

United Nations



Nations Unies

Executive Office of the Secretary-General
Cabinet du Secrétaire général

To: CDC (through ODSG),

Please find attached, for your approval, a draft of the fourth report of the Secretary-General pursuant to paragraph 8 of Security Council resolution 1958 (2010) regarding the administrative escrow account for residual activities of the Oil-for Food Programme.

The report is due to the Council no later than 31 March 2015.

AK

Political Unit
18 March 2015



Received in ODSG

18 March 2015

Seen by:

ER

15-02256

BUD /04/001

ACTION

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Note to Ms. Malcorra

RECEIVED

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15-02256

EOSG/CENTRAL

✓ Fourth report of the Secretary-General pursuant to paragraph 8 of
Security Council resolution 1958 (2010)

- ✓ 1. Enclosed is a draft of the fourth report of the Secretary-General pursuant to paragraph 8 of Security Council resolution 1958 (2010) (the Resolution) that is due to the Security Council no later than 31 March 2015.
2. The purpose of the enclosed draft report is to apprise the Security Council on (a) the usage and expenditure of the escrow accounts created pursuant to paragraphs 4 and 5 of the Resolution, for the period 1 January 2014 to 31 December 2014; and (b) the developments relating to the implementing agreements as provided for in paragraph 7 of the Resolution.
3. The draft report provides details of expenditures relating to the activities funded as outlined in paragraph 4, and informs that to date no expenditures have been incurred in respect of the amount referred to in paragraph 5 of the Resolution.
4. With regard to the implementing agreements between the Secretariat and the Government of Iraq (GOI), the proposed report: (a) recalls that differences continue to remain between parties; (b) reiterates the Secretariat's position regarding the GOI's indemnification obligations; and (c) indicates the readiness of the Secretariat to continue discussions with the GOI. In this regard, we note that in the light of the persistent impasse between the parties, no new discussions have been scheduled. Lastly, the draft report states that in the absence of a successful conclusion of the indemnification agreements, the Secretary-General would revert to the Council.
5. The draft report also includes communications from the GOI from October 2012, February 2014 and August 2014, as requested by the GOI.
6. Lastly, in the draft report the Secretary-General reiterates his concern that the payments to certain beneficiaries remain outstanding.
7. The draft report has been prepared in consultation with the Office of Legal Affairs and Department of Political Affairs.
8. In light of the above, I would appreciate if the Secretary-General would consider the draft for approval at the earliest convenience.


Bettina Tucci Bartsiotas

Assistant Secretary-General, Controller
13 March 2015

Enclosure

cc: Mr. Serpa Soares
Mr. Feltman

BUD/04/001



United Nations

Security Council

Distr.: General
March 2015

Original: English

S/2015/

18/03/15

DRAFT

Fourth Report of the Secretary-General pursuant to paragraph 8 of Security Council resolution 1958 (2010)

I. Introduction

1. The present report is submitted pursuant to paragraph 8 of Security Council resolution 1958 (2010), in which the Council requested me to report and provide analysis to the Council on the usage and expenditure of the escrow accounts referenced in paragraphs 4 and 5 on an annual basis, the first no later than 31 March 2012, with the final report occurring three months after the transfer of any remaining funds retained for the purposes stated in paragraphs 4 and 5 of resolution 1958 (2010) to the Government of Iraq by 31 December 2016, unless otherwise authorized by the Security Council.

II. Background

2. Pursuant to paragraphs 4 and 5 of resolution 1958 (2010), the Secretariat transferred from the Iraq Account (i) USD20 million to the Administrative Escrow Account exclusively for the expenses of the United Nations related to the orderly termination of the residual activities of the oil-for-food programme, including the Organization's support to Member State investigations and Member State proceedings related to the Programme, and the expenses of the high-level coordinator's office created pursuant to resolution 1284 (1999), and (ii) USD131 million to the Indemnification Escrow Account for the indemnification of the Government of Iraq to the United Nations, its representatives, agents and independent contractors.

