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Investigating the U.N.'s Oil-for-Food Program: Latest Findings and Recommendations

Executive Summary

- The most recent information revealed by congressional and other investigators confirms the vast corruption of Iraq's Oil-for-Food (OFF) program, the United Nations' largest humanitarian program in its history.
- U.N. Secretary General Kofi Annan has demonstrated reticence in ensuring that a transparent and expeditious investigation into this scandal be performed.
- Information revealed by the Senate's Permanent Subcommittee on Investigations (as well as by the U.N.'s own investigators and the CIA's Iraq Survey Group) deeply implicates those alleged to have knowingly corrupted the OFF program.
- The U.N.'s Independent Inquiry Committee (IIC) is expected to release an interim report later this month and a final report by mid-2005. However, it remains unclear as to what degree of influence Annan will have over the contents of the final report.
- Congress is obligated to continue conducting its own investigation and to keep pressure on the U.N. and other foreign governments to ensure that the depths of this scandal are fully exposed.
- Some of the findings to date include the following: the OFF program was improperly established *and* overseen; Hussein was able to illegally divert funds from the OFF program to build up his military as well as to provide funds to terrorist organizations; complicit nations and individuals helped cause the failure of U.N. sanctions on Iraq; sanctions violators have not been punished; and the IIC is an inherently weak investigatory panel that is having difficulty securing cooperation from suspected individuals and foreign governments.
- This paper recommends that Kofi Annan: testify before the IIC to show that the Secretary General is taking this scandal seriously; lift diplomatic immunity on former OFF Executive Director Benon Sevan and compel him to testify before either the IIC or Congress; and publicly commit to maintaining the "independence" of the IIC by stating that neither he nor his staff will edit or in any way alter the IIC's final report.

Introduction

In May of 2004, the Senate Republican Policy Committee released a comprehensive examination of the then-developing Oil-for-Food (OFF) program scandal.¹ The paper provided background information on the United Nations' OFF program and outlined why this issue mattered to policymakers. The paper also recommended actions for Congress and the Administration to consider as they pursued a full investigation into the scandal.

Half a year later, much additional information has come to light regarding this scandal – with none of it appearing to exonerate those allegedly involved. To the contrary, the information revealed by congressional investigators and the U.N.'s own investigators only more deeply implicates those alleged to have knowingly corrupted the largest humanitarian program in the U.N.'s history.

Given the fact that the United States is the U.N.'s largest single budget contributor as well as the fact that the United States, along with Great Britain, steadfastly enforced (politically, economically, and militarily) for more than a decade the sanctions imposed on the Hussein regime, the American taxpayer deserves the right to know how the OFF program became corrupted. Congress is obligated to conduct its own investigation into this matter and to keep pressure on the U.N. and other foreign governments to ensure that the depths of this scandal are fully exposed.

The OFF program was intended to allow Saddam Hussein the limited ability to sell Iraqi oil under the supervision of the United Nations in order to buy humanitarian supplies. However, a fatal flaw in the program proved to be Saddam Hussein's ability to choose those to whom he sold his oil. This would prove to be one of the most crucial factors in allowing Hussein to circumvent the U.N. sanctions levied against him following the 1991 Gulf War, and affording him the revenues to rebuild his military, buy lavish palaces, and engage in illicit commerce with willing individuals, government officials, and companies from 52 countries – including all five permanent members of the U.N. Security Council.²

Some of the most damaging information concerning Saddam Hussein's abuse of the OFF program was revealed in October 2004 by the Iraq Survey Group's (ISG) final report on Iraq Weapons of Mass Destruction and in November 2004 by the Senate's Permanent Subcommittee on Investigations (PSI). Additionally, U.S. and international media have uncovered numerous facts and details regarding the OFF program that have allowed congressional investigators to focus their efforts in determining the extent of the program's abuse and the individuals and governments that were party to it.

Many of the questions regarding the scandal remain unanswered. U.N. Secretary General Kofi Annan is the obvious source for a good deal of the answers. As the individual who established the terms for the OFF program and then presided literally as CEO over the implementation of the program as the head of the entire international institution, Annan is a key player in the still-unfolding scandal. Despite agreeing to allow a U.N. investigation to examine the OFF program's wrongdoings, Annan has demonstrated reticence in ensuring that the most transparent and expeditious investigation be performed.

¹ See RPC paper: "The United Nations' Oil-for-Food Scandal: Why it Matters," May 5, 2004.

