sup>281</sup>

In addition, Mr. Mani’s successor, Samir Ben Yahmed stated that WHO ordinarily acts as a technical support agency rather than an operations-oriented one. Cheherezade Ghazi, who served as WHO’s Area Field Coordinator for the three northern governorates from August 2000 until 2003, observed that many WHO employees did not believe that the agency should have been involved in the construction of hospitals, because such projects were outside its expertise. Most of these individuals believed that UNOPS was better suited to building hospitals and that WHO instead should have played an advisory role. Krishna Kant, WHO’s Project Coordinator for the Suleimaniyah Hospital, stated that for several years prior to the Programme, if not earlier, WHO had not been involved in construction projects. As a result, he was unable to find any WHO employee who had worked on a project similar in nature to the Suleimaniyah hospital.<sup>282</sup>

Reports and correspondence produced during the Programme confirm Mr. Mani and Ms. Ghazi’s statements concerning the reluctance of some WHO personnel to be involved in constructing hospitals. For example, on February 17, 2000, WHO’s Assistant Director-General Denis Aitken

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<sup>279</sup> WHO, “About WHO,” <http://www.who.int/about/en>; WHO, “The Constitution of the World Health Organization,” [http://policy.who.int/cgi-bin/om\\_isapi.dll/hitsperheading=on&infobase=basicdoc&jump=Constitution&softpage=Document42#JUMPDEST\\_Constitution](http://policy.who.int/cgi-bin/om_isapi.dll/hitsperheading=on&infobase=basicdoc&jump=Constitution&softpage=Document42#JUMPDEST_Constitution).

<sup>280</sup> Tun Myat interview (May 4, 2005).

<sup>281</sup> Neel Mani interview (May 18, 2005).

<sup>282</sup> Samir Ben Yahmed, Paolo Piva, and Dorothy van Schooneveld interview (Sept. 29, 2005); Cheherezade Ghazi interview (May 13, 2005); Krishna Kant interview (May 17, 2005).

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sent an e-mail to Abdel Aziz Saleh, the Director of WHO's Eastern Mediterranean Regional Office ("EMRO"), relaying the position of the Director-General's Office concerning WHO's Suleimaniyah hospital construction project. Mr. Aitken stated: "From here we have a firm view that the entire project should not be handled by WHO, and instead given to a third party, if possible UNOPS, but if not then some other entity."<sup>283</sup>

Documentary evidence indicates that OIP knew about WHO's reluctance to be the sole implementing agency for the Suleimaniyah hospital project. In a March 22, 2000 fax, Mr. de Brancovan told John Almstrom, the Deputy Humanitarian Coordinator for the three northern governorates, that:

Following internal discussions among senior management within WHO, Geneva, the Agency has now decided that the construction of the proposed 400 bed hospital in Suleimaniyah *cannot* be considered as an activity within the core competencies of WHO. Therefore, WHO with the assistance of UNOHCI, is eager to identify an implementing partner to undertake construction of the Suleimaniyah hospital under the overall supervision and guidance of WHO.<sup>284</sup>

WHO's competence and continued involvement in the Suleimaniyah hospital project was the subject of many discussions among senior management officials at OIP and WHO. On April 20, 2000, Mr. Elfverson sent a fax to a WHO official, in which he confirmed the understanding between OIP and WHO that because WHO was the lead agency in the health sector, yet "[did] not have the expertise to build hospitals . . . UNOHCI/WHO should jointly identify a suitable implementing partner to construct the hospital under the overall supervision of WHO." Under this arrangement, "WHO would be responsible for providing the plans and blueprint, overseeing the procurement and installation of equipment, provision of medical supplies, training of local staff and identification of a funding source for payment of local salaries and recurrent costs."<sup>285</sup>

On May 9, 2000, the Director of WHO's Department of Emergency and Humanitarian Aid, Xavier Leus, sent a fax to Mr. Elfverson that discussed WHO's position regarding its role in the Suleimaniyah hospital project. In this fax, Dr. Leus stated that WHO would prefer a "turnkey operation," in which another "agency/entity [would] take full responsibility for construction, including plans and architectural requirements and procurement of non-medical equipment." OIP replied by noting that Dr. Leus's position stood "in stark contrast to the understanding which WHO, Geneva, confirmed to OIP on 20 April 2000" and that OIP "would prefer that WHO carry

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<sup>283</sup> Denis Aitken e-mail to Abdel Aziz Saleh (Feb. 17, 2000).

<sup>284</sup> Gregoire de Brancovan fax to John Almstrom (Mar. 22, 2000) (emphasis in original); see also Maria Keating memorandum to Elizabeth Emerson (Mar. 24, 2000) (acknowledging OIP's understanding that WHO, with the assistance of UNOHCI, was actively seeking an implementing partner for the Suleimaniyah hospital project). Ms. Keating was Officer-in-Charge of OIP's Operations Support Section and Ms. Emerson was WHO's Liaison Officer in New York. Ibid.

<sup>285</sup> J. Christer Elfverson fax to Xavier Leus (Apr. 20, 2000).

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out all aspects involved in the construction, equipping, and initial provisioning of the 400-bed hospital in Suleimaniyah.”<sup>286</sup>

In internal meetings, senior officials at WHO expressed concerns that “it [would] be difficult for the Organization to maintain a leading role in Iraq as regards the health component of the Programme and, in the same time, to justify turning down entirely any role with regard to building this hospital.” Yet, notwithstanding its concerns about the agency’s ability to undertake the Suleimaniyah hospital project, WHO agreed “to be responsible for construction, equipping and initial provisioning of the Suleimaniyah hospital . . . through turnkey contractual arrangements with appropriate hold harmless undertaking and performance/payment bonds” and requested confirmation that all costs connected to the project would be covered by OIP. OIP agreed to this arrangement.<sup>287</sup>

## 2. WHO’s Failed Implementation of the Suleimaniyah Hospital Project

During the 1980s, the Government of Iraq engaged in an extensive program of modernizing its healthcare system. This effort included constructing at least one major modern “Saddam” hospital in each of Iraq’s eighteen governorates. Because of a number of factors, including the invasion of Kuwait and the imposition of international sanctions, no such hospital was constructed in the Suleimaniyah governorate.<sup>288</sup>

Early in the Programme, local governmental and health authorities in Suleimaniyah indicated their dire need for a new hospital. In February 1999, local authorities in Suleimaniyah submitted a written request to the Humanitarian Coordinator for the construction of a 400-bed general hospital. WHO documentation demonstrates that \$1.65 million was allocated to the project in Phase V (November 1998 to May 1999). WHO became the project’s lead “implementation agency.”<sup>289</sup>

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<sup>286</sup> Xavier Leus fax to J. Christer Elfverson (May 9, 2000); Gregoire de Brancovan fax to Xavier Leus (May 9, 2000); J. Christer Elfverson fax to Denis Aitken (May 11, 2000).

<sup>287</sup> WHO note-to-file (May 19, 2000) (memorializing the meeting on coordination of WHO’s work in Iraq); Xavier Leus e-mail to J. Christer Elfverson (May 26, 2000); J. Christer Elfverson fax to Xavier Leus (June 19, 2000). Even after OIP and WHO reached this agreement, OIOS, in an internal audit of the Programme, recommended that OIP examine WHO’s ability to implement the Suleimaniyah hospital project before it was approved. “Review of OIP/UNOHCI - Coordination and Monitoring Issues in North Iraq,” AF00/48/1, para. 13 (Aug. 25, 2000).

<sup>288</sup> WHO, “400-Bed Hospital Suleimaniyah Iraq: Background Information” (Mar. 12, 2002).

<sup>289</sup> Sadi Ahmed Pire letter to Hans von Sponeck (Feb. 6, 1999); Bo Asplund Handover Notes To Benon Sevan (Dec. 31, 1999); see also UNOHCI, “Programme Consultation Process Quarter Ending October 1998” (Oct. 1998) (noting that the Local Authorities had emphasized that a large hospital in Suleimaniyah and specialized hospitals in Erbil would be more useful than additional health centers); WHO, “Suleimaniyah Hospital” (June 9, 2004); WHO, “400-Bed Hospital Suleimaniyah Iraq: Background Information” (Mar. 12, 2002).

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WHO commissioned a feasibility study for the hospital in 1999, which established an estimated construction time—taking into account design and tender—of thirty-two to thirty-four months. A similar time frame was indicated in the documentation that WHO submitted to OIP and UNOCHI as well as in WHO's internal reports. As described above, however, WHO did not formally commit to the project until June 2000. Nevertheless, in November 1999, in its budget proposal for Phase VII, WHO represented that: "WHO intends to contract the design of the hospital, recruit a resident consulting engineering firm and possibly contract the first module, if enough funds are earmarked under this phase." Similarly, in a June 2001 budget submission, WHO noted that it had agreed to the Suleimaniyah hospital construction the previous year and stated that "activities to that end are solidly under way."<sup>290</sup>

Yet, notwithstanding the representations in its budget submissions, WHO was slow to undertake several important steps in its implementation of the Suleimaniyah hospital. Most notably, there were substantial delays in the recruitment of some key participants in the project. Specifically, WHO did not fill the position of project coordinator until December 20, 2001. Similarly, WHO's recruitment of a project manager and design consultant were fraught with delays—taking nearly eleven months to recruit and enter into a contract with a project manager and one year to recruit and enter into a contract with a design consultant.<sup>291</sup>

At the Programme's conclusion in November 2003, however, WHO had yet to begin constructing the hospital. Some delay—from approximately December 1999 until June 2000—can be attributed to uncertainty as to whether WHO should involve itself in hospital construction projects. Yet, even after WHO finally agreed to undertake the project, it was unable to make significant progress. As one former member of the OIP management staff has stated: "It seemed like they were always on the verge of the plans being put out but never quite achieved it."<sup>292</sup>

Throughout the Programme, senior OIP staff members expressed frustration to senior management of WHO concerning the delays in the hospital's construction. For example, in his October 5, 2000 letter to Gro Harlem Brundtland, WHO's Director-General, Mr. Sevan warned:

The issue of the 400-bed hospital is now becoming a serious concern, as was very apparent to me when I recently visited Iraq last August. Unless resolved

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<sup>290</sup> Mikael Paatela, "Feasibility Study for a 400-bed Hospital for Suleimaniyah, Iraq" (Sept. 19, 2000) (included as Annex A to WHO, "400 Bed Hospital Project Proposal Suleimaniyah, Northern Iraq" (2003)); WHO, "400 Bed Hospital Project Proposal Suleimaniyah, Northern Iraq" (2003); Joseph Hazbun mission report (Nov. 8, 1999); WHO, "Phase VII Budget Proposal, 1 January to 30 June 2000" (Nov. 19, 1999); WHO, "Budget Proposal, Phase X of the Iraq Programme, July to December 2001" (undated).

<sup>291</sup> Krishna Kant interview (May 17, 2005); Krishna Kant memorandum "400-bed Hospital Project - in Suleimaniyah, Iraq - A Step by Step Approach" (Dec. 20, 2001); WHO, "400 Bed Hospital Project Proposal Suleimaniyah, Northern Iraq" (2003); Krishna Kant fax to Masons (October 30, 2002). Masons is a law firm based in the United Kingdom that WHO hired to provide legal advice concerning the Suleimaniyah hospital project. Ibid.

<sup>292</sup> J. Christer Elfverson interview (Mar. 15, 2005).

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expeditiously, it threatens to undermine both the performance of and the credibility of WHO in particular and the United Nations in general, as well as jeopardizing the health sector programme, its implementation, and its credibility in turn.

Similarly, local authorities repeatedly and openly complained about delays.<sup>293</sup>

In November 2001, in response to complaints about delays, Dr. Brundtland wrote to Mr. Sevan that:

WHO remains committed to the Suleimaniyuh Hospital project and to its implementation in stages. We have just selected the Project Manager and expect to dispatch the tenders for the External Project Manager and the Design Consultant very shortly. It would be fair to categorize this project as the new Departments [*sic*] top priority.<sup>294</sup>

Notwithstanding Dr. Brundtland's statement that the 400-bed hospital would be the "top priority" of the Department of the Iraq Programme, the project was never implemented. In interviews and correspondence sent to the Committee, senior WHO management staff directly involved in the project refused to accept any responsibility for the six-year failure to build the Suleimaniyah hospital. Rather, they blamed delays on a series of external factors, including: (1) financial constraints; (2) legal issues (including the lack of a certificate of land ownership from the Suleimaniyah authorities); (3) delays in a soil survey of the proposed construction site; and (4) the actions of local authorities.<sup>295</sup>

The explanations provided by WHO officials do not adequately explain the delays in building the hospital. Particularly confounding is the suggestion that financial constraints were an obstacle. Rather, documents relating to the project demonstrate that ample funds had been allocated throughout the Programme for the hospital. As early as Phase VI, \$13 million had been allocated. By October 2001, this sum had increased to over \$43.5 million, which was more than sufficient to

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<sup>293</sup> See, e.g., J. Christer Elfverson e-mail to Dennis Aitken (Feb. 15, 2000); Benon Sevan note to Louise Fréchette (Jan. 29, 2002); Benon Sevan letter to Gro Harlem Brundtland (Oct. 5, 2000); Jamal Fuad letter to Benon Sevan (Apr. 17, 2000); Kurdistan Regional Government Council of Ministers letter to Tun Myat (Sept. 3, 2001); Kurdistan Regional Government Council of Ministers memorandum to Benon Sevan (Jan. 22, 2002); Howard Ziad statement to the United States House of Representatives, International Relations Committee (Apr. 28, 2005). Mr. Fuad served as Minister of Agriculture and Minister of Humanitarian Aid and Cooperation in Suleimaniyah. Jamal Fuad interview (Dec. 17, 2004).

<sup>294</sup> Gro Harlem Brundtland letter to Benon Sevan (Nov. 2, 2001).

<sup>295</sup> Samir Ben Yahmed interview (July 8, 2005); Neel Mani interview (May 18, 2005); Abdel Aziz Saleh interview (May 11, 2005); Ghulam Rabini Popal interview (May 16, 2005); Krishna Kant interview (May 17, 2005); Cheherezade Ghazi interview (May 13, 2005); WHO e-mail to the Committee (Aug. 19, 2005).

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cover the project's cost. In fact, even though WHO never actually initiated the construction of the hospital, it spent more than \$3.7 million on the project by March 2004.<sup>296</sup>

As George Axemann of WHO's Department of Budget and Management Reform recognized in a 2001 management report:

For once, WHO is not funds-constrained and could theoretically practice on the ground all the best practices it normally can only preach. Any failure, therefore, to live up to these high expectations is bound to cause damage to WHO's image as a whole. The more closely its leadership is involved in project execution, the more such damage would also rub off on it.<sup>297</sup>

WHO also failed to construct any of the fifteen 100-bed hospitals that it agreed to build. With regard to those hospitals, WHO senior management has contended that it never agreed to undertake this construction. This assertion is belied by both its own documents as well as OIP documents revealing that WHO in fact agreed to undertake these projects and took some steps in furtherance of them.<sup>298</sup>

WHO's inability to deliver this 400-bed hospital in Suleimaniyah was precisely the type of failure that Mr. Axemann feared. These difficulties resulted in a waste of Programme resources and, more importantly, in the failure to redress serious healthcare needs of the citizens of Suleimaniyah.

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<sup>296</sup> Cheherezade Ghazi letter to John Almstrom (Oct. 28, 2001) (noting the funds allocated by October 2001); WHO, "400 Bed Hospital Project Proposal Suleimaniyah, Northern Iraq" (2003) (detailing the project's cost); Samir Ben Yahmed e-mail to the Committee (Apr. 22, 2005) (indicating that WHO had spent \$3.7 million on the project as of March 2004).

<sup>297</sup> WHO, "Management Review of WHO Iraq Programme" (July 10, 2001).

<sup>298</sup> Denis Aitken e-mail to the Committee (Aug. 19, 2005) (claiming that "there was no formal acceptance of the construction of [the fifteen 100-bed] hospitals"); J. Christer Elfverson to Neel Mani (Dec. 12, 2001) (noting that under Phase VIII of the Distribution Plan, WHO had proposed to build one 100-bed hospital in Erbil and one in Dohuk); Neel Mani fax to J. Christer Elfverson (Jan. 25, 2002) (confirming that "WHO is prepared to undertake the construction of 100-bed hospitals as proposed under Phase VIII . . . within the framework of a comprehensive plan covering the physical rehabilitation of existing facilities in the 3 Northern Governorates" and stating that the experience that WHO gained in implementing the 400-bed hospital in Suleimaniyah would benefit it in its implementation of similar projects in the three northern governorates); Benon Sevan note to Louise Fréchette (Jan. 29, 2002); J. Christer Elfverson fax to Tun Myat (Feb. 5, 2002) (noting his receipt of the above-mentioned January 25, 2005 e-mail to Neel Mani); OIP note-to-file (Sept. 9, 2002) (regarding topics to be addressed by J. Christer Elfverson during his visit to WHO headquarters and noting that there is also "*lack of firm commitment* by WHO to undertake construction of about 15 (100-bed) hospitals, which although promised, remain unfulfilled" (emphasis added); Krishna Kant memorandum to Director of WHO's Department of the Iraq Programme (Dec. 2, 2002) (regarding procedures to be utilized in the building of 100-bed and 50-bed hospitals); Krishna Kant e-mail to Halala Kamal (Aug. 5, 2003) (noting that there were engineering designs and drawings for the proposed 100-bed hospital in Aqra that needed to be reviewed).

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#### D. ITU'S TELECOMMUNICATION REHABILITATION PROJECT

ITU's statements about its mission reflect that the agency's expertise lies in performing advisory, regulatory, rule-making, and policy-making functions. ITU does not ordinarily assume sole responsibility for implementing telecommunication projects.<sup>299</sup> Nonetheless, such a project became one of ITU's responsibilities during the Programme.<sup>300</sup>

ITU's lack of experience and expertise in developing telecommunication systems was a cause of concern among senior OIP managers even before the agency's involvement with the Programme. Mr. Elfverson told the Committee that because ITU was more of a regulatory body than an implementing agency, it was not an appropriate choice for the telecommunication rehabilitation project. He and others urged Mr. Sevan to choose UNOPS for the task because, in contrast to ITU, UNOPS specializes in project implementation.<sup>301</sup>

Mr. Elfverson's contention is supported by OIP records. In August and September 1999, the Observation and Analysis Section of OIP evaluated proposals submitted by UNOPS and ITU for implementing telecommunication projects and observing telecommunication-related activities. The Observation and Analysis Section concluded that UNOPS was more qualified to take on these responsibilities. On September 22, 1999, Bo Asplund, Mr. Elfverson's predecessor as Director of the Programme Management Division, produced a memorandum comparing the two proposals. He, too, recommended UNOPS over ITU, noting that "[i]n reaching this conclusion, [he and the Observation and Analysis Section] have paid particular attention to the stated operation capability of both organizations to manage a project on this scale and their ability to ensure proper observation standards." After the Programme, ITU's Project Coordinator acknowledged that the Programme was the first implementation of its type in which ITU had ever been involved.<sup>302</sup>

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<sup>299</sup> ITU, "Purposes," <http://www.itu.int/aboutitu/overview/purposes.html>; ITU, "Role and Work of the Union," <http://www.itu.int/aboutitu/overview/role-work.html>; ITU, "Contents," <http://www.itu.int/aboutitu/overview/index.html> (including links to overviews of the radio communication, standardization; and development sectors).

<sup>300</sup> J. Christer Elfverson interview (July 22, 2005); Bo Asplund memorandum to Benon Sevan (Sept. 22, 1999); Jean Jacques Massima-Llandji, "End of Project Report" (undated). Mr. Massima-Llandji was ITU's Programme Coordinator. Jean Jacques Massima-Llandji interview (May 24, 2005).

<sup>301</sup> J. Christer Elfverson interview (July 22, 2005).

<sup>302</sup> Bo Asplund memorandum to Benon Sevan (Sept. 22, 1999); Jean Jacques Massima-Llandji, "End of Project Report" (undated). In correspondence with the Committee, ITU has disputed that its mandate during the Programme was beyond its traditional sphere of competence. In support of its position, ITU primarily pointed to the language of its Constitution, which describes ITU as an "executing agency for implementing projects," and an agreement that it signed with UNDP in 1990 in which ITU is described as an "executing agency" in joint projects with UNDP. In addition, ITU provided as annexes to its correspondence with the Committee a list of recent projects with which it has been involved and a detailed description of its role in telecommunication implementation or rehabilitation projects in Argentina,



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Despite Mr. Asplund's recommendation, Mr. Sevan chose ITU over UNOPS. Apart from some surveys and civil engineering contracts, ITU subsequently failed to implement all the telecommunication projects that it undertook during the Programme. While some persons at OIP were critical of ITU's performance, it is unclear whether ITU's efforts or external factors were primarily responsible for this outcome, because the agency's telecommunication efforts were impaired by holds placed by the 661 Committee on equipment necessary for their implementation.<sup>303</sup>

Other Agencies, such as WHO and FAO, complained about holds on discrete items; however, ITU's experience with the 661 Committee differed because its holds had broader implications for ITU's ability to achieve its mandate. As ITU's Programme Coordinator, Jean Jacques Massima-Llandji, explained, Security Council members insisted on receiving assurances that the proposed telecommunication system would not be used for military purposes before they removed holds placed on related contracts. While it should have been clear to ITU, UNOHCI, and OIP that these assurances never could be given, ITU's operation in the three northern governorates persisted, resulting in substantial unnecessary administrative expenditures. In fact, while ITU spent less than \$900,000 of Programme funds for humanitarian aid and services during the Programme, it spent more than \$10 million in administrative costs. In light of these holds on critical contracts and the feedback that ITU received from the 661 Committee, these Programme resources might

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Rwanda, and Burundi. ITU letter to the Committee (Aug. 19, 2005); "Executing Agency Agreement between the United Nations Development Programme and the International Telecommunication Union" (June 19, 1990) (hereinafter "UNDP-ITU agreement"); ITU e-mail to the Committee (Sept. 1, 2005). However, in all of the projects for which ITU has provided detailed descriptions, ITU did not assume sole responsibility for implementation. Rather, it functioned as an "operational partner" or acted in conjunction with a host nation. ITU letter to the Committee (Aug. 19, 2005); "Executing Agency Agreement between the United Nations Development Programme and the International Telecommunication Union" (June 19, 1990) (hereinafter "UNDP-ITU agreement"); ITU e-mail to the Committee (Sept. 1, 2005). Similarly, the agreement between ITU and UNDP contemplated a partnership arrangement in which UNDP would assume a leadership role. UNDP-ITU agreement, arts. I, III. These examples are not comparable to ITU's role during the Programme where it was the sole entity responsible for the rehabilitation of the telecommunication sector.