3. In its resolution 2107 (2013), the Security Council decided to terminate the arrangements set forth in paragraph 14 of resolution 1284 (1999).

III. Administrative Escrow Account

4. I should like to inform the Members of the Council that the activities undertaken and funded as outlined in paragraph 4 of resolution 1958 (2010) from 1 January 2014 to 31 December 2014 have led to expenditure amounting to \$799,634. The breakdown of the above expenditure is as follows; (a) \$709,400 for the activities related to the orderly termination of the residual activities of the Oil-for-food Program; and (b) \$90,234 for the Organization's support to Member State investigations and Member State proceedings related to the Programme.*

* Expenditures relate to the liquidation activities for the Organization's support to Member State investigations and Member State proceedings related to the Programme.

5. With regard to the expenditures under paragraph 4 (b) above, no further expenditures will be incurred in connection with the Organization's support to Member State investigations and Member State proceedings. Such support was provided by the Office of the Independent Inquiry Committee into the United Nations Oil-for-food Programme, which I closed as of 31 December 2013.

IV. Indemnification Escrow Account

6. I should like to inform the Members of the Council that no expenditures have been incurred to date in respect of the amount referred to in paragraph 5 of resolution 1958 (2010).

7. Following my last report to the Council of 26 March 2014 (S/2014/221), the Secretariat met again with the Government of Iraq to negotiate the implementing agreements as provided for in paragraph 7 of resolution 1958 (2010). However, differences continue to remain between the Government of Iraq and the Secretariat. The Secretariat is of the view that, pursuant to resolution 1958 (2010), the Government of Iraq's obligation to indemnify the United Nations, its representatives, agents and independent contractors, should not: (i) be limited to the amount held in the Indemnification Escrow Account (ii) expire and lapse on 31 December 2016. This ensures that the United Nations, its representatives, agents and independent contractors would be adequately protected from exposure to liability resulting from the oil-for-food programme.

8. At the request of the Government of Iraq, I attach to this report communications from the Government of Iraq from October 2012, February 2014 and August 2014. I should like to stress the importance for the indemnification agreements to be concluded in the very near future. In this regard, the Secretariat remains ready to continue discussions with the Government of Iraq and I will apprise the Security Council of the outcome of the Secretariat's continued efforts.

9. In the absence of a successful conclusion of the indemnification agreements between the United Nations and the Government of Iraq, I would revert to the members of the Council in respect of the Government of Iraq's obligation to indemnify the United Nations, its representatives, agents and independent contractors, including on paragraph 8 of Security Council resolution 1958 (2010), which provides that the remaining funds in the Indemnification Escrow Account shall be returned to the Government of Iraq by 31 December 2016, unless otherwise authorized by the Security Council.

V. Other

10. In paragraph 2 of resolution 1958 (2010), the Council called upon the Government of Iraq to provide without delay direct payment to the beneficiaries or its representatives of the letters of credit as referenced in the Secretary-General's Note, dated 8 December 2010 (S/2010/619), paragraphs 11 and 12 and Annexes II and III.

11. In my reports of 2 April 2012 (S/2012/191), 26 March 2013 (S/2013/191) and 26 March 2014 (S/2014/221), I advised the Council that payments to certain beneficiaries remained outstanding. I am concerned that the payments have not been made and I continue to urge the Government of Iraq to provide the payments without any delay to the beneficiaries as called for by the Council in its resolution 1958 (2010).