² The *NewsHour with Jim Lehrer*, "Oil for Food Program Probed," June 16, 2004.

On December 1, Senator Norm Coleman (R-MN), Chairman of the Senate's Permanent Subcommittee on Investigations, became the first Member of Congress to call for Annan's resignation. In a *Wall Street Journal* editorial, Senator Coleman wrote, "Mr. Annan was at the helm of the U.N. for all but a few days of the Oil-for-Food program, and he must, therefore, be held accountable for the U.N.'s utter failure to detect or stop Saddam's abuses."³ Numerous House members have echoed Senator Coleman's call.⁴

This followup RPC paper will provide an examination and summary of what has been discovered since May 2004. Specifically, this paper will focus on: who the key investigators are and what they have done; what we have learned; what all of this means for policymakers; and how Congress and the Bush Administration should proceed.

The Investigators

United Nations

In April, 2004, Kofi Annan created the Independent Inquiry Committee (IIC), headed by former Federal Reserve Chairman Paul Volcker, to investigate the Oil-for-Food program. The panel was established following the April 21, 2004 passage of Security Council resolution 1538, which was sponsored by the United States. The IIC's mandate includes addressing "whether there was mismanagement and maladministration in the execution of the [OFF] program by the U.N., its personnel and agents; whether any U.N. officials, personnel, or agents engaged in any illicit or corrupt activities in connection with the [OFF] program; and whether contractors of the U.N., purchasers of oil, or providers of humanitarian aid engaged in any illicit or corrupt activities in connection with the [OFF] program."⁵ The IIC is expected to release an interim report later this month and a final report by mid-2005. There is, however, ambiguity regarding who gets to decide, i.e. who exerts editorial control over what is released in the IIC's final report.

The IIC, much like the program it is investigating, has not been without controversy. From its inception, there have been serious questions regarding just how "independent" the IIC would be given that: it was appointed by the U.N. Secretary General, it must submit its final report to the Secretary General before it is made public, and it is dependent on the Secretary General to fund its operations. On October 14, Annan announced that the IIC would be funded by using \$30 million of remaining monies in the U.N.'s OFF administrative account. This decision was immediately met with opposition by those who argued that the remaining monies should have gone to Iraqi people either during the life of the program or following the program's termination. As Claudia Rosset, one of the OFF's leading "independent" investigators wrote: "Why should Annan use the Iraqi people's money to pay for an inquiry into an Iraq-relief program that under U.N. management became the biggest bungle in the history of humanitarian relief?"⁶ Or, as Iraq's current ambassador to the United Nations, Samir Sumaidiaie, noted in protesting the use of the \$30 million to fund the probe: "By requiring the people of Iraq to pay for an investigation into the alleged abuses, money is

³ Senator Norm Coleman (R-MN), "Kofi Annan Must Go," *Wall Street Journal*, December 1, 2004.

⁴ *Washington Times*, "House Republicans Call For Annan to Step Down," December 7, 2004.

⁵ Independent Inquiry Committee into the United Nations Oil-for-Food Program in Iraq, "Status Report," August 9, 2004.

⁶ Claudia Rosset, "Conflicts-of-Interest-R-Us," *National Review Online*, October 15, 2004.

being diverted from rebuilding Iraq's shattered infrastructure and economy.⁷ (*For more details related to this issue, see #8 in the "what we have learned" section of this paper.*)

Congress

Congress hosted numerous hearings and investigations into the Oil-for-Food program last year, including those of the Senate Foreign Relations Committee, the House International Relations Committee, the House Appropriations Committee, the House Energy and Commerce Committee, the Senate Permanent Subcommittee on Investigations (of the Governmental Affairs Committee), and the House Government Reform Committee.

Eight hearings on the OFF program were conducted by Senate Committees last year. A bipartisan Members-level OFF Working Group, led by Senator Lindsey Graham (R-SC), was formed. And, in the House of Representatives last year, six hearings on the OFF program were conducted by numerous committees.