<sup>303</sup> J. Christer Elfverson interview (Mar. 15, 2005); Jean Jacques Massima-Llandji, "End of Project Report" (undated); Jean Jacques Massima-Llandji interview (May 24, 2005) (noting that inputs necessary to the telecommunication sector in the three northern governorates were subject to holds placed by the 661 Committee, as well as delays caused by the Government of Iraq which required that all inputs needed for the telecommunication sector go through Baghdad, and stating also that ITU conducted surveys and feasibility studies while awaiting clearance from the 661 Committee); Maria Keating interview (Mar. 9, 2005) (regarding her opinion, as OIP's primary contact with ITU, that "ITU were [*sic*] an absolute disaster"); Benon Sevan statement at informal Security Council consultations, p. 22 (May 29, 2002); Provisional record of 661 Committee meeting, S/AC.25/SR.192, p. 5 (Jan. 19, 2000) (regarding holds placed on telecommunication sector contracts); Provisional record of 661 Committee meeting, S/AC.25/SR.199, p. 6 (Apr. 25, 2000) (same); Provisional record of 661 Committee meeting, S/AC.25/SR.207, pp. 5, 7 (Oct. 16, 2000) (same); Provisional record of 661 Committee meeting, S/AC.25/SR.214, pp. 3, 5 (Mar. 1, 2001) (same).

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have been better used by discontinuing the telecommunication rehabilitation project in favor of a project with a higher likelihood of success.<sup>304</sup>

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<sup>304</sup> Ghulam Rabini Popal interview (May 10, 2005) (concerning WHO's experience with holds placed upon inputs by the 661 Committee); Samir Ben Yahmed interview (July 8, 2005) (concerning WHO's experience with holds placed upon inputs by the 661 Committee); Ramsay Bisharah interviews (Feb. 3-4, 2005) (concerning WHO's experience with holds placed upon inputs by the 661 Committee); Mohamed Farah interviews (Mar. 12-13, 2005) (concerning FAO's experience with holds placed upon inputs by the 661 Committee); Jean Jacques Massima-Llandji interview (May 24, 2005).

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## V. INSUFFICIENT MANAGEMENT, COORDINATION, AND OVERSIGHT

As mentioned in Section II.C above, the method of funding the Agencies under the Programme was unique because that funding was being provided by the Government of Iraq to which the Agencies were not accountable. As a result, there was a need for an entity with responsibility for coordinating inter-agency efforts, overseeing ethical and efficiency standards, and ensuring that management responsibilities remained clearly defined. As described below, however, an effective oversight, coordination, and management body did not exist during the Programme. The UNIAHP was marked by an absence of coordination, oversight, and clear lines of responsibility, undercutting humanitarian initiatives in the three northern governorates. Moreover, too often lines of responsibility and management within individual Agencies were blurred and issues handled ineffectively. These Agencies were also subject to a great deal of pressure applied by both the Government of Iraq and the local authorities.

### A. INEFFECTIVE COORDINATION

OIP had overall responsibility for the Agencies' work in the three northern governorates with UNOHCI, under the auspices of the Deputy Humanitarian Coordinator, given responsibility for implementing the humanitarian program in the field. The investigation has revealed that UNOHCI's lack of a clearly defined supervisory and coordination role resulted in wasted resources, duplicated efforts, and poor overall implementation. In particular, three contributing factors for this failure have been identified: (1) the Programme's design did not provide a system for UNOHCI or any other entity to coordinate truly humanitarian efforts; (2) OIP and UNOHCI were reluctant to utilize the one tool that they had at their disposal—control of the Programme's funds—to manage the Agencies; and (3) the Agencies were resistant to any supervision from UNOHCI, OIP, or any outside entity. The lack of coordination within the United Nations system was exacerbated by poorly defined relationships among the Agencies, the Government of Iraq, and local authorities in the three northern governorates.<sup>305</sup>

The initial design and administration of the Programme failed to empower UNOHCI to manage effectively the humanitarian program. Neither Resolution 986 nor the Iraq-UN MOU contained any guidelines or frameworks for coordinating and managing the Agencies. While various memoranda of understanding entrusted DHA and subsequently OIP with the authority to oversee the implementation of humanitarian aid in the three northern governorates, they did not require that the Agencies be responsive to either organization. Instead, these agreements provided that

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<sup>305</sup> OIP, "About the Programme," <http://www.un.org/Depts/oip/background/index.html>; "Report of the Secretary-General pursuant to Paragraph 3 of Resolution 1111 (1997)," S/1997/935, para. 4 (Nov. 28, 1997); "Report of the Secretary-General pursuant to Paragraph 7 of Resolution 1143 (1997)," S/1998/90, para. 3 (Feb. 1, 1998).

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the Agencies were bound only by their own rules in delivering services and accounting for expenses.<sup>306</sup>

Mr. Myat told the Committee that the position of Humanitarian Coordinator was a “toothless tiger” that lacked control over the Agencies. Moreover, the view that UNOHCI was never given the clear authority to manage the humanitarian relief program was expressed by senior management at OIP, UNOHCI, and other UN-related Agencies, as well as the Programme’s resident auditor and United Nations field staff.<sup>307</sup>

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<sup>306</sup> See S/RES/986, para. 8(b) (Apr. 14, 1995); Iraq-UN MOU; see, e.g., FAO-UN memorandum of understanding (Oct. 14, 1997); ITU-UN memorandum of understanding (Mar. 13, 2000); UNICEF-OIP memorandum of understanding (Nov. 17, 2000); UNDP-OIP memorandum of understanding (Mar. 11, 1998); UNESCO-UN memorandum of understanding (Sept. 2, 1998); UN-Habitat-UN memorandum of understanding (Aug. 10, 1998); UNOPS-DPKO-OIP memorandum of understanding (Feb. 20, 1998); WFP-OIP memorandum of understanding (Mar. 29, 2000); WHO-UN memorandum of understanding (June 21, 2000).

<sup>307</sup> Tun Myat interview (May 4, 2005); J. Christer Elfverson interview (Mar. 15, 2005) (opining that, rather than reporting to their own representatives in Baghdad, the Agencies should have reported directly to UNOHCI); Maria Keating interview (Mar. 9, 2005) (stating that the UN-related Agencies were expected to look after themselves, that during the initial phases there was no real global coordination by UNOHCI in the north, and that the memoranda of understanding with the Agencies relieved OIP of any responsibility for supervision of the Agencies); John Almstrom interview (Feb. 17, 2005) (commenting that there was an “us against them” relationship between UNOHCI and the Agencies); Tesfaye Maru interview (Apr. 28, 2005) (acknowledging that UNOHCI’s role was “vague”); Balan Kurup interviews (Mar. 19-20, 2005) (noting that UNOHCI was not given the authority to monitor implementation by the Agencies); Samir Ben Yahmed interview (July 8, 2005) (stating that there was no coordination between any aspects of the Programme and that, because OIP and UNOHCI appeared on occasions to be at odds with each other, WHO was never sure who was in charge); Hans Bruyntjes interviews (Apr. 21-22, 2005) (stating his observation as Chief Technical Advisor for UN-Habitat in Erbil that UNOHCI did not sufficiently coordinate the Agencies); Michael Croft interview (Oct. 4, 2004) (stating that UNOHCI did not assume a coordination role in the Programme in the three northern governorates); Seifeldin Abarro interview (Apr. 16, 2005) (regarding his observation that by 2000, UNOHCI had not yet established a role for itself within the Programme); Neel Mani interview (May 18, 2005) (stating that he never knew UNOHCI’s role); Robert Goodwin interview (Apr. 19, 2005) (opining, based on his tenure as an Operations Officer for UN-Habitat during the Programme, that UNOHCI could have done a better job in coordinating the implementation of the Programme); Cheherezade Ghazi interview (May 13, 2005) (stating that there was a significant problem with UNOHCI and the limited definition of its role); Jayanti Prasad interviews (Mar. 22-23, 2005) (regarding his role as Programme resident auditor and stating that UNOHCI’s weak coordinating role created risks within the Programme); Maurizio Pieroni interviews (June 3 and 9, 2005) (stating that UNOHCI “didn’t do much of anything”); Stafford Clarry interview (Aug. 24, 2004) (noting, based upon his experience as a UNOHCI and UN-Habitat staff member and as Humanitarian Advisor to the KRG, that OIP and UNOHCI exerted little authority over the Agencies); Lakis Papastavrou interview (May 9, 2005) (stating his observation as an irrigation engineer for FAO that UNOHCI was a “useless bureaucracy”).

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## B. UNCLEAR LINES OF AUTHORITY

Certain Agencies—notably UN-Habitat, WHO, and UNESCO—were rendered less effective by ambiguous lines of authority within and between the Agencies during the Programme. Time and again, they could not make effective decisions because it was unclear who actually was responsible for a particular facet of the Programme.

### 1. WHO: Conflict between Headquarters and EMRO

Conflict and competition between WHO headquarters in Geneva and EMRO in Cairo appear to have been a significant cause of the agency's difficulties in implementing certain projects, as mentioned in Section IV.C above.

WHO describes itself as a heavily decentralized agency that vests a significant amount of autonomy and power in its regional offices. The appointment of a regional director by the agency's Executive Board requires the agreement of a committee composed of member states from a particular region. Both Directors of WHO's Iraq Program have stated that the WHO Director General has limited capacity to control regional directors. This system, by ensuring a strong regional representation, appears to work well for the usual projects in which WHO gets involved.<sup>308</sup>

In the case of the Programme, however, the result was a dual reporting chain within WHO that confused lines of authority and management. These bureaucratic obstacles caused significant delays in implementation and frequently impeded communication between WHO management and field staff. Mr. Elfverson suggested that WHO was "a strange agency inasmuch as their headquarters was in Geneva but their sub-offices were run by different committees elected by regional governments. The regional headquarters for Iraq was in Cairo, and they really did not care what Geneva thought."<sup>309</sup>

In a July 2001 internal WHO management review, Mr. Axemann of WHO's Department of Budget and Management Reform stressed the importance of the Programme to WHO's image. Recognizing the weakness of dividing responsibilities between WHO headquarters and EMRO, Mr. Axemann advocated that Programme efforts be consolidated and controlled by one of those entities.<sup>310</sup>

In August 2001, in response to Mr. Axemann's report, WHO Director-General Brundtland established the Department of the Iraq Programme at WHO headquarters ("IRP") and appointed

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<sup>308</sup> Samir Ben Yahmed interview (July 8, 2005); Neel Mani interview (May 18, 2005); "Constitution of WHO," arts. 47, 52 (July 22, 1946).

<sup>309</sup> Neel Mani note-to-file (Dec. 21, 2001) (summarizing a discussion held with OIP/UNOHCI in New York from November 26-28, 2001); Neel Mani interview (May 18, 2005); J. Christer Elfverson interview (Mar. 15, 2005).

<sup>310</sup> WHO, "Management Review of WHO Iraq Programme" (July 10, 2001).

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Mr. Mani as its Director. Despite this appointment, internal dissent continued to roil the agency. Specifically, because of WHO's decentralized nature, headquarters could do little to bring EMRO or its staff in the field in line with agency priorities. When interviewed, Mr. Mani stated: "Whilst it should be phrased in diplomatic terms, it was almost impossible for Dr. Brundtland to order [EMRO Regional Director Dr. Hussein] Gezairy, or any other Regional Director, to a particular course of action." Indeed, Mr. Mani considered it impossible for Dr. Brundtland to fire Dr. Gezairy for refusing to cooperate with her. During the Programme, Mr. Mani expressed his frustration in a memorandum sent to the Director of WHO's Budget and Management Review Department ("BMR"):

I refer to the study carried out by BMR (Dr. G. Axmann [*sic*]) on the constitution and location of the Iraq Programme and the Director-General's decision last fall to maintain control of this Programme as a separate department at Headquarters.

Since I have taken over this Programme, I have had real difficulty in ascertaining any established delegations of roles, responsibilities and authorities at the three levels involved (WR, EMRO, HQ). Everything seems to just happen, either by inference or worse, by default. Clearly this is not the best way to ensure transparency and accountability which has been concerning me greatly, particularly in view of the level and source of financing.<sup>311</sup>

The fact that WHO's management of the Programme was still subject to such unclear control was further highlighted in an internal WHO report in August 2002. Specifically, it noted that the IRP was not able effectively to assume anything other than "a guiding and advisory role with respect to the operations of the [Programme]" because the WHO Representative in Baghdad was still supervising local staff, reporting to his superiors in EMRO and "subject to close regional scrutiny."<sup>312</sup>

These issues relating to unclear lines of authority were manifested vividly in the 400-bed Suleimaniyah hospital project discussed earlier in this Chapter. Even after the creation of IRP, there was substantial internal disagreement throughout the remainder of the Programme regarding the importance of the Suleimaniyah hospital project and the project's management. Specifically, as discussed below, interviews of WHO senior management, as well as recorded communications between WHO and OIP, reveal substantial disagreements about who was responsible for the Suleimaniyah project and whether it was even an agency priority to begin with. For example, as noted above, Dr. Brundtland sent a letter to Mr. Sevan in November 2001, advising him of IRP's creation and stating that the Suleimaniyah hospital project would be its "top priority." On the other hand, when interviewed, the Assistant Regional Director of EMRO dismissed the project as "political," stating that it would not have had a significant impact on the health situation in

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<sup>311</sup> Gro Harlem Brundtland letter to Benon Sevan (Nov. 2, 2001); Neel Mani interview (May 18, 2005); Neel Mani memorandum to H. K. Larsen (Mar. 5, 2002).

<sup>312</sup> WHO internal report, "An Overview of WHO's Iraq Programme (IRP) and its Key Success Factors" (Aug. 2002) (drafted by Mr. Axemann).

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Suleimaniyah. When asked what actions his office took to further this project, he stated that “it was completely dealt with by Geneva.”<sup>313</sup>

Ghulam Rabini Popal, the WHO Representative in Baghdad, supported this position, stating that the hospital project was the sole responsibility of WHO headquarters. In turn, WHO’s Area Field Coordinator for the three northern governorates stated that she did not spend much time on the Suleimaniyah hospital project. She also stated that no more than four WHO staff members in the three northern governorates would have worked on the project, and, even then, only on a part time basis.<sup>314</sup>

In general, OIP and UNOHCI management noted concerns regarding WHO’s ambiguous lines of authority throughout the Programme and as late as January 2003. The confusion it engendered led to ineffective and delayed decision-making, making this ambiguity a substantial factor in WHO’s implementation problems described in Section IV.C above.<sup>315</sup>

## 2. UN-Habitat: Vague Lines of Authority and Layers of Bureaucracy

### a. Lines of Authority

From the initial stages of the Programme, UN-Habitat had a three-tier organizational structure: (1) agency headquarters in Nairobi, Kenya; (2) a core team in Erbil; and (3) field offices in each of the three northern governorates.<sup>316</sup> UN-Habitat headquarters was responsible for the overall administration of agency efforts in matters of policy, financial administration, contract approval, international procurement, and personnel. The core team in Erbil was responsible for coordinating with other agencies and local officials, as well as the Government of Iraq. Finally, the field offices were responsible for directly implementing agency efforts on the ground,

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<sup>313</sup> Gro Harlem Brundtland letter to Benon Sevan (Nov. 2, 2001); Abdel Aziz Saleh interview (May 11, 2005).

<sup>314</sup> Ghulam Rabini Popal interview (May 10 and 12, 2005); Cheherezade Ghazi interview (May 13, 2005).

<sup>315</sup> See OIP note-to-file (Jan. 23, 2003) (concerning J. Christer Elfverson’s meeting with Jim Tulloch and Richard Alderslade at which “the main problems of WHO coordination between Geneva, the regional office in Cairo and WHO Baghdad were noted”); Tun Myat note to J. Christer Elfverson (Mar. 4, 2002) (stating that “[y]ou are aware of the organizational difficulties the programme faces with the Regional management located in Cairo and exerting absolute influence on the programme while the Iraq desk, and presumably the management team for the 400 bed hospital located in the WHO Headquarters in Geneva”).

<sup>316</sup> UN-Habitat, “The Settlements Rehabilitation Programme in Northern Iraq (1997-2003)” (Feb. 2004). As will be discussed in greater detail below, UN-Habitat was unique among the Agencies during the Programme in that it had a separate entity, the United Nations Office at Nairobi (“UNON”), handle some of the administrative functions, most notably international procurement. UNON, “About UNON,” <http://www.unon.org/about.php>.

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including day-to-day management of ongoing construction projects and administering local staff.<sup>317</sup>

In interviews, a number of UN-Habitat staff members complained that they received no training or documentation relating to the Programme's implementation. New staff members found that their offices did not contain policy manuals or standard operating procedures, forcing them to rely on other international and national staff members for *ad hoc* guidance. As a result, responsibilities and lines of authority within the agency were unclear and inadequate. This problem was brought to the attention of UN-Habitat management on numerous occasions by outside organizations.<sup>318</sup>

Without clear oversight and guidance, field offices asserted a great deal of authority early in the Programme and resisted efforts by the core team to coordinate their work. Even lower-level staff members within the field offices often reported directly to the Programme Coordinator at UN-Habitat's headquarters, bypassing the chain of command. This problem was brought to the attention of UN-Habitat's headquarters management team, which failed to address it. Rather than correct the situation, UN-Habitat headquarters overruled any attempt by the core team to limit breaches in the chain of command by claiming that the agency was an "open communication" organization. Nicholas Makaa, UN-Habitat's resident auditor in Iraq from August 2002 through the end of the Programme, stated that senior agency officials in Nairobi were aware of the management problems in Iraq, but did little about them. This view was confirmed by Mr. Bruyntjes who in an interview discussed difficulties he had in determining the actual lines of authority in SRP. In September 2003, OIOS noted that UN-Habitat's management of the Programme was marked by inadequate coordination, unclear reporting lines and lack of an overall management direction.<sup>319</sup>

#### b. UNON as an Additional Layer of Bureaucracy

UN-Habitat had a separate organization—the United Nations Office at Nairobi ("UNON")—perform some administrative functions, including budget and financial management support, as

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<sup>317</sup> UN-Habitat, "The Settlements Rehabilitation Programme in Northern Iraq (1997-2003)" (Feb. 2004).

<sup>318</sup> Antonio Yachan interviews (June 6-7, 2005); Hans Bruyntjes interviews (Apr. 21-22, 2005); R Emmelt Hummelin interview (Apr. 13, 2005) (regarding his tenure as a UN-Habitat Programme Management Officer in Dohuk); Chetna Lakhoo interview (Nov. 17, 2004) (regarding her tenure as an Evaluation Officer in Suleimaniyah); Robert Goodwin interview (Apr. 19, 2005); OIOS, "Management Audit of the UN-Habitat SRP in Northern Iraq," AF2002/24/1, paras. 34-39 (June 30, 2003); Ivan Hauri, "the State of the Construction Sector in Northern Iraq" (Nov. 2000); A. Halasan note-to-file, (Nov. 21, 2002) (regarding issues raised in OIOS audit of UN-Habitat); OIOS note-to-file (undated) (detailing issues discussed at exit conference concerning audit of UN-Habitat); Dorothee von Brentano interview (Nov. 16, 2004); Paul Taylor interview (June 9, 2005).

<sup>319</sup> Robert Goodwin interview (Apr. 19, 2005); Maurizio Pieroni interviews (June 3 and 9, 2005); Hans Bruyntjes e-mail to Dorothee von Brentano (July 2002); Nicholas Makaa interview (Nov. 18, 2004); Hans Bruyntjes interviews (Apr. 21-22, 2005); OIOS, "Summary of Audit Issues" (Sept. 11, 2003); Dagfinn Knutsen e-mail to the Committee (Jan. 26, 2005).



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well as vital safety and security coordination. While this arrangement may have been effective in UN-Habitat programs that did not involve construction projects, it proved to be a liability during the Programme. This was particularly true for procurement, where the additional bureaucracy created by UNON only exacerbated delays in UN-Habitat's delivery of services. For each proposed procurement activity, there were separate approval processes at both UN-Habitat headquarters and at UNON. Moreover, when interviewed, a UN-Habitat manager within Iraq noted that staff at UN-Habitat headquarters and UNON did not have the requisite technical expertise to evaluate proposals. UN-Habitat's procurement delays and deficiencies during the Programme were noted in reports by OIP personnel, an OIOS audit report, a consultant's report, and an independent technical evaluation. Nonetheless, the problem was never sufficiently addressed.<sup>320</sup>

### 3. UNESCO: Lack of Backstopping Support from Headquarters

UNESCO was plagued by protracted delays throughout the Programme. These delays can be attributed, in part, to the lack of support from UNESCO headquarters in Paris to the field offices in Baghdad, Erbil, Suleimaniyah, and Dohuk. On the whole, UNESCO headquarters demonstrated a lack of interest towards the Programme. Its failure to provide adequate organizational and financial support to Iraqi field offices resulted in unnecessary delays in administering humanitarian relief.