19/08/2014
1459453E

Translated from Arabic

Republic of Iraq
Ministry of Foreign Affairs
Office of the Minister

Baghdad, ____ August 2014*

Sir,

At the outset, I should like to recall the letters that were sent to Your Excellency in October 2012 and February 2014, and draw attention to the fifth round of consultations between the Iraqi Government delegation and the United Nations Secretariat that took place from 30 July 2014 to 1 August 2014. I wish to reiterate that I regret that this most recent round of consultations did not conclude with the drafting of two memorandums of understanding, in accordance with Security Council resolution 1958 (2010), paragraph 7, that satisfy the interests of both sides. This failure can be attributed to the Secretariat delegation's insistence that, in the two memorandums of understanding, Iraq's obligations should extend beyond 31 December 2016, which is the date specified in the above-mentioned Security Council resolution. The Secretariat delegation also refused to adhere to the ceiling of \$131 million established for compensation by that same resolution. We explained our position in that regard in a letter dated 12 October 2010 addressed to you.

In view of the Iraqi Government's desire to resolve this difference and draw up the memorandums of understanding as soon as possible, and given the outstanding cooperative relationship between Iraq and the Secretariat, the Iraqi delegation to the fifth round of consultations came forward with a constructive proposal that was aimed at allaying the Organization's concerns without harming the interests of Iraq. Under that proposal, Iraq would have continued to cooperate with the Secretariat to review and address any problems related to the memorandums of understanding that might arise after 31 December 2016. However, contrary to our hope, that proposal did not allay the Secretariat's concerns. It should be noted that the Iraqi delegation to the third round of consultations, which took place in October 2012, also attempted to arrive at a solution that would address the Organization's concerns. At that time, the Iraqi delegation proposed that the Security Council should take up the difference between the two sides at a future date that the Secretariat felt was appropriate. Although this proposal is in line with resolution 1958 (2010), paragraph 8, under which the Security Council is granted such a right, it was rejected by the Secretariat delegation.

In the course of these consultations, we have made great efforts and put forward realistic proposals. We therefore regret that it was not possible to arrive at an agreement that allayed the concerns of both sides. We cannot make proposals that go further than what we have already offered without harming our national interests. We had hoped that the Secretariat would understand Iraq's difficult position and its desire to ensure that any agreement between Iraq and the United Nations pursuant to resolution 1958 (2010), paragraph 7, should not give rise to any new obligations or include obligations other than those set out in the resolution.

I should be grateful if the present letter and the letters we sent to Your Excellency in October 2010 and February 2014 could be annexed to your forthcoming report to the Security Council.

Accept, Sir, the assurances of my highest consideration.

(Signed) Hussain al-Shahristani
Deputy Prime Minister
Acting Minister for Foreign Affairs

His Excellency Mr. Ban Ki-moon
Secretary-General of the United Nations

* Translator's note: No specific date was provided in the Arabic text.



صاحب السعادة بان كي مون
الأمين العام للأمم المتحدة المحترم،

أود الإشارة إلى الرسالتين الموجهتين إلى معاليكم في تشرين الأول ٢٠١٢، وفي شباط ٢٠١٤، وكذلك إلى جولة المشاورات الخامسة التي جرت بين وفد حكومة العراق والأمانة العامة للأمم المتحدة خلال الفترة ٧/٣٠ - ٢٠١٤/٨/١، ولا يسعني إلا أن أكرر أسفي لأن هذه الجولة من المشاورات هي الأخيرة لم تحسم مسألة الإنهاء من صياغة مذكرتي التفاهم استناداً إلى الفقرة السابعة من قرار مجلس الأمن ١٩٥٨ (٢٠١٠)، تلبي مصالح كلا الجانبين، وذلك بسبب تثبيت وفد الأمانة العامة بموقفه الرامي إلى مد التزامات العراق بموجب مذكرتي التفاهم إلى ما بعد تاريخ ٢٠١٦/١٢/٣١، وهو التاريخ المحدد في قرار مجلس الأمن المشار إليه في أعلاه، وإلى عدم التقيد بسقف مبلغ التعويضات المحدد في القرار المذكور بـ ١٣١ مليون دولاراً أمريكياً، وكنا قد أوضحنا موقفنا من هذا الموضوع في الرسالة إلى معاليكم بتاريخ ٢٠١٢/١٠/١٢.