Arguably the leader of all congressional committees has been the Senate's Permanent Subcommittee on Investigations. While the House International Relations Committee and the Senate Foreign Relations Committee played crucial roles in the early days of the developing scandal of bringing congressional attention to this matter, it has been the PSI that has maintained the most aggressive pursuit of answers to this scandal — and has provided some of the most damaging data on the scandal's scope to date. The subcommittee staff has met with key officials in the U.S. Departments of State, Defense, Justice, Treasury, and the Central Intelligence Agency and has obtained documents from these agencies related to the U.S. participation in the OFF program. PSI has issued a number of subpoenas to a wide variety of entities, and received millions of pages of evidence. The PSI has also interviewed dozens of individuals, companies, and entities — including the IIC and Chairman Volcker — concerning the OFF program.⁸

Iraq Survey Group (ISG)

The September 30, 2004 release of the 1,200 page "Comprehensive Report of the Special Advisor to the Director of Central Intelligence on Iraq's Weapons of Mass Destruction," or the "Duelfer Report," has proven to be the most detailed and damaging portrait of just how the OFF program was corrupted, who is alleged to have partaken in its corruption, and what the results of this corruption amounted to.⁹ The ISG was tasked by the Central Intelligence Agency to determine the extent of Iraq's Weapons of Mass Destruction (WMD) programs and arsenal. During the ISG's investigation, it uncovered data from the from the Iraqi Oil Ministry archives that showed precisely how Hussein abused the OFF program and how he used the ill-gotten monies. In essence, the Duelfer Report convinced people that something truly was foul with the OFF program.

⁷ *Associated Press*, "Iraq Protests Decision to Use \$30 Million from Oil-for-Food to Investigate Alleged Corruption in the Program," November 23, 2004.

⁸ Letter from Senator Norm Coleman (R-MN) and Senator Carl Levin (D-MI) to U.N. Secretary General Kofi Annan dated November 9, 2004.

⁹ Central Intelligence Agency, "Comprehensive Report of the Special Advisor to the DCI on Iraq's WMD," September 30, 2004.

Latest Findings

Here is a list of 10 key findings from the investigations into the OFF program scandal:

1. The OFF program was improperly established. The program, which was founded as a means of aid for Iraqi citizens suffering under U.N. sanctions, was flawed from its inception. As part of its design, the U.N. program permitted Saddam Hussein to choose his own contractors, thus opening the door for perversion of the OFF program. As noted in the Duelfer Report, Hussein personally approved and removed all names of voucher recipients. Even so, Hussein might have been thwarted from this if the United Nations properly supervised the awarding of OFF contracts. Specifically, the U.N., either through Benon Sevan, the OFF program director, or through the Security Council's 661 Committee, had the authority and responsibility to review and, if necessary, cancel any OFF sales. A second weakness of the OFF program was that it lacked authority to ensure sanctions compliance or to check any non-humanitarian goods shipments.

2. The OFF program was improperly overseen. The U.N. system of accountability and transparency was ineffective. During the seven years of the program, 55 internal audits of the OFF were performed by the U.N.'s inspector general. Until last week with the IIC's release of these documents, it remained unclear to Congressional investigators as well as the media as to just what information was contained in these audits and whether any actions were recommended to modify the OFF program in order to make it less corruptible. Although the audits are still being reviewed, it is clear that there was systemic waste and abuse in the OFF program. Part of the IIC investigation is to determine which of these audits or reports were sent to the U.N. Security Council as well as analyze what the Security Council's response was to these reports.

3. Hussein subverted the OFF program's purpose. Saddam Hussein turned the OFF Program on its head, using the sale of oil to bribe foreign officials and at least one U.N. official (the head of the OFF oversight agency). PSI has estimated that Hussein took more than \$21 billion from the OFF program, with more than \$17 billion of the theft occurring between 1997-2003.¹⁰ PSI's data more than doubled previous U.S. estimates on Hussein's corruption of the OFF.

Last year, Iraq's State Oil Marketing Organization (SOMA) provided details of the corruption of an inspector contracted by the U.N. through a Dutch company, Saybolt International BV, to falsify documents related to an OFF purchase with a bribe of \$104,000.¹¹ According to the SOMA report, the inspector was bribed to falsify documents that understated the amount of oil loaded on two cargoes in 2000 and 2001. The cargoes together included an extra 500,000 barrels of crude that were sold outside the U.N. program, with the revenues from these sales going into the pocket of the Saddam Hussein regime and other complicit parties.

Also according to SOMA documents, the OFF Director himself, Benon Sevan, is alleged to have received oil rights from Hussein's regime to acquire 13.3 million barrels of oil during a five-year period, valued at an estimated \$1.2 million.¹² As the *Wall Street Journal* described this finding, the Hussein regime "at times awarded oil allocations—the SOMA report terms them 'quotas'—to favored individuals, political parties, and other organizations. The allocations gave the

¹⁰ Hearing of the Senate Permanent Subcommittee on Investigations on "How Saddam Hussein Abused the United Nations Oil-for-Food Program," November 15, 2004.