UNESCO's internal communications and support problems were widely known. From the Programme's outset, UNESCO's senior management was unwilling to commit any large scale effort to programs in northern Iraq. Michael Croft, a UNESCO's Project Officer and Assistant to the Officer in Chief of the Iraq Programme, explained that headquarters generally "does not see itself in the role of backstopping field operations." As a result, Mr. Croft noted, before 2001, communications between headquarters and operations in Iraq were inadequate, leading to a sense of resentment among UNESCO field staff for the lack of support they received.<sup>321</sup>

UNOHCI staff members were also well aware of UNESCO's communications problems prior to the establishment of UNESCO's Iraq Task Force. According to Siddharth Chatterjee, a former UNOHCI field delegate in Suleimaniyah, UNESCO failed to perform its responsibilities adequately because the organization "was tied up in a battle [between] Paris and Baghdad and kept changing its staff, so there was no consistency within the Agency." Mr. Almstrom, Deputy

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<sup>320</sup> UNON, "About UNON," <http://www.unon.org/about.php>; Robert Goodwin interview (Apr. 19, 2005); Hans Bruyntjes interviews (Apr. 21-22, 2005); Maurice Critchley, "Process Review of Implementation of SCR 986 (1985[sic]) in the three northern Governorates" (May 7, 1998); John Almstrom, "Process Review of Implementation of Security Council Resolution 986 (1995) in the Iraqi Governorates of Erbil, Dohuk and Suleimaniyah: Draft Report" (May 20, 1998); Ivan Hauri, "The State of the Construction Sector in Northern Iraq" (Nov. 2000); Institute of Social Studies, "UNCHS/Habitat's Programme In Northern Iraq During The Last Four Years: Independent Technical Evaluation" (Jan. 2001); OIOS, "Summary of Audit Issues" (Sept. 11, 2003).

<sup>321</sup> Michael Croft interviews (Oct. 4, 2004 and June 4, 2005).

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Humanitarian Coordinator for UNOHCI, similarly opined that “information flow was a big problem” at UNESCO.<sup>322</sup>

A 1998 UNOHCI report about problems confronting the Agencies’ implementation of the Programme noted that UNESCO suffered from shortcomings in administration, finance, and procurement as a result of poor support from headquarters. According to the report, all communications between UNESCO headquarters and its main office in northern Iraq flowed through UNESCO’s Baghdad office. However, as a result of high staff turnover, the Baghdad office was not equipped to deal with issues surrounding UNESCO’s operations in northern Iraq. When UNESCO headquarters had questions about an Erbil office report concerning northern Iraq operations, it directed its questions to the Baghdad office—even though the Baghdad office did not participate in drafting reports or engage in any activities in northern Iraq. Referring to the unnecessary levels of bureaucracy, the UNOHCI report stated that “[i]f Paris dealt directly with the Erbil office many layers of clarifications would disappear.”<sup>323</sup>

Communication between the procurement staff in Paris and UNESCO in Erbil was “almost non-existent” during the Programme. The UNOHCI internal report noted that:

Most of the delays related to procurement were due to the fact that UNESCO in Paris decentralized all procurement to the representative in Baghdad and then cut off all ties to him. Having delegated this responsibility, UNESCO in Paris did not put in place a support system, and also did not follow-up and monitor to see if the programme was being implemented satisfactorily.<sup>324</sup>

According to Mr. Croft, UNESCO did not “get serious” about the Programme until the funding associated with it increased in 2000. Around the same time, Koichiro Matsuura, the new Director General of UNESCO, visited Secretary-General Annan, returning with a new vision for UNESCO’s involvement in the Programme. Mr. Croft explained that, during this meeting, the Director General was told that UNESCO risked losing its role in the Programme due to its obvious lack of interest and commitment. Soon thereafter, UNESCO headquarters assembled an Iraq Task Force to communicate with and act on behalf of UNESCO’s field offices. This established far clearer lines of communication for the field offices and cut down on staff turnover at headquarters, yielding, overall, greatly improved management of the agency’s Iraqi field offices.<sup>325</sup>

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<sup>322</sup> Siddharth Chatterjee interview (June 8, 2005); John Almstrom interview (Feb. 17, 2005).

<sup>323</sup> UNOHCI, “Problems faced by UN Agencies in the Implementation of SCR 986 Programme in the Three Northern Governorates of Iraq, 1998” (undated) (hereinafter “Problems in Implementing SCR 986”).

<sup>324</sup> Problems in Implementing SCR 986.

<sup>325</sup> Michael Croft interviews (Oct. 4, 2004 and June 4, 2005); UNESCO Director-General memorandum to UNESCO Managers (Feb. 26, 2000).

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#### C. SHORTAGE OF QUALIFIED STAFF

With the exception of WFP, all of the Agencies operating in northern Iraq faced staffing problems. Specifically, there was a high staff turnover rate, especially during the Programme's early phases, resulting in a lack of institutional knowledge and delays in implementation. In addition, some of the Agencies found it difficult to hire sufficiently qualified international staff. Certain aspects of the Programme, such as the six-month phases and the prohibition against bringing family members to Iraq, made recruitment very difficult. Combined, these factors resulted in slow procurement of goods, delays in implementation, disorganization, low staff member morale, and dissatisfied local authorities.

High staff turnover rates and the lack of expertise among the Agencies' staff were repeatedly noted as severe barriers to effectively implementing Resolution 986. In the 1998 UNOHCI report discussed above, each agency was evaluated with respect to capacity, implementation, and procurement. A common theme running across most of the Agencies was that high staff turnover rates and unqualified personnel greatly affected performance.<sup>326</sup>

In describing the problems faced by FAO, the report stated that, "like other UN Agencies, FAO has faced problems in hiring qualified staff for such short-term contracts. As a result . . . its performance has been affected by the high turnover of staff." Similarly, UNDP was criticized for its lack of sufficient technical consultants in the field and at its headquarters, which resulted in slow procurement and implementation delays. While these are only two examples, the report highlighted other setbacks and delays in administration, management, procurement, and implementation faced by the Agencies as a result of their inability to hire appropriate personnel.<sup>327</sup>

These difficulties demoralized national staff members working within the Agencies and frustrated local Kurdish authorities. For instance, in notes left by Bo Asplund upon leaving his post as Deputy Humanitarian Coordinator in northern Iraq, UNESCO was described as "[c]onsistently understaffed, the rapid turnover of managers in the field (eight in eighteen months) and among the international staff in each of the governorates [leading] to lack of continuity in the programme, loss of institutional knowledge and demoralized local staff."<sup>328</sup> Similarly, during a meeting between Mr. Sevan and the local authorities,

Mr. Rasheed urged Mr. Sevan to ensure that UNESCO, which he and his colleagues considered to be the agency with the poorest implementation, was more receptive to the needs of the local authorities and to be more active in addressing their shortcomings. . . . Mr. Sevan conceded that UNESCO's

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<sup>326</sup> Problems in Implementing SCR 986.

<sup>327</sup> Ibid.

<sup>328</sup> Bo Asplund handover notes (Dec. 31, 1999).

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performance was not satisfactory due, in part, to the high turn over that it had experienced and that OIP would follow up on this matter.<sup>329</sup>

UNESCO was not unusual in this regard. Most of the Agencies failed to recruit and hire personnel possessing appropriate skills for their positions. Indeed, an independent review of WHO noted that:

The number of national and international staff within the WHO Renovation Team does not reflect the number required in relation to the present level of construction works, particularly with regard to the limited number of site engineers assigned for supervision. At the same time some of the international staff and most of the national staff need to upgrade their technical skills. The lack of staff is delaying project implementation.<sup>330</sup>

Various officials of the Agencies claimed that, given the local conditions in Iraq, the short-term nature of the work, and the political and administrative pressures placed on the Agencies, it proved extremely difficult to find qualified staff to fill vacancies. According to Daniel Biau, Deputy Executive Director for UN-Habitat, the pool of potential employees from which UN-Habitat could choose was highly limited. Since the agency was under a lot of pressure to hire people to meet implementation standards and deadlines, it was forced to hire under-qualified staff.<sup>331</sup>

Although the Agencies could have taken additional steps to attract and retain staff, to a certain extent, the set-up of the Programme partially explains these failures. In particular, many of the Agencies felt unable to offer staff members long-term contracts as a result of the Programme's periodic six-month renewal process. According to Dr. Ben Yahmed of WHO, the Programme's short-term nature meant that there was little effective planning or widespread appreciation for the likely longevity of the Programme.<sup>332</sup>

The Programme's short-term set-up significantly impacted the type and quality of staff recruited into positions for six-month durations. The 1998 UNOHCI report noted: "Due to the six monthly renewal of the mandate, UNICEF could not offer longer-term contracts to staff and relied on stop gap measures. As a result, it suffered from high turn over of staff." Unlike many other Agencies,

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<sup>329</sup> Georges Nasr note-to-file (June 30, 2000) (detailing meeting between OIP senior managers and members of the local authorities).

<sup>330</sup> WHO, "SCR 986 WHO Project In the Northern Governorates of Iraq" (2001) (detailing the results of an independent review).

<sup>331</sup> Michael Croft interview (June 4, 2005); Erhard Berner interview (Dec. 7, 2004); Daniel Biau interview (June 9, 2005).

<sup>332</sup> Samir Ben Yahmed interview (July 8, 2005).

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by June 1998, UNICEF had established a policy in which contracts had one-year durations, regardless of whether the Programme continued into a new phase.<sup>333</sup>

While the Programme's renewal process was just one staffing obstacle facing the Agencies, many Agencies still did not offer personnel contracts sufficiently attractive to outweigh the poor living conditions in the Kurdish region. According to Mr. Croft of UNESCO, UNESCO issued consultant contracts that lacked benefits, such as leave or health, to its northern Iraq staff members. When the personnel arrived in northern Iraq and found out that other Agencies were providing their consultants with superior employment packages, many left UNESCO at the conclusion of their contracts. For WHO, Dr. Ben Yahmed stated that the initial six-month contracts across the UN-related Agencies, as well as WHO's use of contracts limited to eleven months of consecutive service with a one-month mandatory break, did not assist in attracting high quality personnel. Dr. Saleh of WHO stated that finding the appropriate staff was an ongoing issue for WHO; he further explained that the short-term contracts offered by the Agencies made it hard to attract the right people.<sup>334</sup>

In some cases, the shortage of international staff in northern Iraq, and particularly the absence of technically qualified personnel, resulted from restrictions on visa issuance by the Government of Iraq. WHO, UNOHCI, and OIP raised the visa issue on many occasions, demanding action. However, little changed. WHO felt that this area should have been remedied by OIP/UNOHCI. UNOPS staff, in turn, complained that the Government of Iraq significantly delayed its projects in a number of ways. Visa delays (on occasion for periods of up to three years) resulted in an acute lack of international staff and external expertise. These delays occurred across the board, with no apparent target based on nationality or expertise. There were time periods when every visa request would be denied, regardless of nationality.<sup>335</sup>

While the visa issue played a part in delaying the recruitment of the appropriate staff, all of the other reasons given by the Agencies were within their control. Of particular note, contracts should have been amended sooner to allow for a longer duration as well as a benefits package—this would have proven fruitful for the Agencies as it would have attracted more of the caliber of staff that was required for the Agencies' work under the Programme. Having the appropriate number and quality of staff working in northern Iraq, as well as the necessary support from headquarters, the projects taken on by the Agencies could have evolved and materialized more effectively and at a much quicker pace.

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<sup>333</sup> Problems in Implementing SCR 986.

<sup>334</sup> Michael Croft interview (June 4, 2005); Samir Ben Yahmed interview (Sept. 29, 2004); Abdel Aziz Saleh interview (May 11, 2005).

<sup>335</sup> Samir Ben Yahmed interview (July 8, 2005); Rolf Sprauten, Jaap Van Hierden, Mohamed Yar, Michael Dudley, Lisa Gomer, and Vanessa Heywood interview (Oct. 29, 2004).

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## D. MANIPULATION BY THE GOVERNMENT OF IRAQ AND LOCAL AUTHORITIES

One effect of the Programme's management weaknesses in the three northern governorates was that the Agencies were subject to manipulation by both the Government of Iraq and local authorities. As described above, the political status of the three northern governorates was unique. Resolution 986 and the Iraq-UN MOU both recognized that they were part of the sovereign nation of Iraq and, therefore, subject to its rule.<sup>336</sup> Yet, because, as described earlier in this Chapter, the Government of Iraq had withdrawn its administration from the three northern governorates, they were under the *de facto* control of the local authorities. The Agencies, therefore, also had to be responsive to requests from local authorities, who wanted to operate independently of the government in Baghdad. Both the Government of Iraq and the local authorities attempted to assert control over what the Agencies were doing in the three northern governorates to achieve political and private gains.

### 1. Manipulation by the Government of Iraq

Throughout the Programme, but particularly in its later stages, the Government of Iraq attempted to influence the humanitarian program in the three northern governorates. It employed tactics such as denying visas to United Nations personnel, declaring particular individuals to be "persona non grata," and delaying the delivery of goods and services. The Government justified these actions as rights emanating from its sovereign authority. Other tactics, such as insisting on nepotistic hiring practices and resisting projects that held the potential to empower local authorities and citizens in the three northern governorates, the Government made no attempt to justify. Regardless of the purpose or justification, these actions by the Government of Iraq, combined with the inability of the Agencies to combat them, diminished the Programme's effectiveness in the three northern governorates.<sup>337</sup>

#### a. Restrictions on Visas to United Nations Staff and Consultants and "Persona Non Grata"

The Charter of the United Nations requires member states to give unrestricted access to United Nations personnel when called upon by the Security Council to do so. In recognition of the sovereignty of the Government of Iraq, however, the Iraq-UN MOU required United Nations personnel to obtain visas to enter Iraq—though the agreement provided also that the Government of Iraq was to issue visas "promptly and free of charge." Notwithstanding this provision, there were many instances in which the work of the Agencies was impeded by the failure of the Government of Iraq to provide visas in a prompt fashion. The Government of Iraq's failure to supply visas in a prompt manner exacted a substantial financial burden upon the Programme. In the early phases of the Programme, the demand for visas was less of an issue, but as the

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<sup>336</sup> S/RES/986, para. 8(b) (Apr. 14, 1995); Iraq-UN MOU, paras. 7, 20, 33, Annex I.

<sup>337</sup> See Amir Khalil interviews (May 6-7, 2005) (stating that "the Government of Iraq's first answer to everything involving the northern governorates was 'no'").

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Programme expanded and adopted a “development approach” from 1999 onwards, the demand for more technical expertise increased, resulting in the need for additional visas. Even though notice of this issue was given at the highest levels, the problem was only beginning to be resolved in May 2002 and continued to impact the Programme’s efficiency until its end.<sup>338</sup>

The delays in issuing visas particularly impacted the work of UNDP and UNOPS, whose primary mandates—relating, respectively, to electricity and de-mining—relied heavily on technical experts. For example, in the case of UNDP’s Electricity Network Rehabilitation Programme, three twenty-nine megawatt generators could not be operated at full capacity because critical technical personnel were kept waiting for their visas. As a result, power supplies to local hospitals, and irrigation and water pumping stations was reduced. Similarly, UNOPS, which was implementing de-mining projects in tandem with and support of UNDP electricity projects, suffered from visa delays that led to the cancellation of contracts and less than anticipated clearance rates.<sup>339</sup>

The Government of Iraq also attempted to influence the Programme in the three northern governorates by declaring United Nations staff members with whom they were dissatisfied to be “persona non grata.” The most prominent example of this was the declaration of all American and British citizens as “persona non grata,” an act that substantially impacted the quality of

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<sup>338</sup> UN Charter, ch. VII; J. Christer Elfverson interview (Mar. 15, 2005); Iraq-UN MOU, para. 46; Francis Kinnon interview (Dec. 15, 2004); Laurent Thomas interview (July 6, 2005) (stating that when FAO was able to find the correct personnel, it was difficult to obtain visas for them); Jean Jacques Massima-Llandji interview (May 24, 2005) (noting that difficulties in obtaining visas limited the number of times that Mr. Massima-Llandji, ITU’s Programme Coordinator, was able to go to Iraq during the Programme); Oscar Fernandez-Taranco, Diane Kepler, Jessie Rose Mabutas, and Valerie Cliff interview (Jan. 18, 2005) (noting that the biggest issue for UNDP was the obtaining of visas for required experts); Mohamed Djelid and Michael Croft interview (Oct. 5, 2004) (stating that UNESCO was never able to obtain a visa for resident auditor); Daniel Biau interview (Nov. 16, 2004) (observing that visas for international staff were difficult to obtain and that the Government of Iraq made it particularly difficult to obtain visas for those participating in supervisory and oversight missions); Terry Brown interview (Jan. 11, 2005) (stating the intentional withholding or delaying of visas made it difficult for UNICEF to complete projects); Rolf Sprauten, Lisa Gomer, Jaap van Hierden, Michael Dudley, Mohamed Yar, and Vanessa Heywood interview (Oct. 29, 2004) (observing that delays in the issuance of visas was a major problem for UNOPS, resulting in an “acute lack of international staff and external expertise”); Neel Mani interview (May 18, 2005) (noting that it took approximately two years to obtain a visa for Mr. Mani, the Director of WHO’s Iraq Programme from September 2001 until August 2003); J. Christer Elfverson note to Benon Sevan (Mar. 20, 2001) (indicating that the estimated financial consequences of the non-issuance and delays in issuance of visas exceeded \$3.4 million); Yasmin Fadlu-Deen note (Mar. 30, 2001) (regarding Mr. Sevan’s briefing to the 661 Committee about the visa problem and his attributing a loss of in excess of \$4 million to the delays in the issuance of visas); Benon Sevan note to Louise Fréchette (Mar. 30, 2001) (forwarding to the Deputy Secretary-General the note on his briefing to the 661 Committee); Benon Sevan statement at informal Security Council consultations, p. 25 (May 29, 2002).

<sup>339</sup> Provisional record of 661 Committee meeting, S/AC.25/SR.221, p. 5 (July 12, 2001); “Report of the Secretary-General pursuant to paragraph 5 of Resolution 1360 (2001),” S/2001/919, paras. 62, 98 (Sept. 28, 2001).

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staffing in the three northern governorates. For example, Iraq declared Claudine Courtel, a UNESCO Coordinator, to be a “persona non grata” after UNESCO removed a photograph of Saddam Hussein from textbooks it distributed in the three northern governorates. United Nations management considered these designations to be inappropriate, but efforts to convince the Government of Iraq to change them were met with the uniform response that the staff member’s safety no longer could be guaranteed (as occurred in the case of Ms. Courtel). The Secretary-General brought this practice to the attention of the Security Council on September 28, 2001, noting that despite several requests to the Government of Iraq for evidence to support charges against United Nations staff members, nothing ever was received.<sup>340</sup>

#### b. Interfering with the Delivery of Supplies

The Iraq-UN MOU also provided that the Agencies would be able “without delays or hindrance” and “free of customs or other duties” to transport into Iraq “supplies, equipment and means of surface transport required for the implementation of [Resolution 986].” Yet the Government of Iraq often interfered with the delivery of supplies to the Agencies. A prominent example of interference occurred in April 2001, when authorities insisted that they receive written notification of all supplies being delivered to the three northern governorates. Even though this was clearly inconsistent with the Iraq-UN MOU, the Humanitarian Coordinator, Mr. Myat, agreed to the procedure, which required that five copies of the notifications be sent to Baghdad. The paperwork often would get delayed in Baghdad, and, as a result, trucks were backed up at the border. The Secretary-General reported this move by the Government of Iraq and the resulting build-up of several hundred trucks in the Dohuk Governorate to the Security Council. The Executive Director of OIP also commented on the delays caused to UNOPS and UNDP operations by the retention of de-mining equipment and as much as 4,800 tons of equipment in 250 trucks in Turkey, awaiting clearance from Iraqi authorities. This uncertainty produced significant expenses.<sup>341</sup>

In addition to the notification procedures, the Government of Iraq would often delay the release from customs of supplies intended for the three northern governorates. For example, it held up the delivery of pick-up trucks to FAO, ostensibly because they feared that the trucks would be put to military use by the Kurds. Similarly, the Government refused to release mine flails (large motorized de-mining machines) for use by UNOPS, advising UNOPS that some of the machines would be released only if two or three were given to the Government. UNOPS refused the

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<sup>340</sup> Frances Kinnon interview (Dec. 15, 2004); Salam Mohamed interview (Dec. 15, 2004); J. Christer Elfverson interview (July 22, 2005); J. Christer Elfverson fax to Omaru B. Wurie (Mar. 29, 2000); Hans Corell fax to J. Christer Elfverson (Mar. 29, 2000) (regarding his opinion, as Under Secretary-General for Legal Affairs, that the status of “persona non grata” was not applicable to United Nations staff); “Report of the Secretary-General pursuant to paragraph 5 of resolution 1360 (2001),” S/2001/919, paras. 100-02 (Sept. 28 2001).

<sup>341</sup> Iraq-UN MOU, para. 47; J. Christer Elfverson interview (Mar. 15, 2005); Francis Kinnon interview (Dec. 15, 2004); “Report of the Secretary-General pursuant to paragraph 5 of resolution 1360 (2001),” S/2001/919, para. 99 (Sept. 28, 2001); Provisional record of 661 Committee meeting, S/AC.25/SR.221, p. 5 (July 12, 2001).



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proposal and ultimately was forced to develop a capability for manufacturing the flails locally. The Government of Iraq also delayed the release of VHF radios to UNDP, which caused major delays in UNDP's survey of microwave sites.<sup>342</sup>

#### c. Resisting Projects Benefiting the Three Northern Governorates

The Government of Iraq also interfered with many Programme initiatives that would have benefited the citizens of the three northern governorates. For instance, as described below, it opposed procuring local wheat for use in the food basket and refused to provide information needed by the Agencies to perform their roles during the Programme.

For a substantial portion of the Programme, FAO, as well as other UN-related Agencies, favored procuring wheat to be used for the food basket from local farmers in the three northern governorates. Elkheir Khalid, who served in several positions with FAO during the Programme, indicated that approximately 500,000 tons of wheat was grown in the three northern governorates annually, which could have supplied a substantial portion of the 700,000 tons needed for the food basket. Instead, the Government of Iraq blocked attempts to purchase wheat from local farmers—opting for lower-quality imported wheat—because it did not want the three northern governorates to benefit from wheat sales. This undercut the agriculture market because families provided with wheat as part of the food basket program had no need to purchase locally-produced grain. In turn, decreased demand reduced incentives for local farmers to grow wheat.<sup>343</sup>

The Government of Iraq also interfered with the work of the Agencies by refusing to provide necessary information related to what it considered national resources. One such area was the water supply. From 1999 to 2001, the three northern governorates suffered from severe droughts. FAO planned to dig irrigation canals and drill artesian wells in response to this problem and consequently requested plans for the underground water tables from the Government of Iraq. Baghdad refused to provide the plans, forcing FAO to hire its own experts to map out the region.