وانطلاقاً من رغبة حكومة العراق في تجاوز هذا الخلاف وحرصها على الإنهاء من صياغة المذكرتين في أسرع وقت ممكن، واستناداً إلى علاقات التعاون الممتازة القائمة بين العراق والأمم المتحدة، تقدم وفد العراق في الجولة الخامسة من المشاورات بمقترح بقاء بلبي مشاغل الأمم المتحدة ولا يضر بمصالح العراق يتمثل في إعداد العراق بالتعاون مع الأمانة العامة للأمم المتحدة، لدراسة ومعالجة أية قضية تتعلق بمذكرتي التفاهم قد تنشأ بعد تاريخ ٢٠١٦/١٢/١٣، إلا أن وفد الأمانة العامة رأى أن هذا المقترح غير كاف لتلبية شواغله، في حين كنا نأمل أن يلاقي قبولاً منه. علماً أنه سبق وأن حاول وفد العراق خلال جولة المشاورات الثالثة في تشرين الأول ٢٠١٢ التوصل إلى تسوية يراعي فيها شواغل الأمم المتحدة تمثلت في ترك موضوع الخلاف إلى تقدير مجلس الأمن في وقت لاحق تراه الأمانة العامة



مناسباً، وهذا الرأي، يتلاءم مع الفقرة الثامنة من القرار ١٩٥٨ التي تجيز لمجلس الأمن مثل هذا الحق، بيد أن هذا المقترح لم يحظ بالقبول من وفد الأمانة العامة. إننا في الوقت الذي بذلنا فيه جهداً كبيراً وقدمنا مقترحات واقعية خلال فترة المشاورات، فإننا نأسف لعدم التوصل إلى اتفاق يلبي شواغل كلا الجانبين، ولم يعد بوسعنا تقديم مقترحات أبعد مما قدمناه إلا أن يكون على حساب مصالحنا الوطنية، في حين كنا نتوقع من الأمانة العامة أن تتفهم موقف العراق الحساس في أن لا يضيف أي اتفاق بين العراق والأمم المتحدة استناداً إلى الفقرة السابعة من قرار مجلس الأمن ١٩٥٨، إلزامات جديدة أو غير موجودة في قرار مجلس الأمن ١٩٥٨.

سأكون ممتناً لو ألحقت هذه الرسالة والرسائل السابقة إلى معاليكم في تشرين الأول ٢٠١٢ وفي شباط ٢٠١٤ بتقريركم المقبل إلى مجلس الأمن. وتقبلوا فائق التقدير والاحترام.

د. حسين الشهرستاني

نائب رئيس الوزراء

وزير خارجية جمهورية العراق وكالة

بغداد في ٢٠١٤/٨/

Permanent Mission of the
Republic of Iraq
to the United Nations

14 East 79th Street, New York, N.Y. 10075
Tel: 212-737-4433 - Fax: 212-772-1794



الممثلة الدائمة لجمهورية العراق
لدى الأمم المتحدة
نيويورك
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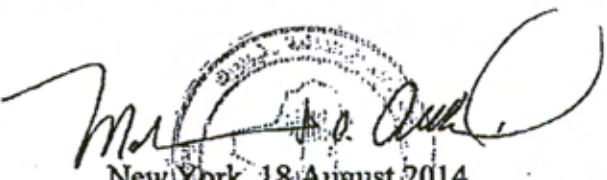
PRCL/2014/ 351

AUG 20 2014

EXECUTIVE OFFICE
OF THE SECRETARY-GENERAL

The Permanent Mission of the Republic of Iraq to the United Nations presents its compliments to the Executive Office of the Secretary-General of the United Nations and has the honor to attach herewith a copy of a letter from H.E. Mr. Hussain Al-Shahristani, Deputy Prime Minister, and acting Minister of Foreign Affairs of the Republic of Iraq, Addressed to H.E. Ban Ki-moon, Secretary-General of the United Nations regarding the recent round of consultation between the Government of Iraq and the UN Secretariat on the implementation of (article 7) of resolution 1958 (2010).