¹¹ *Wall Street Journal*, "Contractor Took Bribe in Oil Deal," October 5, 2004.

¹² *Wall Street Journal*, "U.N. Oil-for-Food Program Chief Got Lucrative Oil Rights, Iraq Says," October 6, 2004.

holders the right to buy specific quantities of Iraqi oil. Recipients were free to sell these rights to oil traders.”¹³

In addition, the U.N. was making a 2.2-percent commission on Saddam’s oil sales, providing the U.N. with an additional \$1.4 billion during the course of the program. To date, there has been no accounting of how much flowed into this administrative account or how much money remains in that account.

4. The Iraqi people suffered as a result of the abuse of the OFF program. The *Chicago Tribune* editorial board wrote, “Iraqis were dying by the tens of thousands under the same murderous regime that was exploiting the U.N.’s Oil for Food program. Evidently with the U.N.’s help.”¹⁴ And Assistant Secretary of the Treasury Juan Carlos Zurate said in testimony before the PSI on November 15, “The Hussein regime created an ongoing system to milk the international sanctions regime of all of the potential value and profits, while his people suffered the consequences.”¹⁵

5. Saddam Hussein was able to build up his military as well as fund terrorist organizations, hence posing a security threat to the United States and its allies. The Duelfer Report clearly demonstrated that Hussein was seeking to rebuild his military capacity as well as retain the capabilities to restart and produce some WMD. The work of the ISG also found that Hussein was an active supporter and funder of numerous terrorist organizations operating in the region. As the report stated, “The introduction of the Oil-For-Food (OFF) program in late 1996 was a key turning point for the Regime. OFF rescued Baghdad’s economy from a terminal decline created by sanctions. The Regime quickly came to see that OFF could be corrupted to acquire foreign exchange both to further undermine sanctions and to provide the means to enhance dual-use infrastructure and potential WMD-related development.”¹⁶

On November 15, in testimony before the PSI, Juan Carlos Zurate, Assistant Secretary of the Treasury for Terrorist Financing and Financial Crimes, outlined the evidence the Treasury Department has compiled on how Hussein engineered numerous types of financial schemes to avoid the international sanctions imposed on his country.¹⁷ Zurate found that Hussein engaged in unauthorized surcharges on OFF oil sales, “after sale” service fees, trade protocol funds with neighboring countries such as Jordan, Turkey, and Syria, and front companies as part of his devious plan to amass revenue. The Treasury Department has found that the monies gained from these illegal transactions were used to purchase illicit military goods and some of these monies are possibly being used to “fuel the Iraqi insurgency and terrorism inside and outside of Iraq.”¹⁸ As Zurate said in his testimony, “It is this possibility that continues to motivate and drive our analytic, investigatory, and diplomatic efforts to unearth and freeze these assets.”

¹³ *Wall Street Journal*, “U.N. Oil-for-Food Program Chief Got Lucrative Oil Rights, Iraq Says,” October 6, 2004.

¹⁴ *Chicago Tribune*, “Flawed Intel and U.N. Booty,” October 7, 2004.

¹⁵ Testimony by Assistant Secretary of the Treasury Juan Carlos Zurate before the Senate’s Permanent Subcommittee on Investigations on November 15, 2004.

¹⁶ Central Intelligence Agency, “Key Findings: Regime Strategic Intent,” September 30, 2004.

¹⁷ See testimony by Assistant Secretary of the Treasury Juan Carlos Zurate before the Senate’s Permanent Subcommittee on Investigations on November 15, 2004.

¹⁸ Zurate.

6. Complicit nation-states and individuals helped cause the failure of U.N. sanctions on Iraq.

President Bush stated on October 7, in reference to the Duelfer Report, “Saddam was systematically gaming the system, using the United Nations Oil for Food program to try and influence countries and companies in an effort to undermine sanctions.”¹⁹ Hussein cleverly sought to thwart the embargo and sanctions against his government by using the OFF program to his advantage with the assistance of countless foreign officials, corporations, and individuals. As the Duelfer Report notes, Baghdad exploited the OFF program “to give individuals and countries an economic stake in ending sanctions.”²⁰

According to the Duelfer Report, one aspect of Saddam’s strategy of unhinging the U.N.’s sanctions centered on his efforts to influence certain Security Council permanent members, such as Russia, France, China, and some nonpermanent members, such as Syria and Ukraine, to end U.N. sanctions. “At a minimum, Saddam wanted to divide the five permanent members and foment international public support of Iraq at the U.N. and throughout the world by a savvy public relations campaign and an extensive diplomatic effort.”²¹ It should be noted that France, Russia, and the PRC all strongly opposed Operation Iraqi Freedom.