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<sup>342</sup> Mevin Ndarusigiye interview (Nov. 23, 2004); Aso Abdul Rahman interview (Dec. 17, 2004); Rolf Sprauten, Lisa Gomer, Jaap van Hierden, Michael Dudley, Mohamed Yar, and Vanessa Heywood interview (Oct. 29, 2004); "Report of the Secretary-General pursuant to paragraph 5 of Resolution 1360 (2001)," S/2001/919, paras. 79-81 (Sept. 28, 2001); Benon Sevan statement at informal Security Council consultations, p. 24 (May 29, 2002); Jean Jacques Massima-Llandji interview (May 24, 2005); see also Werner Rembold letter to Gerard Gomez (June 19, 2001) (complaining as representative of company sub-contracted to do work on ENRP in Suleimaniyah that his company's trucks had been in customs at the Iraq-Turkey border for "a long time" awaiting a permit from the Government of Iraq).

<sup>343</sup> Elkheir Khalid interviews (Mar. 10-11, 2005); Amir Khalil interviews (May 6-7, 2005); Mohamed Farah interviews (Mar. 12-13, 2005); Dagfinn Knutsen interview (Apr. 4, 2005); Tesfaye Maru interview (Apr. 28, 2005); Jayanti Prasad interview (Apr. 4, 2005). The Government of Iraq was not the only entity that opposed the local purchase of wheat. For example, near the end of the Programme, when it seemed that the Government of Iraq would agree to an arrangement whereby wheat would be purchased from farmers in the three northern governorates, the local authorities in Suleimaniyah would not ratify the agreement because of a disagreement over the currency that would be used. J. Christer Elfverson interview (Mar. 15, 2005); Amir Khalil interviews (May 6-7, 2005); Tesfaye Maru interview (Apr. 28, 2005).

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Other UN-related Agencies were confronted with similar resistance when attempting to obtain information necessary to perform their mandates.<sup>344</sup>

#### d. Surreptitious Access to Information

Throughout the Programme, the Government of Iraq attempted to obtain surreptitiously information about the Programme's implementation in the three northern governorates, in order to exercise control over the Agencies. Several individuals involved in the Programme have told the Committee that national staff members working for the Agencies were forced to report to Baghdad on a regular basis to be debriefed by government officials.<sup>345</sup>

Moreover, some of the Agencies facilitated the Government of Iraq's efforts to obtain such information. For example, in October 2001, Mr. Sevan discovered that FAO Representative Amir Khalil, contrary to OIP's directives, was sharing unsigned contracts with members of the Government of Iraq. At the time, Mr. Sevan noted that the United Nations "is under no legal obligation under the express terms of the relevant resolutions or the MOU to provide the [Government of Iraq] with information beyond audit reports" and doing more than that "would compromise the programme and create precedents that may impede our work." Ultimately, Mr. Sevan instructed Mr. Khalil to desist from this practice. Mr. Khalil agreed to do so—even though he refused to acknowledge that what he had done was wrong.<sup>346</sup>

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<sup>344</sup> Mohamed Farah interviews (Mar. 12-13, 2005); Benjamin Badjeck interview (Jan. 27, 2005); see also Laurent Thomas and Rodrigue Vinet interview (Sept. 21, 2004) (noting that Iraq's entire water supply originated in the northern territories, and, when it came time to install drilling rigs in the northern territories, the Government of Iraq was concerned that FAO not exhaust the water supplies in the country and that equal distribution to south and central Iraq be upheld). An example of another agency that had difficulty obtaining from the Government of Iraq information necessary for Programme implementation was UNOPS, which encountered difficulties obtaining the maps of minefields to aid in its de-mining activities, and UNDP, which encountered difficulties obtaining information about the national electricity grid. See Provisional record of 661 Committee meeting, S/AC.25/SR.221, p. 5 (July 12, 2001) (noting that the cost of de-mining would be substantially reduced if "the Government of Iraq would accede to the Programme's requests for maps and records of minefields in cases where such information would not jeopardize national security, grant visas expeditiously, and release demining [sic] that was still at the border"); Qubad Talabany interview (June 28, 2005) (complaining, in his capacity as KRG/PUK Representative to the United States, that when UNOPS asked for maps of minefields, Saddam Hussein responded that the Government did not have any, an answer which UNOPS just accepted).

<sup>345</sup> Amir Khalil interviews (May 6-7, 2005); Jose Aguirre interview (Dec. 7, 2004); Francis Kinnon interview (Dec. 15, 2004); Kassim Al-Azzawi interview (Apr. 25, 2005); Alan Fellows interview (Aug. 16-17, 2005).

<sup>346</sup> J. Christer Elfverson interviews (Dec. 4, 2004 and July 22, 2005); Benon Sevan fax to Tun Myat (Oct. 27, 2001); Tun Myat fax to Benon Sevan (Oct. 29, 2001) (stating that he was "flabbergasted" to learn that "FAO were providing the Government with copies of contracts, albeit unsigned ones" and advocated that the matter be treated seriously); Benon Sevan fax to Tun Myat (Oct. 31, 2001). Another example of an agency assisting the Government of Iraq in obtaining information was WHO's insistence that Kurdish medical personnel who were leaving the country for training fill out forms that were described by one Kurdish official as being "straight from the Iraq Intelligence Service." Nehrivan Ahmed interview (Dec.

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## 2. Manipulation by Local Authorities

To a large extent, local authorities viewed Programme funds as “their money” and often expressed a desire that the Agencies give them the money to use as they wished. As described below, Programme funding far exceeded the financial resources that had been available to local authorities since the beginning of Saddam Hussein’s rule. As a result, they frequently requested items that they did not have the capacity to use and attempted to manipulate the use of the funds for their own private benefit. The Agencies sometimes accommodated these manipulations, resulting in expenditures of Programme funds for the purchase of inappropriate items.<sup>347</sup>

### a. WHO: Requests for High-end Medical Equipment

WHO procured very sophisticated medical equipment during the Programme, even though, as senior WHO staff members conceded in interviews, the public health system in the three northern governorates had neither the infrastructure nor the expertise to operate it. In an interview, Dr. Ben Yahmed stated that WHO’s role in this process was merely advisory and that it was not within its place to tell local authorities what to do. He said that this was due in part to the fact that a qualified professor or doctor among the local authorities would advocate the purchase of such a device, claiming a specific need. Other WHO staff similarly described WHO’s role in the process.<sup>348</sup>

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15, 2004) (regarding his tenure as Governor of Dohuk); see also Shafiq Qazzaz interview (Dec. 14, 2004) (regarding his tenure as Minister of Humanitarian Aid and Cooperation in Erbil); Noori Abdul-Rahman (Dec. 14, 2005) (regarding his tenure as personal assistant to the late Deputy Prime Minister of the KRB in Erbil, Sami Abdul-Rahman).

<sup>347</sup> Amir Khalil interviews (May 6-7, 2005); Elkheir Khalid interviews (Mar. 10-11, 2005); Emilie Atallah interview (May 11, 2005); Lakis Papastavrou interview (May 9, 2005); Jean Jacques Massima-Llandji interview (May 24, 2005).

<sup>348</sup> Paolo Piva and Paul Acriviadis interview (Sept. 30, 2004) (regarding their tenure as Technical Officer in WHO’s Department of the Iraq Programme and as WHO’s Coordinator of Contracting and Procurement Services, respectively); Samir Ben Yahmed interview (July 8, 2005). Specifically, Dr. Ben Yahmed stated that within each of the three northern governorates there was established a local selection committee consisting of local doctors and specialists, as well as politicians, to decide on the requests that the governorate would make and that WHO’s role in relation to this committee was advisory. *Ibid.* In their interview, Dr. Piva and Mr. Acriviadis claimed that during the process of developing a “wish list” of items to be purchased during a particular phase of the Programme, WHO would attempt, usually unsuccessfully, to steer the local authorities away from their request to purchase sophisticated equipment. Dr. Piva and Mr. Acriviadis conceded that, in the end, if WHO was unable to convince the local authorities that their request for a particular item was inappropriate, WHO would include it on the “wish list.” Paolo Piva and Paul Acriviadis interview (Sept. 30, 2004). Examples of inappropriate purchases made at the behest of the local authorities included four computerized tomography scanners (one each for Suleimaniyah and Dohuk and two for Erbil) and three magnetic resonance imaging scanners (one for each governorate). These were procured by WHO during the Programme from Siemens AG, a German company, at a total cost of \$11,270,671.07. See Samir Ben Yahmed e-mail to the Committee (May 12, 2005).

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The Committee's review of WHO and UNOHCI documentation generated during the Programme reveals that WHO was aware of both the lack of expertise and training of local medical staff, along with an almost complete lack of primary health care planning and management resources. A January 2000 memorandum detailing a visit to various health centers and hospitals in the three northern governorates by Rabini Ghulam Popal, WHO's Representative to Iraq, describes that patients had to sleep on the floors of hospitals and that facilities lacked blankets, gloves, gowns, beds, and other medical essentials.<sup>349</sup>

During a meeting of the Agencies in March 2001, Dr. Ben Yahmed noted that the "planning capacity of local authorities [was] very weak" and that "education [was] needed," as was additional capacity-building and institutional training. He underscored that the problem was not one of resources or equipment, but rather a need for strong and significant high-level expertise. In Dr. Ben Yahmed's June 2001 memorandum to Mr. de Brancovan concerning the consultancy report of Ramsey Bisharah, Dr. Ben Yahmed elaborated on this point by stating that "the report pointedly and correctly raises concern with the consequences of an allocation-driven and supply-oriented provision of medicines and equipment, many of which are far too sophisticated and expensive to be either appropriate or cost-effective." Similarly, WHO's budget proposal for Phase IX stated: "Over the last year it furthermore has become obvious that much of the most sophisticated and expensive medical equipment, cannot be properly or efficiently used, partly due to scarcity, or even complete lack, of consumables and partly due to inadequate training of the staff assigned to operate it."<sup>350</sup>

As this documentation makes clear, WHO was aware of the limitations of the local health system both in terms of expertise and the existence of more pressing basic needs. Nevertheless, the agency continued to accede to the wishes of local authorities because it viewed its role as purely "advisory."

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<sup>349</sup> WHO note-to-file (undated) (detailing the visit WHO Representative, Dr. Popal, to Suleimaniyah from January 25-27, 2000).

<sup>350</sup> Inter-agency meeting minutes (Mar. 27, 2001) (noting Dr. Ben Yahmed's comment, regarding the availability of sophisticated equipment versus basic needs, that the north "see[s] more CT [computer tomography] scanners than in Europe, per capita, but no hospital trays"); Samir Ben Yahmed memorandum to Gregoire de Brancovan (June 14, 2001); WHO, "Budget Proposal, Phase IX, 1 January to 30 June 2001, 2.2% Budget" (undated); see also WHO, "Oil For Food Programme - Audit Report No 00/583 IAO Comments On Actions Taken," (Oct. 23, 2001) (noting that Mr. Arciviadis had said that there had been no improvement in the import lists and that the equipment being requested was too sophisticated). Specifically, Mr. Acriviadis, commenting on the medical equipment worth over \$15 million ordered in the previous phase, told the author of the report that "only eight similar machines operate in the world." Ibid. When Ramsey Bisharah was interviewed by the Committee concerning his consultancy with WHO in the three northern governorates at the end of 2000, he noted that WHO procured a computerized tomography scanner for a badly renovated nurses dormitory that was being used as a hospital, and did so without the internal bio-medical capacity to support such a machine. At the same time, there were insufficient basic items, such as blankets for patients. He recalled seeing a male patient in a corridor laying on a "dirty hospital bed with nothing more than a threadbare blanket to cover him"—the blanket being supplied by his family. Ramsey Bisharah interviews (Feb. 3-4, 2005).

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#### b. UN-Habitat: Influence of Local Authorities on Contractors, Projects, and Staff

Like WHO, UN-Habitat also ceded some of its decision-making responsibility to local authorities. As will be discussed below, this resulted in UN-Habitat often operating outside its mandate. For example, in 1998, after UN-Habitat's Chief Technical Advisor, Carlo Musso, informed the Governor of Erbil that certain items on the governor's "wish list" were outside of UN-Habitat's mandate, the governor ordered trucks off the road, in effect, putting a stop to all UN-Habitat projects. This ban on trucks was only lifted when UN-Habitat agreed to the contents of the "wish list."<sup>351</sup>

United Nations documentation reveals that, from the Programme's onset, UNOHCI was concerned about the success of local authorities in influencing UN-Habitat's decision-making. In October 1998, Acting Deputy Coordinator Mr. Gaylard sent a letter to the Governor of Suleimaniyah cautioning him "against interference by the regional authorities in the selection of staff members serving with the United Nations, its Agencies and Programmes." Despite this warning, in February 1999, Sadi Ahmed Pire, Suleimaniyah Minister of Humanitarian Aid and Cooperation, sent a letter to UN-Habitat complaining about the work of a UN-Habitat staff member. Mr. Gaylard replied to Mr. Pire, reminding him that the employment decisions of United Nations organizations remained the prerogative of those organizations.<sup>352</sup>

In March 1999, Daro Noori Salih, Acting Minister of Humanitarian Aid and Cooperation, sent a letter to Mr. Gaylard, demanding that local authorities be given a say in hiring experts and other staff members, as well as in selecting contractors. In response, Mr. Gaylard reiterated that hiring staff and contracting projects were responsibilities belonging solely to the Agencies.<sup>353</sup>

Initially, UN-Habitat senior managers attempted to resist the local authorities' attempts to influence its decision-making. In June 1999, Mr. Yachan advised Mr. Sevan of these efforts, explaining that "the relationship with local authorities has required repeated clarification in order to agree that they will not benefit from UN-Habitat contracting, and that UN-Habitat retains full authority in the contracting process." Mr. Yachan noted specifically that some local authorities were abusing the housing beneficiary lists and expressed concern that there is "considerable room for abuse in the distribution of shelters." Moreover, he told Mr. Sevan that authorities in Suleimaniyah sought to increase benefits from UN-Habitat construction by keeping a roster of approved contractors—a roster requiring contractors to pay a registration fee—before UN-Habitat could use them.<sup>354</sup>

In September 1999, Mr. Yachan sent a memorandum to Shrvan Kashyap, UN-Habitat's Field Coordinator at the Suleimaniyah Field Office, discussing the latest "shopping list" submitted by

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<sup>351</sup> Zina Habib interview (Apr. 17, 2005).

<sup>352</sup> Maxwell Gaylard letter to Sadi Ahmed Pire (Feb. 27, 1999).

<sup>353</sup> Maxwell Gaylard letter to Daro Noori Salih (Apr. 4 1999).

<sup>354</sup> OIP note-to-file (June 22, 1999) (containing summary of Benon Sevan's meeting with various members of UN-Habitat's management in Iraq).

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local authorities in Suleimaniyah. Specifically, Mr. Yachan noted that the cost of the suggested projects appearing on the list far exceeded UN-Habitat’s budget for the relevant phase and that projects suggested by local authorities did not conform to UN-Habitat’s mandate.<sup>355</sup>

In November 2000, the Institute of Social Studies (“ISS”) conducted an Independent Technical Review of UN-Habitat’s SRP. ISS concluded that UN-Habitat had been a “captive” of local authorities in the three northern governorates. Specifically, it noted that rather than UN-Habitat having its own clear plan for implementing SRP, it had become reactive to whatever priorities were expressed by authorities in the governorates. As a result, even though much remained to be done to meet the basic housing needs of the IDP population, funding for constructing additional housing had declined while funds for infrastructure—especially roads and bridges—increased significantly.<sup>356</sup>

In May 2001, UNOHCI released a technical review of UN-Habitat’s activities in the three northern governorates. UNOHCI found that UN-Habitat lacked a guiding policy framework and employed only a small number of international experts, limiting its ability to resist the local authorities’ de facto role in planning and prioritizing projects.<sup>357</sup>

When interviewed, various individuals stated that local authorities constantly were attempting to manipulate SRP for personal and political gain. In addition, housing and infrastructure built by UN-Habitat often ended up benefiting individuals other than IDPs and the vulnerable groups that UN-Habitat was supposed to be aiding. For example, Mr. Bruyntjes told the Committee that when he attempted to make changes to ensure that UN-Habitat’s housing construction would focus on IDPs, he was told by authorities in Suleimaniyah that “if you want to build for IDPs, then go away.” Mr. Pieroni, a Field Coordinator for UN-Habitat, related an incident in which he had to fire a local staff member. Soon thereafter, he received a threatening call from local authorities advising him that the fired individual was important to them. Mr. Pieroni replied that the individual was not important to UN-Habitat and that if local authorities felt differently, they should feel free to employ him.<sup>358</sup>

Efforts like Mr. Pieroni’s to reduce the influence of local authorities over UN-Habitat came too late into the Programme. As Mr. Goodwin, a member of UN-Habitat’s Core Team told the Committee, Core Team members arriving in 2001 recognized that SRP only would have been

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<sup>355</sup> Antonio Yachan memorandum to Shravan Kashyap (Sept. 11, 1999).

<sup>356</sup> Institute of Social Studies, “UNCHS/Habitat’s Programme in Northern Iraq during the Last Four Years: an Independent Technical Evaluation” (Jan. 2001); see also OIP, “Comments on UN-Habitat Independent Technical Review (Jan. 2001)” (May 24, 2002).

<sup>357</sup> UNOHCI North-PCU, “Three Year Independent Technical Review: Habitat Programme in Northern Iraq” (May 31, 2001).

<sup>358</sup> Erhard Berner interview (Dec. 7, 2004); Hans Bruyntjes interviews (Apr. 21-22, 2005); Robert Goodwin interview (Apr. 19, 2005); Zina Habib interview (Apr. 17, 2004); Rammelt Hummelen interview (Apr. 13, 2005); Maria Keating interview (Mar. 9, 2005); Monica Noro interview (Apr. 17, 2005); Maurizio Pieroni interview (Jan. 3 and 9, 2005); Antonio Yachan interview (June 6-7, 2005).

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effective if many of the changes discussed at the end of the Programme had been implemented from the start. By the time these changes were implemented, UN-Habitat's field offices and local authorities had become entrenched in their methods of operation. Mr. Goodwin noted that local authorities had exploited UN-Habitat's disjointed management of the Programme for their own benefit.<sup>359</sup>

Erhard Berner, an expert in local and regional development at ISS, summed up the relationship between local authorities and UN-Habitat as "the tail wagging the dog." UN-Habitat had the resources, but local authorities effectively were in control.<sup>360</sup>

## E. A CORRUPTION-PRONE ENVIRONMENT

During the course of its investigation, the Committee received numerous allegations of corrupt behavior and practices engaged in by the Agencies' staffs in Iraq. These included, for example, allegations of bid-rigging, conflicts of interest, bribery, theft, nepotism, and sexual harassment. The Committee has treated these allegations seriously. However, efforts to investigate these allegations have been hampered severely by several factors. Most notably, even though investigators visited Erbil and Suleimaniyah and interviewed officials from all three governorates, the current security situation in Iraq limited the ability of investigators to travel throughout the country and access certain key witnesses. Consequently, it was impossible to speak with former national staff and contractors who might have been able to provide important information. Moreover, even with access to these individuals, corroborating many of these allegations would be difficult given that all financial transactions in the three northern governorates were conducted in cash, due to the lack of a reliable banking system there. This Chapter therefore does not report on specific cases of alleged corruption—though the United Nations may wish to conduct additional investigation into such matters after the security situation and hence access to key witnesses in Iraq improves.<sup>361</sup>

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<sup>359</sup> Robert Goodwin interview (Apr. 19, 2005).

<sup>360</sup> Erhard Berner interview (Dec. 7, 2004).

<sup>361</sup> One such allegation of corruption involves a claim by ABB Distribution ("ABB"), a company seeking a contract from UNDP, that a UNDP staff member advised ABB representatives to bypass United States export regulations and instructed the company that it would not receive a contract unless it agreed to pay the Iraqi regime a ten percent kickback. United States House of Representatives, Committee on Energy and Commerce, Subcommittee on Oversight and Investigations, [http://energycommerce.house.gov/108/subcommittees/Oversight\\_and\\_Investigations\\_Action.htm](http://energycommerce.house.gov/108/subcommittees/Oversight_and_Investigations_Action.htm) (containing a link to a Subcommittee hearing concerning the Programme). The Independent Inquiry Committee reviewed UNDP documents in reference to this allegation, including correspondence between UNDP and ABB concerning the relevant invitation to bid. The review of the correspondence revealed that, in response to several attempts by ABB representatives to contact UNDP and inquire about the bid process, UNDP repeatedly informed ABB representatives that UNDP would not respond to any specific inquiries about the bid process while it was ongoing. UNDP letter to ABB Distribution (Sept. 19, 2001); UNDP e-mail to ABB Distribution (Aug. 29, 2001). In addition, despite repeated efforts by the Committee's investigators to discuss this allegation with ABB representatives, including its attorney, ABB has not responded to the Committee's inquiries.