The Permanent Mission of Iraq the Republic to the United Nations avail itself of this opportunity to renew to the esteemed Executive Office of the Secretary-General the Assurance of its highest consideration.


New York, 18 August 2014

Executive Office of the Secretary-General of the United Nations
United Nations - New York

1256328E

Translated from Arabic

Republic of Iraq
Ministry of Foreign Affairs
Office of the Minister

Baghdad, 16 October 2012

Sir,

I refer to my letter to you of 5 July 2011 in which I noted that I had directed the delegation of Iraq to resume consultations with the United Nations Secretariat on the basis of paragraph 7 of Security Council resolution 1958 (2010). Although the consultations with the Secretariat that took place on 2 October 2012 did not resolve the two areas of disagreement to which you referred in your first report to the Security Council on 2 April 2012, we continue to share your opinion that it is important to conclude these consultations in a way that will serve the common interests of Iraq and the United Nations, as specified in the above-mentioned Security Council resolution. As you are aware, the adoption of Security Council resolution 1958 (2010) as currently formulated was preceded by consultations and difficult compromises between the relevant parties that took into account the interests of all in a consensual manner. Consequently, to reinterpret the resolution may harm, in one way or another, the interests of one of the parties. Under paragraph 5 of the resolution, the sum that was to be retained in the escrow account for the purpose of providing indemnification was set at \$131 million, and that figure was reaffirmed in subparagraph 7 (a) of the same resolution. There is therefore no room for any reinterpretation that would result in an increase in that sum. Moreover, the Security Council resolution sets 31 December 2016 as the date for the termination of the residual activities of the programme. Reaffirming its importance, that date is mentioned in three paragraphs of the resolution, namely, paragraphs 4, 5 and 8. In addition, paragraph 5 states that the United Nations shall retain funds for the purpose of providing indemnification with regard to all activities in connection with the oil-for-food programme since its inception for a period of six years from the date of adoption of the resolution. These various paragraphs also provide that the United Nations shall transfer all remaining funds to the Government of Iraq by the above-mentioned date, namely, 31 December 2016. That date is mentioned more than once in the resolution: Here again, there would seem to be no room for any reinterpretation that would push that date further into the future.

We believe that the proposal submitted by the delegation of Iraq during the most recent round of consultations on 2 October 2012 was formulated using language that could accommodate the concerns of the United Nations. Accordingly, we hope that it will be accepted by the Secretariat.

We look forward to the conclusion of these consultations and an agreement that will be in the interests of both parties. We hope, and will endeavour to ensure, that the two memorandums of understanding that are to be signed will not add any new obligations for which no provision is made in Security Council resolution 1958 (2010).

Accept, Sir, the assurances of my highest consideration.

(Signed) Hoshiyar Zebari
Minister for Foreign Affairs of the Republic of Iraq

Mr. Ban Ki-moon
Secretary-General of the United Nations

IRAQ
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Republic of Iraq
Ministry of Foreign Affairs
The Minister