According to the Duelfer Report, the Hussein regime sought a relationship with France to gain support for lifting U.N. sanctions and focused attention on those individuals the regime believed could influence French policy. It was noted that one Iraqi intelligence report stated that a French politician assured Saddam in a letter that France would use its veto in the U.N. Security Council against any U.S. effort to attack Iraq.²² French officials named in the report as having been implicated in the OFF scandal include former defense minister Pierre Joxe, former interior minister Charles Pasqua, and a close advisor to French President Jacques Chirac.

In testimony before the House International Relations Committee in October 2004, U.S. Ambassador to the U.N. Patrick Kennedy stated that it became evident that Hussein’s tactics had an impact on some members of the Security Council, who were also the members of the 661 Committee overseeing the OFF program. According to Ambassador Kennedy, when the United States became aware of issues related to noncompliance or manipulation of the OFF program by the Hussein regime, it, along with Great Britain, raised such concerns in the 661 Committee. Ambassador Kennedy stated that the 661 Committee held lengthy discussions and debate over possible illicit activities occurring with the OFF program. However, as he noted, “given the consensus rule for decision-making in the Committee, the ability of the U.S. and the U.K. to take measures to counter or address noncompliance was often inhibited by other members’ desire to ease sanctions on Iraq.”²³ He added that the atmosphere within the Committee, particularly as the program evolved by the late 1990s, was “contentious and polemic,” and that there was “fundamental political disagreement between member states over the Security Council’s imposition and continuance of comprehensive sanctions, a debate exacerbated by the self-serving national economic objectives of certain key member states.”²⁴

¹⁹ Remarks by President Bush on the South Lawn of the White House, October 7, 2004.

²⁰ Central Intelligence Agency, September 30, 2004; *Washington Post*, “Hussein Used Oil to Dilute Sanctions,” October 7, 2004.

²¹ Central Intelligence Agency, “Key Findings: Regime Finance and Procurement,” September 30, 2004.

²² *Washington Times*, “Saddam Paid Off French Leaders,” October 7, 2004.

²³ Testimony by Ambassador Patrick F. Kennedy, U.S. Representative for U.N. Management and Reform, before the House International Relations Committee, October 5, 2004.

²⁴ Kennedy.

7. Sanctions violators have not been punished. Senator John Ensign (R-NV) stated on the Senate floor on October 8, 2004, “With Saddam’s coalition of the bribed and coerced in place as three of the five permanent members of the U.N. Security Council, no amount of coalition building by an American president was going to preserve the sanctions on Saddam Hussein. No amount of diplomacy was going to get those countries to enforce Security Council resolutions by force....The CIA report notes that Saddam had succeeded ‘to the point where sitting members of the Security Council were actively violating resolutions passed by the Security Council.’”²⁵ And, Charles Duefler said in congressional testimony unveiling the ISG’s findings, “By 2000-2001, Saddam had managed to mitigate many of the effects of sanctions and undermine international support. Iraq was within striking distance of a de facto end to the sanctions regime.”²⁶

Despite the evidence indicating that there was willing complicity with the Hussein regime in trying to defang, if not outrightly terminate, the international sanctions on Iraq, there has been little talk — and no action as of yet — as to how the sanctions’ violators will be dealt with. In fact, it is unclear under the U.N. system just what penalties exist for government officials, corporations, and individuals who purposefully circumvent sanctions regimes. How this issue is addressed in enforcing multilateral sanctions and, more importantly, in punishing violators will have immediate ramifications for policymakers as they determine how to proceed with the security dilemmas posed by Iran and North Korea.

8. A tremendous amount of OFF information exists that investigators have not reviewed, don’t know about, or that foreign governments and individuals do not want revealed. In its August status report, the IIC identified approximately 10,000 boxes of OFF program documents through a system of methodical identification, and it anticipated that this is only a fraction of the total documents. (A spokesman stated they are looking at approximately 1,000 contracts at present, but there are numerous more they have yet to review.) The Department of Defense was also required (by an amendment sponsored by Senator Ensign in the FY05 Defense Authorization Act) to collect all OFF documents that the CPA had in its possession prior to the June 28 handover of sovereignty to the Iraqi Interim Government. While these documents have not been catalogued, there are hundreds of thousands of pages of material waiting to be reviewed.