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Although the available evidence is not reasonably sufficient to prove particular allegations of corruption, it is clear that the environment in Iraq during the Programme enabled (and possibly even fostered) corruption. As detailed in Chapter Two of this Volume, audits performed during the Programme reveal that the predominant types of control weaknesses across the Agencies related to poorly defined policies and procedures (forty-nine percent), poor monitoring (twelve percent), and a lack of controls (eleven percent). These weaknesses were conducive to fraud and corruption. This Section focuses on some areas where these control weaknesses manifested themselves during the Programme.<sup>362</sup>

#### 1. Insufficient Cash Security

One area in which poor controls enabled fraud and corruption was cash security. Because there was no reliable banking system in the three northern governorates, the Agencies were forced to transport large amounts of cash from Baghdad or Amman, Jordan, and keep cash in their offices. This created obvious targets for theft. As a result, cash security was the focus of a number of Programme audits. These concerns were justified by substantial thefts that occurred throughout the Programme, including: (1) an August 19, 1999 theft of approximately \$40,000 from FAO when an automobile carrying in excess of \$100,000 in cash from Baghdad to Erbil was involved in an accident; (2) a May 2003 theft of \$64,000 from WHO's sub-office; (3) a November 2003 theft of more than \$300,000 from the UNESCO's Erbil office; and (4) a February 14, 2004 theft of over \$90,000 from FAO's Baghdad office.<sup>363</sup>

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Committee note-to-file (Aug. 31, 2005); Committee note-to-file (June 28, 2005). As a result of ABB's failure to respond, reasonably sufficient evidence supporting this allegation does not exist at this time.

<sup>362</sup> This is based on the Committee's analysis of the internal audit reports of the Agencies. Chapter 2 of this Volume contains a detailed discussion of that analysis.

<sup>363</sup> J. Christer Elfverson interview (Mar. 15, 2005); Rajan Chhabra interview (Nov. 2, 2005); FAO audit report, "Oil for food Programme (SCR 986) in Iraq OSRO/IRQ/607, 702, 703 and 801/DHA," AUD 4698, paras. 20-22 (Sept. 1, 1998); FAO audit report, "Oil for Food Programme – Review of Internal Controls," AUD 5399, paras. 43-58 (Dec. 1999); FAO audit report, "Review of Cash Security," AUD 3801, paras. 1-57 (Apr. 1, 2001); OIOS audit report, "UN-Habitat Settlement Rehabilitation Programme in Northern Iraq," AF2001/32, paras. 42-43 (Feb. 26, 2002); UNESCO audit report, "Audit of the Iraq Oil-for-Food Programme," IOS/2001/Report No. 1, paras. 60-68 (Apr. 13, 2001); UNOPS audit report, "UNOPS Procurement Activities in Northern Iraq," PSO137, pp. 11-12 (Nov. 25, 2002); UNICEF audit report, "Audit Report on the Baghdad Country Office, Iraq," 97/006, paras. 205-13 (Apr. 1, 1997); UNICEF audit report, "Audit Report on the Baghdad Country Office, Iraq," 98/022, paras. 9.3-.12 (Oct. 1, 1998); WHO audit report, "Oil-for-Food Programme, Iraq," OO/583 (Sept. 1, 2000); Kim Vinholdt Pedersen memorandum to Ahmed Gubartalla (Aug. 22, 1999) (regarding the theft from FAO during an automobile accident); Ahmed Gubartalla memorandum to Hans von Sponeck (Aug. 26, 1999) (regarding the theft from FAO during an automobile accident); Om Prakash e-mail to Gregoire de Brancovan (May 25, 2003) (regarding theft from WHO's Suleimaniyah sub-office); UNESCO, "The Winding-up of the Iraq Oil For Food Programme," 2004/13, paras. 103-106 (Aug. 2004) (regarding theft from UNESCO office); Michael Croft letter to Presiding Legal Authority (Nov. 16, 2003) (reporting theft from UNESCO office); Michael Croft interview (Oct. 4, 2004); John Parsons, Regina Kusuma and Jacqueline De Groot interview (Oct. 5,



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## 2. Insufficient Investigation

The possibility that corruption could occur was furthered by reports that theft, misappropriated funds, mismanagement, and conflicts of interest were not thoroughly investigated. Moreover, senior management in one of the Agencies, when questioned by the Committee about investigative procedures—both in general and as applied to particular cases—could not recount any procedures.<sup>364</sup>

For example, senior managers in WHO were questioned about procedures for investigating complaints against staff. Dr. Popal, WHO's Representative in Iraq during the Programme, explained that when he learned of a complaint against an employee, he assembled a team from outside the area to "check if everything was okay." When a team reported to him that "everything was okay," he would do nothing more. If, on the other hand, the team reported a problem, he would contact EMRO about it. EMRO's Department of Administration and Finance ("DAF") ultimately would handle any such matter and was responsible for recording the details of any allegations that were made and investigated. However, Dr. Popal could not describe how DAF investigated a matter or how it was referred for investigation depending on the type of complaint. When asked if staff received any specific training for investigating allegations of malfeasance and if he had received such training, Dr. Popal responded that he knew only that any allegations or complaints made would be handled by DAF.<sup>365</sup>

An example of poor investigation involves UNDP's investigation of complaints against one of its Resident Representatives. The Resident Representative's responsibilities were more administrative than technical, and he was responsible for other UNDP ongoing projects in addition to those implemented as part of the Programme. While serving in that position, several allegations were made about his management of the Programme, including allegations that the

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2004); Awni Lazar, "Security Report" (Feb. 2, 2004) (regarding theft from FAO's Baghdad Office). Although the theft from FAO's Baghdad office occurred more than two months after the Programme's end, nearly \$50,000 of the stolen money was attributable to the Programme. FAO still kept this amount of cash from the Programme in its Baghdad office for payment to national staff members who had been unable to collect it because of restrictions on local staff visiting United Nations offices. Further, because banking channels from Amman to Baghdad were not functioning, FAO had to rely on a cash agent to bring cash to its Baghdad office, each month, based upon projected disbursement needs. Lucy Elliott e-mail to the Committee (Aug. 18, 2005). Ms. Elliott is a Senior Auditor in the Office of FAO's Inspector General.

<sup>364</sup> UN-Habitat, unlike the other Agencies, did not conduct its own internal investigations; instead, it relied on OIOS. "Report of the Secretary-General on the activities of the Office of Internal Oversight Services," para. 54 (Mar. 8, 2001); Joint Inspection Unit, "Strengthening the Investigation's Function in United Nations System Organizations" (2000). A review of OIOS Investigations Department, including its handling of investigations involving UN-Habitat, is a subject of Chapter Two of this Volume.

<sup>365</sup> Ghulam Popal interviews (May 10 and 12, 2005).

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Resident Representative had misappropriated funds and succumbed to pressure from the Government of Iraq to hire certain national staff members.<sup>366</sup>

The genesis of the allegations was a June 1998 letter from the Deputy Resident Representative to UNDP's Director of Human Resources. In that memorandum, the Deputy Resident Representative described a number of instances involving the "misuse of funds." For instance, the memorandum noted that \$500,000 was used to pay the salaries of staff who were not involved in the project for which the money was allocated—in order to avoid having to return extra money at the budget period's end. The Deputy Resident Representative also claimed that unnecessary high-end vehicles had been purchased, and that unqualified staff had been hired to satisfy local authorities and private sector interests.<sup>367</sup>

Allegations against the Resident Representative and members of his staff, such as those articulated in the Deputy Resident Representative's letter, were the subject of audits. Of particular note, two November 1999 audit reports detailed extensive investigation of the Resident Representative and other staff members. The reports concluded that the Resident Representative: (1) repeatedly recruited personnel to satisfy the requests of senior government officials; (2) wrongfully utilized Programme project funds to purchase office equipment; (3) wrongfully reported project expenditures in order to purchase excessive and lavish office equipment; and (4) repeatedly demonstrated poor judgment and an abuse of authority in addressing human resource issues. One of the reports recommended that "[d]isciplinary sanctions and/or performance measures should be taken against" the Resident Representative. The Committee has reviewed documents from UNDP and DESA that reiterate these deficiencies in the Resident Representative's management approach.<sup>368</sup>

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<sup>366</sup> Oscar Fernandez-Taranco interview (Aug. 25, 2005); Peter Kouwenberg letter to Debby Landey (June 26, 1998); Price Waterhouse Coopers audit, "Internal Audit report to UNDP OAPR," IAS0042 (Aug. 11, 1999); UNDP audit report, "Audit of Human Resources Management in the UNDP Office in Iraq (Baghdad)," pp. 1-13 (Nov. 19, 1999); UNDP audit report, "Review of Allegations of Irregularities in the Recruitment of Personnel in the UNDP Office in Iraq and Follow up on OAPR Report NO.IAS0042," RCM0024, paras. 7-9 (Nov. 29, 1999).

<sup>367</sup> Peter Kouwenberg letter to Debby Landey (June 26, 1998).

<sup>368</sup> Price Waterhouse Coopers audit report, "Internal Audit report to UNDP OAPR," IAS0042 (Aug. 11, 1999); UNDP audit report, "Audit of Human Resources Management in the UNDP Office in Iraq (Baghdad)" (Nov. 19, 1999); UNDP audit report, "Review of Irregularities in the Procurement of Goods and Services in the UNDP Office in Iraq," RCM0023 (undated); UNDP audit report, "Review of Allegations of Irregularities in the Recruitment of Personnel in the UNDP Office in Iraq and Follow up on OAPR Report NO.IAS0042," RCM0024, paras. 7-9, 40-42, 52, 64 (Nov. 29, 1999); see also UNDP note-to-file, "Meeting with Mr. Michael Gautier, Senior Programme Manager, RBAS/UNDP" (Feb. 24, 1998) (noting that the working environment in the UNDP office in Baghdad is "less than desirable"); Michael J. Higgins fax to Kui-Nang Mak (May 22, 1998) (stating that the Resident Representative "has refused to enter meaningful discussions [sic] on how the project should be managed and executed"); Kui-Nang Mak memorandum to Patrizio Civili (Sept. 2, 1998) (noting that there was "a common consensus among UN staff at all levels, including Mr. Dennis Halliday, Humanitarian Coordinator, and his office . . . that [the

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Despite evidence of wrongdoing by the Resident Representative and audit recommendations that he be disciplined, a Senior Legal Consultant at UNDP determined that there were insufficient grounds to do so, arguing that the allegations were based on biased witness statements. The consultant reached this conclusion even though in a written response to one of the audits, the Resident Representative refused to recognize that there was a distinction between Programme funds and non-Programme funds. Instead, the Senior Legal Consultant simply argued that the conditions in Iraq required flexibility in interpreting and executing rules, despite the fact that in an earlier interview, the Resident Representative acknowledged having chosen to ignore hiring provisions by employing individuals solely to accommodate the Government of Iraq.<sup>369</sup>

The way in which UNDP handled allegations against the Resident Representative is emblematic of the poor investigation and oversight exercised by the Agencies during the Programme. Despite compelling evidence of wrongdoing by the Resident Representative—including his own admission—UNDP failed to take any action against him. This type of approach inevitably created the perception that people will not be held accountable for their actions, breeding corruption and wrongdoing.<sup>370</sup>

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Resident Representative] was not an effective coordinator in northern Iraq”); Kui-Nang Mak memorandum to Patrizio Civili (Sept. 24, 1998) (noting various ways in which the Resident Representative “has been a most difficult personality to deal with”); UNDP note-to-file (June 29, 1998) (included as Annex VII to UNDP audit report, “Review of Allegations of Irregularities in the Recruitment of Personnel in the UNDP Office in Iraq and Follow up on OAPR Report NO.IAS0042,” RCM0024 (Nov. 29, 1999)) (stating that the Resident Representative “has little experience to manage both the programme aspects and the administration of a complex humanitarian operation”); Boualem Aktouf mission report (July 21, 1999) (noting many human resources failures in the UNDP Baghdad office).

<sup>369</sup> Diana Boernstein memorandum to Deborah Landey (June 2, 2000); Resident Representative memorandum to Diana Boernstein (Feb. 12, 2000); UNDP audit report, “Audit of Human Resources Management in the UNDP Office in Iraq (Baghdad)” (Nov. 19, 1999).

<sup>370</sup> The Resident Representative, a United States citizen, was withdrawn from Iraq in February 1999 along with other United States and British citizens. He remained on sick leave until October 1999. On his return to work, he was given an unassigned position at UNDP’s Office of Human Resources in New York until January 2002, when he was appointed Chief, Human Resources Services Centre, Africa Region. He has received a promotion in grade since his service in Iraq. Jessie Rose Mabutas letter to the Committee (Apr. 5, 2005). Ms. Mabutas is the UNDP’s Director of the Office of Audit and Performance Review. Another area where insufficient controls created the high possibility for corruption and fraud was procurement. One example of the ease with which the Agencies could engage in inappropriate procurement during the Programme involved WHO’s purchase of a Mercedes automobile for the WHO Representative in Baghdad from the ESD Account. Dr. Ben Yahmed of WHO informed the Committee that, after receiving complaints from the Government of Iraq concerning the appropriateness of purchasing this vehicle, the automobile was transferred to WHO’s office in Syria, and, as a result, was never used in Iraq. Due to an apparent administrative oversight, the funds were never re-credited to the Programme. As a result of the Committee’s inquiry into this matter, WHO has agreed to reimburse to the Programme in the amount of \$25,120.30, representing the total cost which was charged to the Programme for the purchase plus interest. Samir Ben Yahmed interview (July 8, 2005).

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## VI. INEFFECTIVE EXECUTION

During the course of the Programme, there were numerous examples of the Agencies poorly executing their responsibilities. As described in Part IV of this Chapter, for certain cases involving ITU, UNESCO, UN-Habitat, and WHO, poor project implementation was due largely to their lack of prior experience and technical expertise for completing particular projects. Other Agencies, such as FAO and UNDP, experienced substantial difficulties implementing several major projects—even though such projects were within their respective areas of competence.

### A. FAO'S AGRO-INDUSTRIAL PROJECTS

During the Programme, OIP consistently urged FAO to conduct feasibility studies before beginning any rehabilitation of the agro-processing sub-sector. In particular, OIP stressed the importance of assessing whether a market existed for a proposed facility's end-product. OIP preferred that feasibility studies be included in project proposals because it viewed them as important factors in determining whether projects should be implemented. Nonetheless, FAO completed several agro-industrial projects before conducting a feasibility study. Though the four projects at issue—the renovation of the Harir Fruit Processing plant, the construction of two separate dairy processing factories in Dohan and Darbandikhan, and a sunflower oil processing factory in Arbat—were completed in 1999, none yielded functional facilities. This failure was due to a lack of raw materials as well as unresolved ownership and management problems. Feasibility studies aimed at determining how the factories should be operated were carried out *after* the factories were constructed. These studies concluded that the factories simply were not viable.<sup>371</sup>

The most noteworthy incident concerned the Darbandikhan Dairy Factory. Its location was selected without a thorough investigation of milk availability in the area. FAO only solicited a feasibility study on the factory *after the facility had been constructed*. This study, penned by a dairy economist, noted that “[i]n Darbandikhan the milk supply is low and the demand does not exist; this district is too far away from milk producing zones and too far from the market. For these reasons we recommend the existing dairy plant in Darbandikhan be moved to anywhere close to Suleimaniya . . . ,” at a projected cost of \$226,000. In response to this study, FAO moved the plant.<sup>372</sup>

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<sup>371</sup> Gregoire de Brancovan fax to Tun Myat and J. Christer Elfverson (May 10, 2002); John Almstrom interview (Jan. 5, 2005); Francis Kinnon interview (May 12, 2005); Laurent Thomas interview (July 7, 2005); Elkheir Khalid interviews (Mar. 10-11, 2005); Younan M. Hozaya and Abdul Aziz interview (Dec. 14, 2004) (regarding their roles as Minister of Industry and Energy and Deputy Minister of Electricity in Erbil, respectively); Dejene Tezera, “End of Assignment Report” (Oct. 2001) (regarding his employment as an agro-industry expert at FAO); FAO Coordination Office for Northern Iraq, “Analysis of Agro-industry activities in North Iraq – Issues and Recommendations” (Apr. 21, 2001).

<sup>372</sup> Dejene Tezera, “End of Assignment Report” (Oct. 2001); Sanjeev Saluja interview (Mar. 2, 2005); Rene A. Metzger, “S.C.R. 986 Oil for Food Programme: Dairy Industry Components” (June 30, 2001); Laurent

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While in the early stages of the Programme, FAO undertook agro-industrial projects without sufficient preparation; in the Programme's second half, the agency's projects were plagued by excessive delays. For example, FAO began two agro-industrial projects in Suleimaniyah—a fruit and vegetable processing plant in Bazian and a jam factory in Koyasinjac—for which equipment was ordered and delivered; yet the factories never were built. In the case of the plant in Bazian, a feasibility study was completed only in late 2001, nearly ten months after materials for the factory had been imported into Iraq. This study noted that the project was begun without “detailed economic, financial and marketing analysis resulting in high investment cost, poor asset turnover, heavy ‘Idle cost’ and higher depreciation cost” and that there had not been an “in depth analysis of grape juice demand and supply, marketing strategy and selling arrangements.” The study concluded that the project only could become economically viable with a diversification plan to avoid leaving the plant idle during the off-season for tomatoes and grapes, its two main inputs. However, these conclusions became available only after FAO had committed approximately \$3.5 million to purchase the plant and related equipment.<sup>373</sup>

Similar delays were encountered with slaughterhouse rehabilitation projects which, like the processing plant in Bazian and jam factory in Koyasinjac, were never completed by FAO. By 2000, local authorities requested that the United Nations rehabilitate the slaughterhouses in the three northern governorates. Various officials have explained to the Committee that the condition of the slaughterhouses in the three northern governorates was a significant public health problem. Initially, the responsibility for building the slaughterhouses was given to UN-Habitat. Eventually, however, FAO assumed that role and the construction of slaughterhouses in Rania and Koya was included in the February 2001 distribution plan for Phase IX. Feasibility studies for slaughterhouses in Erbil and Suleimaniyah were completed in August 2001. Despite the importance of slaughterhouse rehabilitation in terms of the health of the citizenry, FAO had not started them by the Programme's end.<sup>374</sup>

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Thomas interview (July 6, 2005); see also Amir Khalil e-mail to Laurent Thomas (Apr. 10, 2002) (stating that the Darbandikhan dairy processing factory needs to be moved closer to Suleimaniyah).

<sup>373</sup> Elkheir Khalid interviews (Mar. 10-11, 2005); FAO Feasibility Study Task Force, “Draft Feasibility Study Report on Bazian Fruit Processing Project” (Oct. 23, 2001); Elkheir Khalid memorandum to John Almstrom (Oct. 27, 2001).

<sup>374</sup> UNOHCI Dohuk Field Delegate note-to-file (Apr. 22, 2002) (summarizing issues that Deputy Humanitarian Coordinator John Almstrom should address with the Governor of Dohuk); Suleimaniyah Agricultural Sectoral Coordination meeting minutes (Mar. 6, 2000); Jamal Fuad interview (Dec. 17, 2004) (regarding his roles as Minister of Humanitarian Aid and Cooperation and Minister of Agriculture in Suleimaniyah); John Almstrom interview (Feb. 17, 2005); Laurent Thomas interview (July 6, 2005); Benjamin Badjeck interview (Jan. 27, 2005); “United Nations/World Bank Joint Iraq Needs Assessment: Agriculture, Water Resources and Food Security” (Oct. 2003); “Distribution Plan Submitted by the Government of Iraq to the UN Secretary-General in accordance with the Memorandum of Understanding of 20 May 1996 Resolution 1330 (2000): Executive Summary,” para. 141 (Feb. 13, 2001); Amir Khalil e-mail to Laurent Thomas (Apr. 10, 2002); Elkheir Khalid interviews (Mar. 10-11, 2005); Nechrivan Ahmed interview (Dec. 15, 2005); Fatih Abbas, Herish Muharam Muhammed Amin, and Aso Esmaeil interview (Dec. 17, 2004); Aso Abdul-Rahman interview (Dec. 17, 2004) (regarding his tenure as an FAO staff

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## B. UNDP'S EFFORTS IN THE ELECTRICITY SECTOR

UNDP was primarily responsible for rehabilitating the electricity network in the three northern governorates. Although it had been involved in a similar project in Bhutan, in the Programme's early stages, UNDP decided to sub-contract the project to DESA as part of the Electricity Network Rehabilitation Programme. This arrangement remained in effect through the first four phases of the Programme, at which time, UNDP, because of delays in implementation, took control of the project, under what it called the Direct Execution Modality. Several factors contributed to UNDP's implementation delays during the early phases of the Programme, including:

- DESA's lack of experience with electrical rehabilitation, combined with a lack of technical competence among local authorities and UNDP management in Baghdad,
- Use of a "shopping list" approach that encouraged poor procurement decisions;
- Extensive delays in the procurement process; and
- An acrimonious working relationship between UNDP and DESA staff, both in the field and in New York.<sup>375</sup>

A review of DESA's mission suggests that it is an advisory, rather than implementing, agency. As a result, its assignment to rehabilitate the electricity network in the three northern governorates was far beyond the agency's core competency. As Mark Malloch Brown, the former Executive Director of UNDP, has stated in reference to the selection of DESA: "It was a crazy idea to take a headquarters agency previously responsible for organizing conferences and give them field contracts."<sup>376</sup>

DESA's lack of expertise with electrical rehabilitation was compounded by the inexperience of UNDP's Resident Representative in Baghdad, who assumed primary responsibility for overseeing

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member). Mr. Abbas was the Minister of Municipalities in Suleimaniyah; Mr. Amin was the Chairman of the Agency of Re-construction and Development in Suleimaniyah; and Mr. Esmail was the Deputy Minister of Reconstruction in Suleimaniyah. Fatih Abbas, Herish Muharam Muhammed Amin, Aso Esmaeil interview (Dec. 17, 2004).

<sup>375</sup> Michael Higgins interview (May 2, 2005); UNDP, "Electricity Network Rehabilitation Programme In The Three Northern Governorates In Iraq" (undated).

<sup>376</sup> DESA, "Mission," <http://www.un.org/esa/desaov.htm>; Mark Malloch Brown interview (June 20, 2005). DESA's mission is serving as "a vital interface between global policies in the economic, social and environmental spheres and national action." Its work addresses three main areas: (1) data and information analysis of common problems; (2) negotiations to facilitate joint action; and (3) advice to translate policy frameworks into actual programs and to strengthen implementation capacities. DESA, "Mission," <http://www.un.org/esa/desaov.htm>.