جمهورية العراق
وزارة الخارجية
الوزير

السيد: يان كي مون

الأمين العام للأمم المتحدة

حضرتنا برستنا لبعثكم بتاريخ ٢٠١٢/٧/٢٠ والتي تلونا فيها الى اننا وجدنا وقد تم
بمستكاف المشاورات مع الامانة العامة للأمم المتحدة استناداً الى الفترة السابقة من تقرير مجلس
الامن ١٩٥٨ (٢٠١٠) وعلى الرغم من ان المشاورات التي جرت بين ٢٠١٢/١٠/٢٠ مع الامانة
العامة لم تهم سرسبي الخلاف الذي اثيرت اليه في تقريركم الاول الى مجلس الامن في
٢٠١٢/٤/٢٠ الا اننا مؤلفا تشاوركم الرأي في اهمية اكمال هذه المشاورات وبما يقدم لمصالح
المشركة كعراق والامم المتحدة على النحو الذي ليس عليه تقرير مجلس الامن الصادر اليه اعتماد
وكما يعزف معقباتكم كجزء احياء كجزء مجلس الامن ١٩٥٨ بمواظبة الحقبة في مباحثات
وتسويات حثيثة بين الاطراف ذات العلاقة لعل في الاصول معصية جميع الاطراف بشان
حوادثي كذا لغز اعادة لتدوير التقرير كذا يترى بشكل هو وانظر الى الاصول بمصالح احد الاطراف
لقد حدثت الفقرة العاشرة من التقرير ١٩٥٨ حجم المبلغ الذي يوزع في حساب الضمان لغرض
توفير التامينات بـ ١٣١ مليون من دولارات الولايات المتحدة، كما تم التأكيد على هذا الحجم
بموجب (١) من الفقرات السابعة من التقرير، الامر الذي لا يفسح اي مجال لتفسير يترى في امكانية
زيادة هذا المبلغ. وس حسب لغز. لقد حدد تقرير مجلس الامن اعلاه بتاريخ ٢٠١٢/١٢/٢١
جميع الانشطة المتوقعة في إطار كبر المعج، والتأكد على احوال هذا التاريخ لقد تمت الاستجابة اليه
في ثلاثة فقرات عملة من القرار وهي الفقرات الرابعة والخامسة والسادسة فضلاً عن ذلك فقد حدد
التقرير ١٩٥٨ في الفقرة العاشرة لخطوات انجاز المهمة بمبلغ تمويلينزات المعلقة بجميع الانشطة
ذات الصلة ببرنامج كذا مقابل الغاء مك التنازل، وبما ست مبرات من تاريخ اعطاء التقرير كما
ان كل هذه الفقرات تنص على ان تقوم الامم المتحدة بتسوية جميع الامور المتبقية الى حكومة
العراق بحلول التاريخ المذكور وهو ٢٠١٢/١٢/٢٠. ان كالتأكد على هذا التاريخ اكثر من مرة هي
القرار هو الآخر لا يفسح اي مجال لتفسير يترى في تجاوز هذا التاريخ.

RECEIVED TIME OCT. 22. 3:21PM

PRINT TIME OCT. 22. 3:22PM

12127376265

Republic of Iraq
Ministry of Foreign Affairs
The Minister

جمهورية السودان
وزارة الخارجية
الرياض

[illegible]

من شارب الزماني
بلد خزانة جمهورية العراق
مستطير / تشرين الاول / ٢٠١٢

IRAQ

#3437 P.001

12127376265

**Permanent Mission of the Republic
of Iraq to the United Nations**

14 East 79th Street, New York, N.Y. 10075
Tel: 212-737-4433 - Fax: 212-772-1794



ممثلية جمهورية العراق الدائمة
لدى الأمم المتحدة
نيويورك

PRCL/2012/983

The Permanent Mission of the Republic of Iraq to the United Nations presents its compliments to the Office of the Secretary-General and has the honor to attach herewith a copy of the letter from H.E. Mr. Hoshyar Zebari, Minister of Foreign Affairs of the Republic of Iraq dated 16th October addressed to H.E. Mr. Ban Ki-moon the Secretary-General of the United Nations.

The Permanent Mission of the Republic of Iraq would deeply appreciate it if the attached letter could kindly be forwarded to its highest destination.

The Permanent Mission of the Republic of Iraq to the United Nations avails itself of this opportunity to renew to the esteemed Office of the Secretary-General the assurances of its highest consideration.