Recognizing that dozens of cargo containers exist that are stacked full of OFF-related documents, it is apparent that one of the great challenges surrounding the OFF scandal is determining what documents investigators do and don’t have. To date, no systematic approach has been undertaken to determine what documents exist, which documents are needed, what documents are currently in some entities’ possession, and which documents are missing. The exercise of developing and signing agreements to share documents will be shallow unless and until someone determines which documents are needed and which documents have not been or are not being turned over to the investigatory bodies.

For example, Senate investigators have been made aware of secret annexes (to contracts between the Hussein government and oil suppliers under the OFF program) that have yet to be made public. Some contracts apparently have an annex that provided the terms of the kickback, surcharge, overcharge, etc. If these annexes were made public, they would show beyond a shadow of a doubt the degree of illegal activity that was undertaken in the OFF program, as well as

²⁵ Remarks by Senator John Ensign (R-NV) on the Senate floor, October 8, 2004.

²⁶ *Dallas Morning News*, “Truth About Iraq: Sanctions Were No Longer Working,” October 13, 2004.

undeniably show which individuals, governments, and corporations knowingly and willingly engaged in deceiving the OFF program.

9. The IIC is an inherently weak investigatory panel that is having difficulty securing cooperation from suspected individuals and foreign governments. In mid-November, it was reported that the Russian government was refusing to cooperate with the IIC by declining to provide witnesses or information to the IIC regarding Russia's dealings with Iraq.²⁷ The French, too, have stated at times that they will not share certain information with the IIC. These two examples illustrate one of the primary weaknesses of the IIC: it can request information from the U.N. and Oil-for-Food contractors, but it has no legal authority to demand them. This is because the IIC lacks subpoena power. The IIC is also weak because it has no power to punish those who lie, omit material facts, or alter/fabricate evidence. To date, the IIC has been unable to acquire the financial records of the majority of corporations participating in the Oil-for-Food program.

In addition to the questions of "independence of the IIC," there remain significant issues concerning its ability to compel testimony. Benon Sevan was scheduled to retire as a U.N. undersecretary on May 31, 2004. However, Sevan decided to stay on in the U.N. system at a one-dollar-per-year salary, and with a U.N. office to "fully cooperate" with the OFF investigation by the IIC.²⁸ The shame of this is that, as a senior U.N. employee, Sevan retains diplomatic immunity. Despite Kofi Annan's statement on December 16 that "all U.N. staff have been instructed to cooperate or face disciplinary measures, including dismissal,"²⁹ it remains extremely doubtful that Sevan will be compelled to testify before the IIC or any other investigatory body.

10. The IIC has resisted sharing information with the U.S. Congress. Possibly one of the most interesting developments that has emerged from the congressional hearings is not what the committees have learned about the scandal, but, rather, what they have been prohibited from learning about the scandal. Despite the release of the aforementioned documents, there has been little information shared by the U.N. with U.S. congressional investigators. Most notably, corporations who participated in the Oil-for-Food program contracted away their rights to their own records. Benon Sevan explicitly told them not to release information to the CPA or anyone else.³⁰ Essentially, these were "hush letters" sent to OFF contractors by the U.N. Secretariat reminding them of their contractual obligation not to disclose information to anyone, including congressional investigators.

In June, PSI Chairman Coleman, joined by Senator Carl Levin (D-MI), Ranking Member, sent a letter to Annan requesting that the Secretary General personally intervene and release the 55 internal audit reports of the OFF program, as well as allow the PSI to interview key U.N. personnel. Annan responded on September 29, declining the Senators' request; he noted that this information was a part of internal records, that it is not the policy of the U.N. to release such documents, and that any additional requests for information be directed to Chairman Volcker.³¹ Volcker has made it clear in meetings with Senators and to the media that he does not relish the idea of parallel

²⁷ *Associated Press*, "Official: Russia Won't Provide Witnesses or Information to Independent Probe of Oil-for-Food Program in Iraq," November 17, 2004.

²⁸ *New York Times*, "Former Oil-for-Food Director Criticizes Security Council," June 2, 2004.

²⁹ *Associated Press*, "Annan Pledges to Aid in Oil-for-Food Probe," December 16, 2004.

³⁰ *Wall Street Journal*, "We Have Other Priorities," May 5, 2004.