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the rehabilitation project.<sup>377</sup> The Resident Representative directed DESA to adopt an approach that involved preparing lists of items to purchase, but appeared to pay little attention to planning. These lists were composed of requests submitted by electricity sector authorities in the three northern governorates. As a result, DESA's focus became repairing and maintaining the existing electricity network, rather than developing a long-term, sustainable solution to problems in the electricity sector. DESA's demarcation of responsibility was particularly problematic because local electrical experts were not technically competent to make the procurement decisions with which they were entrusted.<sup>378</sup>

UNDP's Resident Representative resisted any effort to move away from this "shopping list" approach. Michael Higgins, a DESA Technical Advisor on the Electricity Network Rehabilitation Programme, told the Committee that the Resident Representative focused on increasing spending to such a degree that it became his only performance index. When Mr. Higgins proposed bringing in a technical team to identify priorities, the Resident Representative replied that Mr. Higgins was to stick to procurement lists.<sup>379</sup>

The rehabilitation project also suffered from excessive delays in the procurement process. The United Nations procurement department required sixteen steps to process a DESA procurement request during the Programme's early stages. In an April 1999 memo to Under-Secretary-General Connor, Mr. Sevan took note of delays in the contract process, citing a contract with a Russian company that had been approved by the Headquarters Contract Committee (step number fifteen of the sixteen) in December 1998, but was due to be issued by the Procurement Department only on April 30, 1999. Mr. Sevan noted that he was concerned about the slow rate of the electricity sector's rehabilitation and requested that Mr. Connor waive bidding requirements for future contracts for the project. Mr. Connor agreed to this waiver.<sup>380</sup>

Comparing Programme funds allocated for procuring equipment and spare parts during the first four phases with the actual amount of equipment that was procured and delivered demonstrates

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<sup>377</sup> Michael Higgins memorandum to Kui-Nang Mak (May 22, 1998) (forwarding an undated document entitled "Proposal for Implementation Structure for Northern Iraq"); Costante Muzio, "Advance Summary Mission Report" (June 29, 1998); "UNDP note-to file (June 29, 1998) (included as Annex VII to UNDP audit report, "Review of Allegations of Irregularities in the Recruitment of Personnel in the UNDP Office in Iraq and Follow up on OAPR Report NO.IAS0042," RCM0024 (Nov. 29, 1999).

<sup>378</sup> Kui-Nang Mak memorandum to Patrizio Civili (Sept. 2, 1998) (regarding his tenure as Chief of DESA's Energy and Transport Branch); Michael Higgins interview (May 2, 2005); DESA, "Implementation of the Programme of Humanitarian Assistance to Iraq (Electricity Sector)" (Apr. 1998) (noting that "DESA field staff have estimated that there would be a 50% wastage of resources if the lists prepared by the governorates were procured as requested because many of the items are not needed").

<sup>379</sup> Michael Higgins interview (May 2, 2005).

<sup>380</sup> Ibid.; Michael Higgins, "Steps in Processing Purchase Order for North in DDSMS New York" (Oct. 8, 1998); Benon Sevan memorandum to Joseph Connor (Apr. 23, 1999); Roger Guarda memorandum to Joanne Disano (Mar. 20, 1999).

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the effects of these delays: Of over \$123 million allocated for these procurements, only \$19.6 million actually had been spent by the end of Phase V.<sup>381</sup>

As the Programme evolved, the relationship between UNDP and DESA became increasingly fractious. This acrimony has been identified by former personnel and in correspondence from this time period. The resulting atmosphere stunted effective and efficient decision-making and coordination, further increasing delays.<sup>382</sup>

In response to criticisms that had been levied against UNDP and DESA, UNDP assumed control of the project's implementation in mid-1999. UNDP delegated control of the rehabilitation project's critical functions to a Programme director based in Erbil. In effect, UNDP adopted a decentralized approach by taking authority from UNDP headquarters in New York and giving it to field-level administrators. In addition, UNDP established a procurement office in Amman, Jordan, which streamlined the procurement process.<sup>383</sup>

UNDP became far more effective in realizing its mandate with these changes.<sup>384</sup> Nevertheless, the initial choice of DESA for the rehabilitation project, when combined with (1) the lack of technical competence among local authorities and UNDP's Country Office in Baghdad; (2) the inefficiency of the Procurement Division; and (3) the growing animosity between UNDP and DESA, created unnecessary delays in implementing projects in an important sector.

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<sup>381</sup> UNDP, "Electricity Network Rehabilitation Programme In The Three Northern Governorates In Iraq" (undated).

<sup>382</sup> S.K. Murthy interview (May 22, 2005) (stating that communication between UNDP and DESA was poor in the early part of the Programme when he was a Programme Manager for DESA); Satish Ratman e-mail to Leocadio Dioso (Nov. 9, 1999) (stating that "the animosity between [UNDP's Resident Representative and DESA's Programme Manager] is quite visible"); Joanne DiSano memorandum to Fwaz Fokeladh (Mar. 8, 1999); Roger Guarda memorandum to Joanne DiSano (Mar. 20, 1999); Joanne DiSano memorandum to Fwaz Fokeladh (May 24, 1999); Roger Guarda memorandum to Joanne DiSano (May 28, 1999); DESA note-to-file (Feb. 24, 1998) (regarding DESA's meeting with Mr. Gautier of UNDP); John Cook memorandum to Joanne DiSano (Apr. 22, 1999); Leonard Guest memorandum to Joanne DiSano (Apr. 22, 1999); J.F. Byrne memorandum to Joanne DiSano, Kui-Nang Mak, and Walter Shearer (Apr. 22, 1999).

<sup>383</sup> UNDP, "Electricity Network Rehabilitation Programme In The Three Northern Governorates In Iraq" (undated); Michel Gautier, John Casey, and Jorn Sorenson interview (Nov. 1, 2004); Mark Malloch Brown interview (June 20, 2005).

<sup>384</sup> UNDP, "Electricity Network Rehabilitation Programme In The Three Northern Governorates In Iraq" (undated); Michel Gautier, John Casey, and Jorn Sorenson interview (Nov. 1, 2004); Mark Malloch Brown interview (June 20, 2005).



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## VII. FINDINGS AND CONCLUSIONS

In designing a framework for the Programme, Resolution 986 and the Iraq-UN MOU entrusted the delivery of emergency assistance and humanitarian aid in the three northern governorates of Erbil, Dohuk and Suleimaniyah to nine UN-related Agencies, under the aegis of UNIAHP. Although the Agencies also monitored the distribution of aid in the remainder of Iraq, their special implementation role in the three northern governorates was the focus of most of their resources.

The Committee has reviewed the Agencies' administration of the Programme in northern Iraq and makes the following findings:

1. The Committee finds that the Agencies were responsible for many successful initiatives that had a significant and beneficial effect on the lives of the citizens in the three northern governorates. These included the implementation of a successful food distribution program and the construction and rehabilitation of vital infrastructure in the three northern governorates.
2. Nevertheless, the Committee finds that the Agencies' delivery of aid suffered from several significant shortcomings that substantially reduced the Programme's effectiveness and resulted in wasted resources:
  - a. Some of the Agencies undertook projects for which they lacked relevant experience and technical expertise, often resulting in those Agencies' failure to implement important projects. Responsibility for this shortcoming rests not only with the Agencies, but also with OIP and UNOHCI, which in some cases chose the ill-equipped Agencies and failed to respond adequately when an agency was unable to complete successfully a particular initiative.
  - b. The humanitarian program in the three northern governorates suffered from defects in management, coordination, and oversight. These defects manifested themselves in several different ways:
    - i. OIP and its arm in the field, UNOHCI, failed to adequately control and supervise the activities of the Agencies, who resisted any attempts at supervision by OIP and UNOHCI. To a large degree, this was because the Programme's design did not specifically provide avenues for this control and supervision, and OIP and UNOHCI were reluctant to utilize the one tool at their disposal—the control over Programme funds—to manage the activities of the Agencies. Moreover, the Agencies were resistant to OIP's and UNOHCI's attempts at supervision.
    - ii. Management defects within some of the Agencies themselves included undefined lines of authority, poor communication among various departments or sections within some of the Agencies, and ineffective

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controls and oversight that contributed to the existence of a corruption-prone environment.

- iii. Both the Government of Iraq and the local authorities in the three northern governorates sometimes influenced inappropriately the Programme's implementation in the three northern governorates for personal or political benefit. Occasionally, some of the Agencies yielded to this influence.
3. The Committee also finds that there were significant instances where the Agencies failed to implement successfully projects and initiatives—even though the projects fell within the Agencies' traditional spheres of competency. These failures both wasted resources and delayed the provision of needed aid to the three northern governorates.

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This Chapter of the Report briefly updates information concerning Programme revenues and expenditures that was previously set forth in a Briefing Paper released by the Committee in October 2004.<sup>385</sup>

Part I addresses Programme revenues and expenditures through the end of 2004, as now recorded in the Programme's end-of-year financial statements. Part II discusses additional transactions affecting the Programme's accounts through June 2005.

## I. PROGRAMME REVENUES AND EXPENDITURES THROUGH 2004

The Programme generated \$64.2 billion in revenue from the sale of Iraqi oil. Oil proceeds were deposited in bank accounts at various financial institutions and earned an additional \$3.2 billion in interest through December 31, 2004. The Programme's financial statements also include revenue of \$2.2 billion relating to foreign exchange net gains between euro-denominated oil proceeds and USD, the currency of the financial statements.<sup>386</sup> These three components—revenue from oil sales, interest on unspent oil proceeds, and currency exchange—total \$69.6 billion.

Programme expenditures fall into four broad categories: (1) purchases of humanitarian goods and oil-spare-parts goods; (2) administrative costs; (3) United Nations Compensation Commission claims; and (4) other expenditures, including costs of weapons inspections and fees for the Kirkuk-Yumurtalik pipeline through Turkey. The Programme incurred a total of \$59.7 billion in expenditures through December 31, 2004. In addition to these expenditures, the United Nations made a total of \$9.2 billion in transfers to the Development Fund for Iraq ("DFI") in 2003 and 2004. As reflected in Table 1 below, there remained a total fund balance of approximately \$0.7 billion (\$664 million) in the Programme's accounts as of December 31, 2004.<sup>387</sup>

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<sup>385</sup> "Initial Briefing Paper," pp. 4-8.

<sup>386</sup> Programme financial statements, revenue data (1997-2004). These financial statements are prepared by the United Nations and have been audited through 2003. Ibid.

<sup>387</sup> Programme financial statements, expenditures and fund balance (1997-2004). The fund balance amount differs from the cash held in the Programme's various bank accounts, which totaled \$3.5 billion as of that same date. The difference between the fund balance and the cash on hand relates predominantly to approved humanitarian contracts for which letters of credit had been issued (requiring collateralized funds), but for which the related goods had yet to be delivered and paid. These contracts, referred to as "unliquidated obligations" in the Programme's financial statements, totaled \$2.9 billion as of December 31, 2004. Ibid.

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Table 1 – Remaining Fund Balance as of December 31, 2004 (in USD billions)<sup>388</sup>

	Total
<b>Programme Revenues</b>	<b>\$ 69.6</b>
Less	
Humanitarian Expenses	(38.5)
Administrative Expenses	(1.2)
Allocations to UNCC	(18.0)
Other	(2.0)
Total Expenditures	(59.7)
Less transfers to DFI	(9.2)
<b>Remaining Fund Balance as of Dec. 31, 2004</b>	<b>\$ 0.7</b>

As shown below in Table 2, humanitarian expenditures for southern/central Iraq totaled \$33.8 billion (including \$3.4 billion for oil spare parts). For northern Iraq, these expenditures amounted to \$4.7 billion (including \$0.7 billion for oil spare parts). The calculation of humanitarian expenditures in northern Iraq includes \$1.8 billion in allocations related to bulk food and medicine purchases made by the Government of Iraq and sent to the north. Actual expenditures for direct procurement by the Agencies for humanitarian contracts in the north totaled \$2.2 billion.<sup>389</sup>

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<sup>388</sup> Programme financial statements (1997-2004). Allocations to UNCC of \$18 billion represent oil revenues allocated and transferred to the UNCC and does not represent actual expenditures of the UNCC, which were accounted for separately outside the Programme.

<sup>389</sup> Ibid.

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Table 2 – Humanitarian Expenditures as of December 31, 2004 (in USD billions)<sup>390</sup>

	ESB	ESC	Total
Humanitarian Expenditures	\$36.3	\$2.2	\$38.5
Allocation of Bulk Purchases to the North	(\$1.8)	\$1.8	\$0.0
Allocation of Spare Parts Purchases to the North	(\$0.7)	\$0.7	\$0.0
<b>Total Expenditures</b>	<b>\$33.8</b>	<b>\$4.7</b>	<b>\$38.5</b>

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<sup>390</sup> As detailed in Chapters 1 of this Volume, the ESB Account retained initially about fifty-three percent and later fifty-nine percent of the oil proceeds to fund humanitarian purchases for the fifteen governorates in central and southern Iraq. The ESC Account received thirteen percent of the funds for the United Nations Inter-Agency Humanitarian Programme for the three governorates in northern Iraq. The humanitarian expenditures include unliquidated obligations of \$2.8 billion and \$0.1 billion, respectively, for the ESB and ESC Accounts.

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**II. UPDATE THROUGH JUNE 2005**

Although there are no formal Programme financial statements available for transactions in 2005, information concerning the Programme accounts is available from United Nations accounting data.

As of May 31, 2005, the total remaining available fund balance in the various accounts increased to approximately \$0.9 billion, and the cash balance, including unliquidated obligations, was approximately \$2.4 billion. In June 2005, the United Nations transferred \$200 million from the weapons inspection fund (ESE Account<sup>391</sup>) to DFI, and an additional \$20 million from that fund was used to pay for Iraq's past United Nations dues.<sup>392</sup>

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<sup>391</sup> As noted in Chapter 1 of this Volume, the ESE Account received 0.8 percent of the Iraqi oil proceeds to be used for weapons review by UNSCOM/UNMOVIC pursuant to Resolution 986.

<sup>392</sup> United Nations Press Release, SC/8427 (June 24, 2005); Programme accounting data (2005); Katrina Nowlan e-mail to the Committee (Aug. 31, 2005) (attaching reconciliation of cash balance as of May 31, 2005).

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The Committee has set forth its major recommendations for United Nations reform in Volume I of this Report. What follows is a discussion of these broad recommendations with more specific proposals for their implementation.

## **I. RECOMMENDATIONS FOR MANAGEMENT REFORM**

### **A. CREATE CHIEF OPERATING OFFICER POSITION**

Create the position of Chief Operating Officer to have authority over all aspects of administration of United Nations operations. As for the Secretary-General and commensurate with the authority and prestige of this new position, the Chief Operating Officer would be appointed by the General Assembly on the recommendation of the Security Council. The United Nations Charter should be amended as appropriate to provide for the position of a Chief Operating Officer, who would report directly to the Secretary-General.

A Chief Operating Officer would free the Secretary-General of some of the duties inherent in the role of the chief administrative officer. A Chief Operating Officer would have sufficient authority to impose effective management discipline, and the authority of this position would serve to insulate United Nations administrators from political pressures distorting management decisions.

### **B. DISTINGUISH THE POLICY ROLE OF THE SECURITY COUNCIL FROM THE EXECUTIVE ROLE OF THE SECRETARIAT**

The role of the Secretariat relative to the Security Council should be modified to reflect the newer types of programs that the United Nations has undertaken in the post-Cold War period. The Security Council should operate as a high-level policy setting body, while the Secretariat should have sufficient authority and responsibility to execute programs within the framework of the policies set by the Security Council.

Relevant departments within the Secretariat should be encouraged to continue development of “institutional knowledge” and “best practices” as they relate to typical areas of United Nations involvement, such as sanctions monitoring and humanitarian intervention. Because diplomatic appointments to the Security Council and its subsidiary bodies are temporary, those appointees often lack the experience and professional knowledge needed to carry out United Nations programs. The Secretariat should ensure departments with the relevant expertise are properly prepared to ensure consistent application of the United Nations’ “best practices” across similar programs.

### **C. REFORM AND IMPROVE MANAGEMENT PERFORMANCE**

Strong and effective leadership and management are essential to the success of the United Nations’ mission. There is a need for the United Nations to strengthen the quality of its management and management practices. To this end:



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1. Ensure that senior management and professional staff adhere to the highest standards of accountability and transparency in their performance. Remove those who do not meet these performance requirements;
2. Seek opportunities for peer review of management performance;
3. Overhaul the management hiring, promotion, evaluation, and reward methodology—with objective and regular evaluation of performance.

### **D. PROGRAM REVIEW**

To help ensure smoother performance of programs involving multiple United Nations entities, such as relief programs, the following improvements should be made:

1. Establish high-level coordinating bodies for all major cross-agency relief and emergency programs and provide them with real decision making ability, agreed to by all participating entities. These coordinating bodies should be empowered to set, implement, and enforce principles and policies;
2. Improve the scope and quality of the internal management review processes by mandating periodic, high level executive reviews of all major inter-agency initiatives and activities against clear objectives;
3. Harmonize and improve all aspects of operations of the funds and programs within the United Nations system, setting common policies and procedures, management systems, auditing and investigation practices, communication and information technology structures;
4. Develop policies for ensuring that the appropriate changes are made to programs that have been started on a temporary or emergency basis to bring them into administrative compliance once they stabilize and become more permanent;
5. Take steps to ensure that all appropriate functions are included early in project design, costing meetings, and studies relating to large-scale humanitarian programs and that these functions become an integral part of the on-going project team (e.g., oversight functions, accounting functions, treasury functions, information technology functions);
6. Move more aggressively to deploy cost accounting principles and systems as the basis for all programs. Likewise, minimize the use of levies as sources of funding for both the direct and indirect costs involved in the administration of programs;
7. If specialized agencies are involved in the performance of a program, take steps to ensure that the agencies have the ability to perform the work in a timely and transparent manner and negotiate terms and conditions at arm's length.

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**E. BUDGETING**

Budgets are currently subject to intense and detailed political negotiation at the Fifth Committee of the General Assembly. By directly controlling the detailed allocation of resources, the Fifth Committee makes it impossible for managers to properly manage and be accountable for delivering on their goals.

This process needs to be made more flexible with authority given to individual department managers to manage their departmental budgets within overall cost and policy parameters to achieve their objectives. Budgets should be set in the context of strategic objectives and should be flexible enough to respond proactively to new challenges.

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**II. RECOMMENDATIONS FOR IMPROVING OVERSIGHT  
ACROSS THE UNITED NATIONS SYSTEM**

Oversight of the United Nations system and, in particular, oversight of complex cross-agency programs, like the Oil-for-Food Programme, will be most successful if the following critical elements are addressed.

**A. IMPROVE INDEPENDENCE**

Member states must have reliable and direct communication with the organization's oversight bodies ("Oversight"). Oversight must be sufficiently independent of executive management to allow for an open, unmediated dialogue with the General Assembly. This direct line of communication will ensure that the General Assembly is kept fully informed about oversight problems, while at the same time providing Oversight with the opportunity to obtain sufficient support and resources to execute its mandate.

The Committee recommends that the United Nations establish an independent Oversight Board with an independent Chairman and a majority of independent members with functional responsibility for all independent audit, investigation, and evaluation activities—both internal and external—across the Secretariat and agencies substantially funded by the United Nations and subject to the Secretary-General's appointment of their leadership, the so-called "funds and programs." The Independent Oversight Board ("IOB") should have a highly qualified full-time staff equipped to oversee and monitor:

1. Implementation of risk-based planning across the United Nations system;
2. Coordination of planning, resource allocation and audit follow-up across all external and internal oversight units;
3. Implementation of oversight, audit and investigation "best practices;"
4. Investigations and improvements in the ethics and integrity of the organization;
5. Efficiency and effectiveness of the oversight function.

**B. IMPROVE COORDINATION**

As noted in this Report, when creating OIOS, the General Assembly gave it authority over the United Nations funds and programs. With the exception of UN-Habitat and UNHCR, OIOS does not have authority to manage the internal oversight of UN-related agencies. The Committee recommends the merger of OIOS with the oversight departments of the Organization's funds and programs. Further, the main specialized agencies, in particular the agencies involved in relief programs, should: participate in the IOB and coordinate their planning and management with OIOS; and integrate into the IOB functional management of oversight.

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The following benefits would arise from the functional integration and coordination of all the currently disparate internal oversight functions:

1. Consistent application of “best practices” oversight standards;
2. Efficient use of resources and the sharing of “lessons learned” for the benefit of the entire United Nations system;
3. Leveraging of horizontal auditing techniques within large programs and across Agencies and Departments;
4. Availability of necessary high-level specialized skills, such as information technology and investigations, across the United Nations system.

### **C. IMPROVE THE OVERSIGHT FRAMEWORK FOR CROSS-AGENCY PROGRAMS**

The following aspects of cross-agency programs are critical to the eventual success of such programs and should be addressed by the General Assembly at the outset of a program’s creation.

1. All programs should have clear and measurable goals that are subject to formal monitoring and evaluation.
2. Each program should have consolidated financial statements that are subject to external and internal audit.
3. Appropriate policies and procedures must be established, implemented, and subject to audit, including:
  - a. Processes for rapid deployment and rapid response projects identifying areas of risk and necessary critical controls in order to mitigate exposure; and
  - b. Standard audit plans for programs.
4. Sufficient oversight resources must be made immediately available and integrated into the management and implementation of a new program. A rapid deployment audit program with investigatory presence (“rapid integrity”) that allows oversight to begin at the inception of a new program should be created.
5. OIOS, under the functional guidance of the IOB, must plan and coordinate all internal audit planning and obtain full cooperation, transparency, and reporting from agency internal audit teams.
6. There must be no limitation on the scope of oversight.

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7. The management of all participating agencies must sign off on the adequacy of internal controls of the activities related to each program.

These should be non-negotiable terms provided for in service-level agreements or MOUs for all agencies wishing to participate in cross-Agency programs. The agreement should enumerate the consequences for non-compliance (e.g., loss of funding for either poor performance or a lack of internal control).