New York, 22nd October 2012

Office of the Secretary – General
United Nations
New York

RECEIVED TIME OCT. 22. 3:21PM

1422941E

Translated from Arabic

Republic of Iraq

Ministry of Foreign Affairs

Office of the Minister

Sir,

I write with reference to my letter of 21 October 2012, the round of consultations that took place between the delegation of Iraq and the Secretariat from 28 to 30 January 2014, and paragraph 7 of Security Council resolution 1958 (2010). It is unfortunate that the round of negotiations has not settled the issue of completing the drafting of two memorandums of understanding to fulfil the interests of both parties. Significant efforts have recently been made, and several important issues have been resolved. It remains only to find an outcome in view of the Secretariat's insistence that the memorandums should extend the obligations of Iraq beyond 31 December 2016. I explained our position on the subject in the aforementioned letter.

The delegation of Iraq attempted to reach a solution that would take onboard the concerns of the United Nations by postponing the issue for a future report of the Security Council, at such a time as the Secretariat deemed appropriate. That solution would have been consistent with paragraph 8 of resolution 1958 (2010), which grants the Security Council such rights. However, the delegation of the Secretariat found that those assurances were not sufficient to allay its concerns, whereas we had hoped that the proposal would be accepted.

We reiterate our desire to finish drafting the two memorandums of understanding as soon as possible. We hope that the Secretariat will understand the sensitive position of Iraq, which is that the two memorandums of understanding to be signed should not include any new obligations that are absent from Security Council resolution 1958 (2010).

Accept, Sir, the assurances of my highest consideration.

(Signed) Hoshiyar Zebari

Minister for Foreign Affairs of the Republic of Iraq

February 2014

H.E. Mr. Ban Ki-moon

Secretary-General of the United Nations

POL/09/003

**Permanent Mission of the
Republic of Iraq
to the United Nations**

14 East 79th Street, New York, N.Y. 10075
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الممثلة الدائمة لجمهورية العراق
لدى الأمم المتحدة
نيويورك

PRCL/2014/ 25

The Permanent Mission of the Republic of Iraq to the United Nations presents its compliments to the Office of the Secretary-General of the United Nations and with reference to Security Council resolution 1958 (2010) concerning ending all of the remaining activities of the Oil for Food Program, has the honor to attach herewith the copy of a letter from H.E. Mr. Hoshiyar Zibari Foreign Minister of the Republic of Iraq. The Mission of the Republic of Iraq has further the honor to inform that the original letter will follow by mail.

The Permanent Mission of Iraq to the United Nations avail itself of this opportunity to renew to the esteemed executive office of the Secretary General the Assurances of its highest consideration.

New York, 6th February 2014



Executive Office of the Secretary-General of the United Nations
United Nations - New York

بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ

Republic of Iraq
Ministry of Foreign Affairs
Minister's Office



جمهورية العراق
وزارة الخارجية
مكتب الوزير

RECEIVED

FEB - 7 2014

السيد بان كي مون المحترم،
الأمين العام للأمم المتحدة

EXECUTIVE OFFICE
OF THE SECRETARY-GENERAL

أود أن أشير الى رسالتي لمعاليتكم بتاريخ ٢٠١٢/١٠/٢١، وكذلك الى جولة
المُشاوَرَات التي جَرت بين وفد العراق والأمانة العامة خلال الفترة ٢٨-٣٠/١/٢٠١٤
إستناداً الى الفقرة السابعة من قرار مجلس الأمن ١٩٥٨ (٢٠١٠)، وإنه لأمر يدعو الى
الأسف إن هذه الجولة من المُشاوَرَات لم تُصمِّم مسألة الإنتهاء من صياغة مذكرتي تقاهم
تُلبّي مصالح الجانبين على الرغم من الجهود الكبيرة التي بُذلت خلال الفترة الماضية
وألجز خلالها العديد من القضايا المهمة ولم يتبقى سوى ايجاد مخرج لاصرار الامانة
العامة على مد التزامات العراق بموجب المذكرتين الى ما بعد تاريخ ٢٠١٦/١٢/٣١،
وكنّت قد أوضحت لمعاليتكم موقفنا بشأن هذا الموضوع في رسالتي المشار اليها أعلاه.
لقد حاول وفد العراق التوصل الى تسوية يراعي فيها شواغل الأمم المتحدة تمثّلت في
ترك هذا الموضوع الى تقرير مجلس الأمن في وقت لاحق تراء الامانة العامة مُناسباً، وهذا
يتلائم مع الفقرة العاملة الثامنة من القرار ١٩٥٨ التي تجيز لمجلس الأمن مثل هذا الحق،
إلا ان وفد الامانة العامة رأى ان هذا التظمين غير كافٍ لتلبية شواغله، في حين كنّا نأمل
ان يلاقي هذا المقترح قبولا لديه.