³¹ Letter from Senator Norm Coleman (R-MN) and Senator Carl Levin (D-MI) to U.N. Secretary General Kofi Annan dated November 9, 2004.

investigations (meaning Congress and the U.N.). In fact, Volcker has stated that he views the IIC investigation as “*the investigation*” and that Members can have access to U.N. documents *after* the UN investigation is completed.³²

In a follow-on letter in November, Senators Coleman and Levin complained that the U.N. and the IIC were withholding documents from the Senate’s Investigations Committee. The two Senators disputed Annan’s argument for not allowing internal U.N. records to be shared, stating that the “U.N. has shared comparable OIOS [Office of Internal Oversight Services] audit reports on other U.N. endeavors with congressional investigators in the past.”³³ The Senators noted further that, “in light of such comparable disclosures in the recent past, we are concerned that the U.N.’s non-disclosure policy is being used as both a sword and a shield, *i.e.* sharing such ‘internal records’ when it favors the U.N., but then declining to do so when such a disclosure could have negative implications.”

On November 16, 2004, Chairman Volcker responded to the Senators in detail, stating that full disclosure of evidence (including U.N. documents and the internal audits) relevant to the IIC’s findings would be made available when its findings are reported. He wrote, “Partial and premature disclosure of sensitive documents or demands for Congressional appearances of U.N. employees would be damaging to the pursuit of investigative leads, chill participation of those called upon to work with the IIC, and risk misleading, prejudicial, and unfair impressions of institutional, personal, and member state behavior.”³⁴ He later added that “for a U.N. official to appear before the subcommittee in the current, highly charged environment, would plainly risk ending prospects for their cooperation with our committee and with subsequent potential criminal investigations.”³⁵

Despite his intransigence, Volcker publicly released all 55 internal U.N. audits on January 13. Following the release of these documents, Senator Coleman remarked that his preliminary review “only underscores my long held concern about the fraud, mismanagement and lack of adequate oversight at the U.N.’s oil for food program.”³⁶ It can be argued that, had it not been for Congress and the media’s pressure on the IIC to release these documents, the audits likely would not have been released until after the IIC completed its report, if at all.

Recommendations

There can be no resolution to the OFF issue, no punishment, and no U.N. reform without an honest account of how the OFF program went awry. In order to get this information, individuals, companies, and foreign governments involved with the OFF program must provide full and transparent cooperation with the U.N. investigatory panel as well as with the numerous congressional committees that will continue to conduct their own investigations. However, as noted in this paper, there has been a considerable difficulty in getting individuals and foreign governments

³² *The NewsHour with Jim Lehrer*, “Oil for Food Program Probed,” June 16, 2004.

³³ Letter from Senator Norm Coleman (R-MN) and Senator Carl Levin (D-MI) to U.N. Secretary General Kofi Annan dated November 9, 2004.

³⁴ IIC Press Release, “Independent Inquiry Committee Responds to U.S. Senate Request for Information from United Nations Concerning the Oil-for-Food Program,” November 16, 2004.

³⁵ Associated Press, “Panel Investigating U.N. Oil-for-Food Corruption Tells Senate It Won’t Hand Over Documents Until It Starts Reporting in January,” November 17, 2004.

³⁶ Statement by Senator Norm Coleman (R-MN) regarding release of audits by U.N. Independent Inquiry Commission, January 10, 2005.

to cooperate with the IIC.

Congress

The PSI and other congressional committees must continue their inquiries into the OFF scandal. Their work thus far has been tremendously valuable in offering valuable information into how the OFF program went awry.

On November 17, Representative Henry Hyde (R-IL), introduced legislation calling for greater transparency within the U.N. system. The bill, known as the U.N. Accountability Act of 2004 (H.R. 5375), urges the President to instruct the Permanent Mission of the United States to the United Nations (UN) to seek to ensure that all UN Office of Internal Oversight Services' reports are made available to member nations, and directs the Secretary of State to report on U.N. officials' financial disclosure requirements.

Members of Congress have proposed withholding a certain percentage of the U.S. annual contribution to the U.N. until a certification is made by the U.N. that a series of actions have been taken, including the authorization of the release of all documents related to the Oil-for-Food program scandal and the lifting of immunity from prosecution for those found guilty of corruption and abuse. To date, these actions have not been taken by the U.N., and Members are considering offering tougher measures to ensure Annan compels cooperation by U.N. staff, private individuals, and foreign governments with the IIC, and, ideally, Congress. Currently, legislation is being drafted that would prohibit the United States from funding any portion of the pensions of Kofi Annan or any other senior U.N. officials implicated in the OFF scandal. Either withholding a percentage of U.N. dues or refusing to support the reappointment of certain U.N. officials are two legitimate actions that Congress can take to compel cooperation by the United Nations and send the message that Congress has lost faith in the U.N.'s capability to conduct the missions it was established to do.