## **D. INCREASE TRANSPARENCY OF AUDIT PROCESS**

United Nations member states deserve the reassurance that their contributions are used wisely. Transparency of information is a key element to ensure efficient use of resources to the maximum benefit of the entire United Nations system. Audit activity, findings, and recommendations must be available in a timely manner across the United Nations system, and summaries must be made publicly available.

There should be annual disclosure from the IOB to the General Assembly of the planned audit coverage and the actual results of oversight activity. IOB oversight reports should be publicly available, and consideration should be given to holding public hearings to report on critical United Nations and agency activities.

The results of investigations of misconduct, fraud, and corruption should be regularly communicated to the United Nations staff and member states, as well as to the public, with due regard for any confidentiality issues.

## **E. IMPROVE ACCOUNTABILITY**

The “tone at the top” must provide unequivocal support for strong, independent oversight that holds management accountable for lapses in internal control.

Audit results should be used by the Organization as one measure of a manager’s performance. Adverse audit comments should provide the basis for improvement and, at the same time, be noted in the responsible manager’s personnel file. Non-implementation of agreed recommendations must be viewed as a serious performance deficiency, and managers with significant outstanding implementation issues should not be eligible for promotion. Disciplinary action should also be considered in appropriate circumstances. Conversely, responsible managers should be recognized where there are favorable audit findings, by noting such in their personnel files as good performance. The Organization should have procedures for the imposition of automatic sanctions for staff that refuse to cooperate with or lie to investigators.

Performance evaluations in significant extra-budgetary programs should be conducted against agreed goals and objectives and communicated to the General Assembly.

United Nations management should be educated about, and held accountable for, supporting the internal control environment and the oversight function through funding and responsibility. This may be done by:

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1. Requiring management to sign off annually on the adequacy of internal controls;
2. Monitoring the perception of the “tone at the top” through regular staff surveys;
3. Communicating and continually reinforcing the code of ethics;
4. Rewarding conduct that supports “best practices” and the integrity of the Organization;
5. Implementing swift and unequivocal action for ethical breaches and lapses.

Clauses should be inserted into all standard United Nations supplier contracts requiring the supplier to cooperate fully with United Nations oversight, including but not limited to, audit and investigations. Policies should be implemented requiring managerial staff to report all rule violations and fraudulent and corrupt activity to OIOS Investigations Division (“OIOS ID”). Compliance with this policy should be used as one measurement of managerial performance.

#### **F. INCREASE AND SAFEGUARD THE FUNDING OF OVERSIGHT**

The oversight functions and entities must be properly funded to ensure reasonable, objective, and consistent standards, and should not be subject to executive management approval. Internal and external auditors must have sufficient resources to allow them to carry out their mandates.

Base funding of all oversight units on an established and agreed-upon metrics (for example: so many auditors per millions in expenses multiplied by a risk factor) which can be applied to both budgeted and extra-budgetary activities. For all extra-budgetary activities, including cross-agency programs, the oversight funding mechanism must be specified and agreed upon before the program begins, and not dependent upon the approval of the program manager. Funding of OIOS ID should be driven by the need for both reactive and proactive investigations—not by a fixed budget—and should provide automatic resources for extra-budgetary programs. OIOS ID should be provided with a confidential fund and the ability to travel and hire specialists without being required to disclose the immediate purpose of the expenditure. The Committee recommends that in all future extra-budgetary programs, sufficient resources be put aside to fund effective independent monitoring.

#### **G. IMPROVE THE QUALITY OF OVERSIGHT**

The leadership, professionalism, and implementation of “best practices” within the oversight area (both internal and external audit functions and investigations) need to reach consistently high and reliable standards across the system.

The IOB should agree upon the appointment and remuneration of the head of the oversight function. The appointment should be based solely on the candidate’s demonstrated professional ability and experience with both audits and investigations.

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A legal counsel should be appointed to represent the combined oversight and investigations function. This will help resolve and reduce inevitable conflicts with other United Nations legal departments.

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**III. RECOMMENDATIONS FOR IMPROVING INVESTIGATIONS  
OVERSIGHT ACROSS THE UNITED NATIONS SYSTEM**

Despite its 10 years as an oversight mechanism at the United Nations, OIOS ID has not received the acceptance and support within the Organization that is critical to the successful discharge of its mandate. With growing awareness of the debilitating effect of fraud and corruption upon international aid and development, the need for an effective investigations capability gains importance. Due to its position in international funding, the United Nations is particularly well positioned to set an example for the international community. The United Nations has the ability to make significant changes that over time may better identify programmatic problems and vulnerabilities, protect the organization's funds, and minimize the occurrences of fraud and corruption in United Nations activities.

In addition to the recommendations regarding oversight generally, the Committee recommends additional reforms to strengthen the investigations function.

**A. COORDINATION OF INVESTIGATIVE ACTIVITIES**

All investigative activities of the United Nations and its related agencies should be brought into an integrated unit that can better provide a fully professional staff with relevant experience and training.

**B. WHISTLEBLOWER PROTECTION**

There can be no effective internal investigations mechanism if instances of fraud and corruption are not reported. Since its inception OIOS ID has had no whistleblower protection policy to protect complainants from reprisals and retaliation within the Organization. Currently, the organization has a Proposed Whistleblowing Protection Policy (Apr. 15, 2005). The Committee recommends that the organization adopt a meaningful Whistleblower Protection Policy providing adequate safeguards for United Nations staff who report fraud and corruption. Once adopted, this Policy must be well publicized within the Organization.

**C. MEANINGFUL SANCTIONS FOR FAILURE OF UNITED NATIONS  
STAFF TO COOPERATE**

Currently, lying to investigators or obstructing an OIOS ID investigation has not been the basis of misconduct action against a staff member. A United Nations staff member's duty to cooperate with OIOS ID should be explicitly provided for in the United Nations Staff Regulations and Rules and should provide that failure or refusal to cooperate may constitute misconduct. Communication of this message to the United Nations and its Agencies must come from the top, for example, in a Secretary-General Bulletin explicitly advising that failing to cooperate with OIOS ID, lying to investigators, or obstructing an investigation, is a violation of the existing staff



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rules and regulations and may result in administrative action—including reprimand or termination of employment.

**D. REQUIRE CONTRACTOR COOPERATION WITH INVESTIGATIONS**

For United Nations contractors, mandatory cooperation with OIOS ID investigations should be a provision in every United Nations contract. That cooperation should include OIOS ID's unlimited access to all relevant financial records and staff of the contractor. Such a provision should further advise United Nations contractors that a failure to cooperate may result in the termination of the contract.

**E. IMPROVE COMMUNICATION OF THE ANTI-FRAUD AND CORRUPTION MESSAGE**

The Secretary-General's office should provide visible support for the anti-fraud and anti-corruption mission by providing regular communications to United Nations staff and the community of contractors that do business with the United Nations that fraud and corruption will not be tolerated by the Organization.

For United Nations staff, this message can be communicated again through Secretary-General Bulletins and through the United Nations' internal website. The United Nations should use its internal website as a tool for combating fraud and corruption by, for example, highlighting OIOS ID cases, in a manner consistent with confidentiality issues. Both the internal and external website should place on the face page an icon for "reporting fraud and corruption" with a hyperlink to OIOS ID.

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**IV. RECOMMENDATIONS FOR STRENGTHENING THE ACCOUNTABILITY OF UNITED NATIONS STAFF**

**A. ESTABLISHMENT OF AN OFFICE OF ETHICS**

The Committee recommends that the United Nations establish an Office of Ethics responsible for:

1. The dissemination of information relating to United Nations Staff Regulations and Rules and the Organization's interpretation of them;
2. Providing advice to United Nations staff on all conflict of interest issues and issues relating to outside employment and interests;
3. Conducting training programs on ethics issues for all current and incoming United Nations staff; and
4. Operating the Organization's financial disclosure program.

The Committee notes that in February 2005, an Ethics Committee was established within OIOS; however, its mandate appears to largely focus upon ethics outreach and training activities. While these activities are necessary, the Committee supports the establishment of an office with broader authority and a more comprehensive ethics mandate.

**B. EXPAND CONFLICT OF INTEREST AND FINANCIAL DISCLOSURE REQUIREMENTS**

A strong financial disclosure program is an integral part of creating an institutional culture that recognizes and understands actual, potential, and apparent conflicts of interest. Often it is the appearance of a conflict of interest or an impropriety that can be most damaging to an organization. The United Nations' conflict of interest rules and regulations need to be expanded and more clearly defined to encompass actual, potential, and apparent conflicts of interest.

The United Nations Staff Regulations and Rules should be binding on the Secretary-General (which they currently are not), as well as on United Nations staff.

While in 1999, the United Nations began requiring staff members at the Assistant Secretary-General level and above to file financial disclosure statements this requirement should be expanded. The financial disclosure requirement must reach well below the Assistant Secretary-General level within the Organization and should also specifically include the Secretary-General and the Deputy Secretary-General. In addition, financial disclosure requirements must include all United Nations staff that have any decision-making role in the disbursement or award of United Nations funds (e.g., Procurement Department, Office of the Controller).

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In order to better safeguard against conflict of interest situations, a robust financial disclosure and conflicts of interest regime should include a requirement that all United Nations staff and consultants, including “\$1 a year consultants,” disclose in writing to the Ethics Office any financial interest or business relationship of his or her own or of immediate family members that could represent a conflict with his or her responsibilities or that could reflect unfavorably upon the integrity of the Organization. Staff members and consultants should be required to certify on an annual basis that they are aware of this requirement and are in compliance with it.

Generally, the Committee recommends that the United Nations bring its financial disclosure obligations for United Nations staff more in line with those established by the World Bank Group.

### **C. IMPROVE ETHICS TRAINING FOR ALL STAFF**

Ethics training is an important vehicle for setting institutional standards and communicating them to all staff levels within the Organization. Through the Ethics Office, training programs should be developed for incoming and current staff. Ethics programs should be mandatory and conducted on a yearly basis, with staff members certifying that they have completed the training course.

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### INDIVIDUALS

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Name	Description
Prince Sadruddin Aga Khan	Executive Delegate of the Secretary-General for humanitarian assistance in Iraq, 1991
Denis Aitken	Assistant Director General, World Health Organization
Yasushi Akashi	Under-Secretary-General for Humanitarian Affairs and Emergency Relief Coordinator, 1996; Member of Iraq Steering Committee, 1996
Madeleine Albright	United States Permanent Representative to the United Nations, 1993 - 1997; United States Secretary of State, 1997 - 2001
Mohammed Al-Douri	Iraq Permanent Representative to the United Nations, New York, 2001 - 2003
John Almstrom	Chief, Contracts Processing Section, United Nations Office of the Iraq Programme, 1998 - 2000; Deputy Humanitarian Coordinator in the northern governorates of Iraq, 2000 - 2002
Samir Al-Nejm	Minister of Oil, Iraq, 2003
Mohammed Said Al-Sahaf	Minister for Foreign Affairs, Iraq, 1992 - 2001
Barzan Al-Tikriti	Permanent Representative of Iraq to the United Nations, Geneva, 1988 - 1998; Half-brother to Saddam Hussein
Taher Al-Tikriti	Former head of Iraqi Intelligence Services
Abdul Amir Al-Anbari	Iraq Permanent Representative to the United Nations, New York, 1988 - 1992
Kofi Annan	Secretary-General of the United Nations, 1997 - present; United Nations Controller and Assistant Secretary-General for Programme Planning, Budget and Finance, 1990 - 1992
Kojo Annan	Son of Secretary-General Kofi Annan; employed by Cotecna Inspection S.A., 1995 - 1997; subsequently a consultant to Cotecna
Bo Asplund	Director, Programme Management Division, United Nations Office of the Iraq Programme 1998 - 1999; later Deputy Humanitarian Coordinator in the northern governorates of Iraq
Wagaye Assebe	Personal Assistant to Secretary-General Kofi Annan
Steven Avedon	Senior Political Affairs Officer, United Nations Department of Political Affairs

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<b>INDIVIDUALS</b>	
<b>Name</b>	<b>Description</b>
Lawrence Awopeto	Senior Reports Officer, United Nations Office of the Humanitarian Coordinator for Iraq
George Axemann	Department of Budget and Management Reform, World Health Organization
Tariq Aziz	Deputy Prime Minister of Iraq, 1991 - 2003
Sanjay Bahel	Chief of the Commodity Procurement Section, United Nations Procurement Division, 1998
Mohammad Batayneh	Minister of Energy and Mineral Resources, Jordan, 2003
Samir Ben Yahmed	Director, Iraq Programme, World Health Organization, 2003
Suzanne Bishopric	Deputy Treasurer of the United Nations, 1996; currently United Nations Treasurer
Peter Boks	Managing Director, Saybolt Eastern Hemisphere BV
Boutros Boutros-Ghali	Secretary-General of the United Nations, 1992 - 1996
Gro Harlem Brundtland	Director General, World Health Organization
A. Peter Burleigh	Deputy Permanent Representative of the United States to the United Nations, 1997 - 1999
Morten Buur-Jensen	Oil Overseer for the Programme, Denmark, 2000 - 2003
David Chalmers	American oilman, principal of Bayoil (Texas)
Urs Christen	Chief Customs Officer, United Nations Office of the Iraq Programme, 1999
Paul Conlon	Political Affairs Officer, Security Council Subsidiary Organs Secretariat Services Branch, United Nations Department of Political Affairs, 1989 - 1995
Joseph E. Connor	Under-Secretary-General, United Nations Department of Management, 1994 - 2002
Hans Corell	Under-Secretary-General for Legal Affairs, 1994 - 2004
Maurice Critchley	Executive Officer, United Nations Office of the Iraq Programme
Bernard Cullet	Oil Overseer for the Programme, France, 1996 - 1999

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<b>INDIVIDUALS</b>	
<b>Name</b>	<b>Description</b>
James B. Cunningham	Acting Permanent Representative of the United States to the United Nations
Staffan de Mistura	Humanitarian Coordinator, United Nations Office of the Humanitarian Coordinator for Iraq, March 1997 - September 1997
Roger de Weever	Chief, Communications Section, United Nations Office of the Humanitarian Coordinator for Iraq
Nora Dias	Secretary to Sanjay Bahel, United Nations Procurement Division
Barbara Dixon	Chief (now titled Director), Investigations Section, United Nations Office of Internal Oversight Services, 1998 - present
Felix Downes-Thomas	United Nations Department of Humanitarian Affairs, 1998; United Nations Special Representative to Liberia, 1998 - 2002
Charles Duelfer	Deputy Executive Chairman, United Nations Special Commission (UNSCOM), 1993 - 2000
Fred Eckhard	United Nations spokesperson, 1997 - 2005
Rolf Ekeus	Executive Chairman, United Nations Special Commission (UNSCOM), 1991 - 1997; former Ambassador of Sweden to the United States
J. Christer Elfverson	Director, Programme Management Division, United Nations Office of the Iraq Programme, 2000 - 2003; also Deputy Humanitarian Coordinator in the northern governorates of Iraq
Alan Fellows	Chief, Observation and Analysis Section, Programme Management Division, Office the of Iraq Programme
Louise Fréchette	Deputy Secretary-General of the United Nations, 1998 - present
Harold French	Commander, Multinational Interception Force
Gultiero Fulcheri	Humanitarian Coordinator, United Nations Office of the Humanitarian Coordinator for Iraq, December 1996 - March 1997
Maxwell Gaylard	Assistant Humanitarian Coordinator, and Acting Deputy Humanitarian Coordinator, United Nations Office of the Humanitarian Coordinator for Iraq, 1997 - 1999
Robert Goodwin	Acting Chief Technical Advisor, Settlements Rehabilitation Programme, United Nations Human Settlements Programme (UN-Habitat), 2001 - 2004

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<b>INDIVIDUALS</b>	
<b>Name</b>	<b>Description</b>
Jean-Pierre Halbwachs	Controller of the United Nations, 1997 - present
Denis Halliday	Humanitarian Coordinator, United Nations Office of the Humanitarian Coordinator for Iraq, September 1997 - September 1998
Nizar Hamdoon	Deputy Minister for Foreign Affairs, Iraq, 1987 - 1992; Iraq Permanent Representative to the United Nations, 1992 - 1998
George Hannadjas	Bookkeeper, Air Harbour Technologies
Saeed Hasan Al-Mosawi	Iraq's Deputy Permanent Representative to the United Nations at beginning of the Programme; subsequently promoted to Permanent Representative; later returned to Baghdad to become Director of the International Organizations and Conferences Department of the Ministry of Foreign Affairs
Saddam Zibn Hassan	Executive Director of Iraq's State Oil Marketing Organization (SOMO), 1994 - 2001; Deputy Minister of Oil, 2001 - 2003
Abdoulie Janneh	Resident Representative of the United Nations Development Programme, Ghana
Felicity Johnston	Chief Customs Expert, United Nations Office of the Iraq Programme
Hussein Kamel Hassan Al-Majid	General, former Government of Iraq; Iraqi Minister of Industry and Military Industrialization, 1988 - 1995; Son-in-law of Saddam Hussein
Maria Keating	Programme Officer, Office of the Iraq Programme
Amir Khalil	Representative, Food and Agriculture Organization
Rolf Knutsson	Deputy to United Nations Chef de Cabinet, S. Iqbal Riza
Ole Peter Kolby	Chairman of the 661 Committee, Norway, 2001 - 2002
Alexandre Kramar	Oil Overseer for the Programme, Russia, 1996 - 2003
Sergey Lavrov	Permanent Representative of Russia to the United Nations, 1994 - 2004
Xavier Leus	Director, Department of Emergency and Humanitarian Aid, World Health Organization

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<b>INDIVIDUALS</b>	
<b>Name</b>	<b>Description</b>
Geoffrey Lipman	Chief Executive Officer, Air Harbour Technologies, October 1999 - March 2001
Ramiro Armando Lopes da Silva	Humanitarian Coordinator, United Nations Office of the Humanitarian Coordinator for Iraq, July 2002 - November 2003
Maurice Lorenz	Oil Overseer for the Programme, United States, 1996 - 1998
Mark Malloch Brown	Executive Director, United Nations Development Programme, 1999 - 2005; Chef de Cabinet of Secretary-General Kofi Annan, 2005
Neel Mani	Director, Iraq Programme, World Health Organization, 2001 - 2003
Elie Georges Massey	Founder, Owner, and Chairman of Cotecna Inspection S.A.
Robert M. Massey	Chief Executive Officer of Cotecna; son of Elie Massey
Jean Jacques Massima-Llandji	Programme Coordinator, International Telecommunication Union
Abraham Mathai	Security Advisor, United Nations Office of the Humanitarian Coordinator for Iraq, 1998; also Chief of Security, United Nations Office of the Humanitarian Coordinator for Iraq, 1998
Ljiljana Miletic	Data Analyst, United Nations Office of the Humanitarian Coordinator for Iraq
Diana Mills-Aryee	Procurement Officer, United Nations Procurement Division
Darko Mocibob	Programme Officer, Contracts Processing and Monitoring Division, United Nations Office of the Iraq Programme
Edward Mortimer	Director of Communications and Chief Speech Writer, United Nations Executive Office of the Secretary-General
Tun Myat	Humanitarian Coordinator, United Nations Office of the Humanitarian Coordinator for Iraq, 2000 - 2002
Efraim (Fred) Nadler	Friend of Benon Sevan and Fakhry Abdelnour; former Corporate Officer (Treasurer) and Director of African Middle East Petroleum Co. Ltd. Inc. (AMEP)
Dileep Nair	Under-Secretary-General of the United Nations Office of Internal Oversight Services, April 2000 - April 2005

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### INDIVIDUALS

Name	Description
John D. Negroponte	Permanent Representative of the United States to the United Nations, 2001 - 2004
Denis Nwachukwu	Officer in Charge, United Nations Office of the Humanitarian Coordinator for Iraq
Roberts Onebunne	Reports Officer, United Nations Office of the Humanitarian Coordinator for Iraq
Jeremy Owen	Chief Customs Officer, United Nations Office of the Iraq Programme, 1997 - 1999
Tongsun Park	Korean businessman, lobbyist, and sometime owner of the Historic George Town Club, Washington, DC; informal advisor to United Nations Secretary-General Boutros-Ghali
Robert Pelletreau	United States Assistant Secretary of State, 1995
Rabini Ghulam Popal	Representative to Iraq, World Health Organization
Colin Powell	Secretary of State, United States of America, 2001 - 2005
Kieran Prendergast	Under-Secretary-General, United Nations Department of Political Affairs, 1997 - present
André Pruniaux	Senior Vice President in charge of Africa and Middle East Operations, Cotecna Inspection, S.A.
Taha Yassin Ramadan	Former Vice President of Iraq
Amer Muhammad Rashid	Former Minister of Oil, Iraq
S. Iqbal Riza	Chef de Cabinet of Secretary-General Kofi Annan, 1997 - 2004
John Ruggie	Assistant Secretary-General and senior advisor for strategic planning to Secretary-General Kofi Annan, 1997 - 2001
David Russell	Operations Officer, United States Navy Maritime Liaison Office
Naji Sabri Al-Hadithi	Minister of Foreign Affairs, Iraq, 2001 - 2003
Abdel Aziz Saleh	Director, Eastern Mediterranean Regional Office, World Health Organization
Mohammed Mehdi Saleh	Former Iraqi Minister of Trade
Stephani Scheer	Chief of Office, United Nations Office of the Iraq Programme