United Nations and the IIC

In order for justice to be served against those who violated the U.N. Security Council resolutions as well as the OFF program mandate, and to demonstrate that no one in the U.N. system is above the law, the following actions must be taken:

- The IIC should immediately cease all efforts to prohibit congressional investigators from receiving OFF-related documents that are within the power of the congressional committees to obtain;
- The IIC should share immediately with the appropriate congressional committees key documents related to the OFF program (or at least agree to a reasonable Memorandum of Understanding on the sharing of documents prior to the release of the IIC's final report);
- Annan should allow key U.N. staff to testify before congressional committees or at least be interviewed by Members of Congress or key senior congressional staff;
- Volcker and Annan should allow key congressional committee staff to travel to the U.N. and view OFF-related documents in the U.N.'s possession;
- Annan should testify before the IIC to show that the Secretary General is taking this scandal seriously;

- Annan should lift Benon Sevan’s diplomatic immunity and compel him to testify before either the IIC or Congress, with the penalty of not doing so being the withholding of Sevan’s pension;
- Annan should cease funding the IIC budget of \$30 million from remaining OFF monies and instead use regular U.N. monies to pay for this investigation;
- Annan should return the \$30 million earmarked for the IIC budget as well as any other remaining OFF monies in U.N. accounts to the Iraqi people; and
- Annan should publicly commit to maintaining the “independence” of the IIC by stating that neither he nor his staff will edit or in any way alter the IIC’s final report.

Bush Administration

The Bush Administration also has a significant role to play in helping to ensure that the OFF scandal is investigated so as to ensure that those guilty of corrupting the OFF program and the numerous U.N. Security Council resolutions are punished. As President Bush said on December 2, “In order for the taxpayers of the United States to feel comfortable about supporting the United Nations, there has to be an open accounting. . . . I look forward to the full disclosure of the facts, a good, honest appraisal of that which went on. It’s important for the integrity of the organization to have a full and open disclosure of all that took place with the Oil-for-Food program.”³⁷

In light of the President’s remarks, the Bush Administration should consider undertaking the following:

- Neither the State Department nor any other department or agency of the U.S. Government should prohibit congressional investigators from being able to review OFF-related documents within the U.S. government’s possession;
- The United States, through a Security Council resolution, should order a full, “independent” accounting of the 2.2-percent commission account that the U.N. retained as part of the OFF program;
- The United States, in concert with allies on the Security Council and within the General Assembly, should enforce existing penalties on nation states that violated the international sanctions against Iraq and that willingly participated in the illicit activity associated with the OFF program. The fines levied against the violators should be given to Iraqi people;
- The United States, in concert with allies on the Security Council and within the General Assembly, should form a working group to devise harsh penalties—including fines, suspensions from U.N. activities, and removal from committee assignments—on nation states that knowingly violate international sanction regime; and
- Finally, the secret annexes to OFF contracts should be made public. These annexes would shed light on the depth of the OFF scandal and directly implicate the individuals, companies, and governments that abused this program. The challenge in completing this action, however, is locating the annexes and convincing those who have them in their possession to release them.

³⁷ Remarks by President Bush at a press conference on December 2, 2004.

Conclusion

Much information has come to light during the past seven months regarding the depth of the OFF program scandal. To date, no one individual, company, or foreign government has been found guilty of committing any wrongdoing, although, on January 18, it was reported that criminal charges were filed against Samir A. Vincent in U.S. District Court in Manhattan for conspiring to act as an Iraqi agent and accepting millions of dollars in compensation to let Iraq sell oil from the OFF program.³⁸ Investigations must continue. However, access to information is key to these investigations.

What has become clear is that pressure from the U.S. Congress and American media have been key, if not the most important, factors in ensuring that this scandal is investigated. For the U.N. to repair its image in the United States, Britain, and around the world, it must undertake a serious inquiry into the Oil-for-Food scandal, deal with those guilty of committing abuses of the program, and reform itself to ensure that future U.N. humanitarian operations are not ripe for such abuse.

³⁸ *Associated Press*, "Court Papers Allege Iraq Skimmed Hundreds of Millions in Oil-For-Food Program," January 18, 2005.