# MANAGEMENT OF THE OIL-FOR-FOOD PROGRAMME

## GLOSSARY

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<b>INDIVIDUALS</b>	
<b>Name</b>	<b>Description</b>
Benon Sevan	Under-Secretary-General and Executive Director of the United Nations Office of the Iraq Programme, 1997 - 2004
Akram Shaheen	Senior Official at Shaheen Business and Investment Group, Jordan
Khaled Shaheen	Chairman and Chief Executive Officer, Shaheen Business and Investment Group, Jordan
Lamin Sise	Director of Legal Affairs, Human Rights, and Special Assignments, United Nations Executive Office of the Secretary-General
Esther Stern	Director, Internal Audit Division, United Nations Office of Internal Oversight Services, 1998 - 2002
Maurice Strong	Senior Advisor to United Nations Secretary-General Boutros-Ghali on reform issues, 1996; Under-Secretary-General and Executive Coordinator for United Nations Reform, 1997 - 1998; Under-Secretary-General and Special Advisor to Secretary-General Annan, 1998
Yukio Takasu	Assistant Secretary-General and Controller, 1996; Member of Iraq Steering Committee, 1996
Michel Tellings	Oil Overseer for the Programme, Netherlands, 2000 - 2003
Nnenna Uchegbu	Legal Advisor, United Nations Office of the Humanitarian Coordinator for Iraq
Samir Vincent	Iraqi-born American businessman; President, Phoenix International L.L.C.; former Consultant for Coastal Corporation
Hans von Sponeck	Humanitarian Coordinator, United Nations Office of the Humanitarian Coordinator for Iraq, October 1998 - March 2000
Jing Zhang Wan	Secretary to the United Nations 661 Committee, 1993 - 2003
Mikhail Wehbe	Permanent Representative of Syria to the United Nations, 2000
Arnstein Wigestr�nd	Oil Expert and advisor to the United Nations, 1991 - 1997; Oil Overseer for the Programme, Norway, 1996 - 1997
Michael Wilson	Vice President for Marketing Operations in Africa, Cotecna Inspection S.A.
Oscar Wyatt	Chairman, Coastal Corporation

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# MANAGEMENT OF THE OIL-FOR-FOOD PROGRAMME

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### INDIVIDUALS

<b>Name</b>	<b>Description</b>
Antonio Yachan	Field Coordinator in Erbil, later Chief Technical Advisor for United Nations Human Settlements Programme (UN-Habitat)
Alexander Yakovlev	Various positions at United Nations Procurement Division, 1985-2005, including Procurement Officer, Team Leader, and Unit Chief; Case Officer in charge of contractual arrangements for the Oil-for-Food Programme's independent oil and humanitarian goods inspectors
Hani Yamani	Principal Officer, Air Harbour Technologies; Son of former Oil Minister of Saudi Arabia
Luis Esteban Yrazu	Customs Expert, Office of the Iraq Programme
Ralph Zacklin	Deputy to the Under-Secretary-General, United Nations Office of Legal Affairs, 1986 - 1997; Acting Director of the High Commission for Human Rights, 1997 - 1998; Assistant Secretary-General, 1998 - present
Farid Zarif	Director, Contracts Processing and Monitoring Division, United Nations Office of the Iraq Programme, 2000 - 2004; prior to 2000, held various positions at United Nations Office of the Humanitarian Coordinator for Iraq, including Deputy Humanitarian Coordinator

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### ORGANIZATIONS

<b>Term</b>	<b>Description</b>
Air Harbour	Air Harbour Technologies
BAFA	Federal Office of Economics and Export Control, Germany
BNP	Banque Nationale de Paris; merged with Paribas in 2000 to become BNP Paribas
CBI	Central Bank of Iraq
CIA	United States Central Intelligence Agency
Coastal	Coastal Corporation, Houston, Texas
Cofinter	Cofinter SA, a Massey family-controlled company
Command Council	Iraqi regime leaders who made decisions on allocations of oil

# MANAGEMENT OF THE OIL-FOR-FOOD PROGRAMME

## GLOSSARY

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<b>ORGANIZATIONS</b>	
<b>Term</b>	<b>Description</b>
Cordex	Cordex Petroleums Inc., a Strong family-controlled company
Cotecna	Cotecna Inspection S.A.
CPA	Coalition Provisional Authority
DTI	United Kingdom Department of Trade and Industry
GAO	United States General Accounting Office
HCME	Her Majesty's Customs and Excise, United Kingdom
IGC	Iraqi Governing Council
Iraqi Mission	Permanent Mission of Iraq to the United Nations
ISCWT	Iraq State Company for Water Transport
ISS	Institute of Social Studies
JP Morgan	JP Morgan Chase & Co.
Lloyd's	Lloyd's Register Inspection Ltd.
MARLO	United States Navy Maritime Liaison Office
Meteor	Meteor SA, a Massey family-controlled company
MIF	Multinational Interception Force
Migson Ghana	Migson Ghana Ltd
Millenium	Millenium for the Trade of Raw Materials & Mineral Oils
Mukhabarat	Iraqi Intelligence Services
Odin	Odin Marine, Inc.
Pentagon	United States Department of Defense (referring to the building that houses the department headquarters)
Phoenix International	Phoenix International, L.L.C., McLean, Virginia
Presidential Diwan	Administrative bureau of the Presidential Office created to research specific issues requested by former Iraqi President Saddam Hussein or his Council of Ministers
SAMIR	S.A.M.I.R. Oil
Saybolt	Saybolt Eastern Hemisphere BV

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# MANAGEMENT OF THE OIL-FOR-FOOD PROGRAMME

## GLOSSARY

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<b>ORGANIZATIONS</b>	
<b>Term</b>	<b>Description</b>
SOMO	Iraq's State Oil Marketing Organization
STASCO, Shell	Shell International Trading and Shipping Company Limited
The Committee	Independent Inquiry Committee into the United Nations Oil-for-Food Programme
UAE	United Arab Emirates
UBS	UBS AG; Swiss Bank Corporation and Union Bank of Switzerland merged in 1998 to form UBS AG
UGA	Upper Gulf Agencies
UNA-USA	United Nations Association of the United States of America
US	United States
Westexim	Westexim Ltd.
White House	Office and Residence of the President of the United States (referencing official statements from the United States government)

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### UNITED NATIONS ABBREVIATIONS

<b>Term</b>	<b>Description</b>
661 Committee	A sanctions oversight committee created under Security Council Resolution 661 (1990), composed of representatives from each of the fifteen members of the Security Council
ACABQ	United Nations General Assembly Advisory Committee on Administrative and Budgetary Questions
BOA	United Nations Board of Auditors
CPMD	Contracts Processing and Monitoring Division, United Nations Office of the Iraq Programme
DAF	Department of Administration and Finance, Eastern Mediterranean Regional Office, World Health Organization
DESA	United Nations Department of Economic and Social Affairs

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# MANAGEMENT OF THE OIL-FOR-FOOD PROGRAMME

## GLOSSARY

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### UNITED NATIONS ABBREVIATIONS

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<b>Term</b>	<b>Description</b>
DHA	United Nations Department of Humanitarian Affairs, renamed Office for the Coordination of Humanitarian Affairs ( "OCHA" ) in 1998
DPA	United Nations Department of Political Affairs
EMRO	Eastern Mediterranean Regional Office, World Health Organization
ENRP	Electricity Network Rehabilitation Programme
FAO	Food and Agriculture Organization of the United Nations
FASS	Field Administrative Support Service, Office of the Iraq Programme
General Assembly	Main deliberative organ of the United Nations, composed of representatives of all Member States, each of which has one vote; meets annually
GOU	Geographical Observation Unit, United Nations Office of the Iraq Programme
HCC	United Nations Headquarters Committee on Contracts
IAD	Internal Audit Division, United Nations Office of Internal Oversight Services
IAEA	International Atomic Energy Agency
Investment Committee	United Nations Investment Committee
Iraq Steering Committee	Advisory body established by Secretary-General Boutros-Ghali to coordinate implementation of Resolution 986, chaired by Chinmaya Gharekhan; also known as "Steering Committee" and "986 Committee"
IRP	Department of the Iraq Programme, World Health Organization, Geneva
ITU	International Telecommunication Union
JHIC	Joint Humanitarian Information Centre
JIU	Joint Inspection Unit (United Nations)
MCC	Management Coordination Committee, United Nations Office for Project Services

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# MANAGEMENT OF THE OIL-FOR-FOOD PROGRAMME

## GLOSSARY

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### UNITED NATIONS ABBREVIATIONS

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<b>Term</b>	<b>Description</b>
MDOU	Multi-Disciplinary Observation Unit, United Nations Office of the Iraq Programme
MECD	Monitoring, Evaluation & Consulting Division, United Nations Office of Internal Oversight Services
OAS	Observation and Analysis Section, Programme Management Division, United Nations Office of the Iraq Programme
OHRM	United Nations Office of Human Resources Management
OIOS	United Nations Office of Internal Oversight Services
OIOS ID	Investigations Division, United Nations Office of Internal Oversight Services
OIP	United Nations Office of the Iraq Programme, established October 15, 1997 to administer the Oil-for-Food Programme
OLA	United Nations Office of Legal Affairs
OSS	Operations Support Section, Programme Management Division, United Nations Office of the Iraq Programme
PAMSD	Programme Analysis, Monitoring and Support Division, United Nations Office of the Iraq Programme
Panel	Panel of External Auditors of the United Nations
PMD	Programme Management Division, United Nations Office of the Iraq Programme
RIAS	Representatives of Internal Audit Services of the United Nations Organizations and Multilateral Financial Institutions
Secretariat	One of the six principal organs of the United Nations, comprising the Secretary-General and such staff as the Organization may require
Secretary-General	United Nations Chief Administrative Officer
Security Council	United Nations Security Council, composed of representatives of fifteen Member States, of which five have permanent seats; primary responsibility for maintenance of international peace and security

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# MANAGEMENT OF THE OIL-FOR-FOOD PROGRAMME

## GLOSSARY

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### UNITED NATIONS ABBREVIATIONS

<b>Term</b>	<b>Description</b>
SOU	Sectoral Observation Unit, United Nations Office of the Iraq Programme
SRP	Settlements Rehabilitation Programme, part of UN-Habitat
The Programme	United Nations Oil-for-Food Programme
Treasury	United Nations Treasury
UN	United Nations
UNCC	United Nations Compensation Commission, established by Security Council Resolution 687 (1991), to compensate victims of Iraq's invasion of Kuwait
UNDG	United Nations Development Group
UNDP	United Nations Development Programme
UNESCO	United Nations Educational, Scientific and Cultural Organization
UNGCI	United Nations Guard Contingent in Iraq
UN-Habitat	United Nations Human Settlements Programme (UNHSP), also known as UNCHS, Centre for Human Settlements
UNIAHP	United Nations Inter-Agency Humanitarian Programme, a coalition of UN-related Agencies tasked with distributing humanitarian goods in the three northern governorates of Iraq ("UN-related Agencies")
UNICEF	United Nations Children's Fund
UNITAR	United Nations Institute for Training and Research
UNMOVIC	United Nations Monitoring, Verification and Inspection Commission
UNOHCI	United Nations Office of the Humanitarian Coordinator for Iraq
UNON	United Nations Office at Nairobi
UNOPS	United Nations Office for Project Services



# MANAGEMENT OF THE OIL-FOR-FOOD PROGRAMME

## GLOSSARY

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### UNITED NATIONS ABBREVIATIONS

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Term	Description
UN-related Agencies, or the Agencies	These nine agencies had significant roles in the Programme on the ground in Iraq, especially in the largely Kurdish northern region: Food and Agriculture Organization of the United Nations (“FAO”), International Telecommunication Union (“ITU”), United Nations Development Programme (“UNDP”), United Nations Educational, Scientific and Cultural Organization (“UNESCO”), United Nations Human Settlements Programme (“UN-Habitat”), United Nations Children’s Fund (“UNICEF”), United Nations Office for Project Services (“UNOPS”), World Food Programme (“WFP”), and World Health Organization (“WHO”). For ease of reference, this Report refers to this group of agencies as “UN-related Agencies” in recognition that they have varying legal relationships to the United Nations.
UNSCOM	United Nations Special Commission
WFP	World Food Programme
WHO	World Health Organization

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### SECURITY COUNCIL RESOLUTIONS

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Resolution	Description
Resolution 661 (1990)	Following invasion of Kuwait by Iraq in 1990, this resolution prohibited most forms of trade and financial transactions with Iraq
Resolution 687 (1991)	After the restoration of Kuwait’s sovereignty, this resolution continued the sanctions regime subject to Iraq’s compliance with disarmament and weapons inspections requirements and subject again to humanitarian exemptions; established the United Nations Compensation Commission
Resolution 706 (1991)	In an earlier attempt to create an oil-for-food program, this resolution envisioned the creation of an escrow account administered by the Secretary-General for direct payment of full amount of each purchase of Iraqi petroleum, and allowing for part of the sum in the account to be made available to cover the cost of administering the program

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# MANAGEMENT OF THE OIL-FOR-FOOD PROGRAMME

## GLOSSARY

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### SECURITY COUNCIL RESOLUTIONS

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<b>Resolution</b>	<b>Description</b>
Resolution 712 (1991)	In an earlier attempt to create an oil-for-food program, this resolution envisioned an escrow account administered by the Secretary-General, and allowed for funds contributed from sources other than Iraqi oil to be deposited into this account to meet Iraq's humanitarian needs
Resolution 778 (1992)	This resolution directs that all funds of the Government of Iraq that represent the sale of Iraqi petroleum or petroleum products be transferred by member states into the escrow account provided for in Security Council Resolutions 706 and 712
Resolution 986 (1995)	This resolution ultimately established the Oil-for-Food Programme
Resolution 1153 (1998)	This resolution increased six-month limitation on oil sales to \$5.256 billion
Resolution 1284 (1999)	This resolution removed quantity limitation on oil lifting; approved "green list" procedure to exempt certain Programme-financed contracts from 661 Committee review
Resolution 1293 (2000)	This resolution increased oil spare parts exemption from \$300 million to \$600 million
Resolution 1330 (2000)	This resolution changed allocations of the Iraq Escrow Account to allow 59 percent of oil sales to be used for goods in southern and central Iraq and to reduce the percentage devoted to the victims of the Iraq-Kuwait war
Resolution 1409 (2002)	This resolution instituted goods review list procedure to require that only certain potential "dual use" goods be subject to 661 Committee review
Resolution 1472 (2003)	This resolution authorized the Secretary-General and his designates to negotiate adjustments to humanitarian contracts
Resolution 1476 (2003)	This resolution extended the provisions of Resolution 1472 concerning prioritizing and amending humanitarian contracts until June 3, 2003
Resolution 1483 (2003)	This resolution directed phase-out of ongoing operations of the Oil-for-Food Programme, including request to review relative utility of each approved and funded contract, and to negotiate adjustments in the terms or conditions of these contracts

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# MANAGEMENT OF THE OIL-FOR-FOOD PROGRAMME

## GLOSSARY

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### OTHER TERMS

Terms listed as “UNITAR definition” are from the on-line version of “Conference Diplomacy and Multilateral Negotiations: A Glossary of Terms for UN-based Diplomats” (2003), United Nations Institute for Training and Research (“UNITAR”).

Term	Description
38th Floor	Top floor of the United Nations Secretariat Building in New York City, referencing the offices of the Secretary-General and other high-ranking UN officials
After-Sales-Service Fee or Commission (“ASSF”)	Term used to disguise the humanitarian contract kickback paid on Programme contracts as required by the Iraqi regime
Aide Mémoire	A written summary (memorandum) of the main issues or facts raised by a diplomat in an official conversation or encounter [UNITAR definition]
Allocation	Amount of oil that the Government of Iraq would sell to a designated buyer
Article 50	United Nations Charter, chapter VII, article 50; provides means for a United Nations member state to consult the Security Council for a solution to economic burdens arising from the Council’s preventive or enforcement measures against another state
Blue Helmets	Unofficial term referring to United Nations peacekeeping forces, who wear blue helmets
COMM Number	Unique identification code assigned to applications for contracts under the Oil-for-Food Programme
Compendium	Compendium of Customs Procedures, designed to guide Customs Experts in their review of Programme-related contracts
Comtrade	Commodity Trade Statistics Database, compiled by the Statistics Division, United Nations Department of Economic and Social Affairs, using annual international trade data contributed by over 130 countries [unstats.un.org/unsd/comtrade]
CPPI	Common Principles and Policies for Investments
CWA Account	Held funds to be used by the United Nations Compensation Commission to compensate victims of Iraq’s invasion of Kuwait; initially thirty percent, and later twenty-five percent, of all oil sale proceeds were transferred to the CWA Account
Demurrage	Costs incurred by a cargo ship for delay beyond its contractually agreed time of departure

# MANAGEMENT OF THE OIL-FOR-FOOD PROGRAMME

## GLOSSARY

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### OTHER TERMS

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<b>Term</b>	<b>Description</b>
DFI	Development Fund for Iraq
DM	German Deutsche Mark
Dual Use Items or Goods	Civilian goods with potential military use; Materials that might facilitate production of Weapons of Mass Destruction
End-user oil buyers	Companies that possess refinery facilities to process lifted oil
ESB Account	Escrow Account for humanitarian purchases in connection with Resolution 986 (1995), for fifteen governorates in central and southern Iraq
ESC Account	Escrow Account for humanitarian purchases in connection with Resolution 986 (1995), for three northern governorates of Iraq administered by the United Nations Inter-Agency Humanitarian Programme (13 percent account)
Escrow Account	Usually, the ESB Account, held at Banque Nationale de Paris (BNP)
ESD Account, or 2.2 Percent Account	The account into which 2.2 percent of the proceeds from Iraqi oil sales were deposited in order to fund the United Nations' administration of the Programme
ESE Account	Escrow Account into which 0.8 percent of the proceeds from Iraqi oil sales were deposited to fund weapons review by UNSCOM/ UNMOVIC
Extra-budgetary Programs	United Nations programs that receive their funding from sources other than the United Nations' general budget
Financial Rules	Financial Regulations and Rules of the United Nations, in effect from 1985 - 2002
First Interim Report	Report issued by the Independent Inquiry Committee on February 3, 2005
Green List	Established by Resolution 1284, a pre-approved list of humanitarian items, such as food and medicine, for which no dual use was foreseeable

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# MANAGEMENT OF THE OIL-FOR-FOOD PROGRAMME

## GLOSSARY

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### OTHER TERMS

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<b>Term</b>	<b>Description</b>
GRL	Goods Review List, established by Resolution 1409, identifying items of potential military significance for which contract approval by the 661 Committee was required
Humanitarian Kickbacks	Scheme related to humanitarian goods contracts in which suppliers of goods were required to pay a certain amount, usually ten percent, to the relevant ministry after a contract was executed
IDP	Internally Displaced Person
IMIS	United Nations Accounting System
Inland Transportation Fee	Scheme related to humanitarian goods contracts in which the Iraqi regime required payment of transportation fees in order to deliver goods internally within Iraq
Iraq Account	Term used by United Nations Board of Auditors to collectively refer to programme-related accounts
Iraq-UN MOU	Memorandum of Understanding between the Secretariat of the United Nations and the Government of Iraq on the implementation of Security Council Resolution 986 (1995), S/1996/356 (May 20, 1996)
IST	Iraqi Special Tribunal
Johnston Note	Note for the File drafted in October 2001 by Felicity Johnston, summarizing several incidences of kickbacks discovered by or reported to the Office of the Iraq Programme
No Objection Procedure	Procedure by which a humanitarian goods contract is deemed approved if no member of the 661 Committee lodged an objection within a prescribed time period
Non-Paper	A category of documents issued by member states or the Secretariat on an informal basis and designed to facilitate the process of negotiating an agreement [UNITAR definition, paraphrased]
Northern Governorates	Erbil, Suleimaniyah, Dohuk; regions of northern Iraq where the Programme was administered by UN-related Agencies; also known as Iraqi Kurdistan

# MANAGEMENT OF THE OIL-FOR-FOOD PROGRAMME

## GLOSSARY

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### OTHER TERMS

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<b>Term</b>	<b>Description</b>
Note verbale	The standard format for addressing through diplomatic channels, missions, and intergovernmental organizations; secretariats may notify parties of the next meeting through this format [UNITAR definition, paraphrased]
Oil Lift	Transfer of oil from an oil port terminal to a seagoing oil tanker
Oil Overseers	Oil experts appointed to assist the 661 Committee in reviewing and approving the oil pricing mechanism and individual oil contracts to ensure compliance with the Programme
Oil Spare Parts	Parts and equipment for the maintenance and repair of Iraq’s oil production infrastructure
Oil Surcharges	Scheme relating to oil lifting contracts, in which buyers of Iraqi oil agreed to pay back to the Iraqi regime a certain amount per barrel, outside of the Programme payments
OPICS	Operations Processing Integration Control System
P-5 Countries	The five permanent members of the United Nations Security Council: China, France, Russia, the United Kingdom, and the United States
Paragraph 22	Resolution 687 (1991), paragraph 22, provided for removing the sanctions ban on the import of commodities and products originating in Iraq imposed by Resolution 661 (1990), upon the Security Council’s agreement that Iraq had satisfied its weapons disclosure, inspections, and monitoring requirements
PNG	Persona non grata
Port Fees	Fees charged on vessels at the port of loading, also called “port charges”
PSC	Programme Support Costs
Report	Report on the Management of the United Nations Oil-for-Food Programme, issued by the Independent Inquiry Committee on September 7, 2005

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# MANAGEMENT OF THE OIL-FOR-FOOD PROGRAMME

## GLOSSARY

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### OTHER TERMS

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<b>Term</b>	<b>Description</b>
Retroactive Pricing	Procedure instituted in October 2001 by certain members of the 661 Committee, designed to ensure that there was no premium from which surcharges and kickbacks could be paid to the Iraqi regime
RFP	Request for Proposal
RWA Account	Account funded with \$10 million every ninety days for reimbursement of assets frozen pursuant to Resolution 778 (1992)
Second Interim Report	Report issued by the Independent Inquiry Committee on March 29, 2005
Side Letters	Side agreements that Iraqi ministers required of prospective humanitarian goods suppliers, in which additional contract payments outside the Programme funds were agreed; also called “side agreements”
TaR	Transactions and Relationships System, an analytical database maintained by the Independent Inquiry Committee that contains information gathered in the course of its investigation
Third Interim Report	Report issued by the Independent Inquiry Committee on August 8, 2005
Trade Protocol	International legal agreement concerning trade between or among countries
United Nations System	General term comprising all principal organs and departments of the United Nations and UN-related agencies, programs, funds and subsidiary bodies
Unliquidated Obligations	Approved humanitarian contracts for which letters of credit had been issued, requiring collateralized funds, but for which the related goods had yet to be delivered or paid
USD	United States dollar
WATSAN	Water and sanitation