وفي الوقت الذي نوكد فيه رغبتنا في الانتهاء من صياغة مذكرتي التقاهم بأسرع وقت
ممكن، فاننا نتوقع من الامانة العامة ان تنفهم موقف العراق الحساس في أن لا تضيف
مذكرتي التقاهم المزعم توقيعها التزامات جديدة وغير موجودة في قرار مجلس الأمن
١٩٥٨.

وتقبلوا فائق التقدير والاحترام.


هوشيار زيباري

وزير خارجية جمهورية العراق

شباط ٢٠١٤



Security Council

Distr.: General
March 2015

Original: English

DRAFT

Fourth Report of the Secretary-General pursuant to paragraph 8 of Security Council resolution 1958 (2010)

I. Introduction

1. The present report is submitted pursuant to paragraph 8 of Security Council resolution 1958 (2010), in which the Council requested me to report and provide analysis to the Council on the usage and expenditure of the escrow accounts referenced in paragraphs 4 and 5 on an annual basis, the first no later than 31 March 2012, with the final report occurring three months after the transfer of any remaining funds retained for the purposes stated in paragraphs 4 and 5 of resolution 1958 (2010) to the Government of Iraq by 31 December 2016, unless otherwise authorized by the Security Council.

II. Background

2. Pursuant to paragraphs 4 and 5 of resolution 1958 (2010), the Secretariat transferred from the Iraq Account (i) USD20 million to the Administrative Escrow Account exclusively for the expenses of the United Nations related to the orderly termination of the residual activities of the oil-for-food programme, including the Organization's support to Member State investigations and Member State proceedings related to the Programme, and the expenses of the high-level coordinator's office created pursuant to resolution 1284 (1999), and (ii) USD131 million to the Indemnification Escrow Account for the indemnification of the Government of Iraq to the United Nations, its representatives, agents and independent contractors.

3. In its resolution 2107 (2013), the Security Council decided to terminate the arrangements set forth in paragraph 14 of resolution 1284 (1999).

III. Administrative Escrow Account

4. I should like to inform the Members of the Council that the activities undertaken and funded as outlined in paragraph 4 of resolution 1958 (2010) from 1 January 2014 to 31 December 2014 have led to expenditure amounting to \$799,634. The breakdown of the above expenditure is as follows; (a) \$709,400 for the activities related to the orderly termination of the residual activities of the Oil-for-food Program; and (b) \$90,234 for the Organization's support to Member State investigations and Member State proceedings related to the Programme.*

* Expenditures relate to the liquidation activities for the Organization's support to Member State investigations and Member State proceedings related to the Programme.

5. With regard to the expenditures under paragraph 4 (b) above, no further expenditures will be incurred in connection with the Organization's support to Member State investigations and Member State proceedings. Such support was provided by the Office of the Independent Inquiry Committee into the United Nations Oil-for-food Programme, which I closed as of 31 December 2013.

IV. Indemnification Escrow Account

6. I should like to inform the Members of the Council that no expenditures have been incurred to date in respect of the amount referred to in paragraph 5 of resolution 1958 (2010).

7. Following my last report to the Council of 26 March 2014 (S/2014/221), the Secretariat met again with the Government of Iraq to negotiate the implementing agreements as provided for in paragraph 7 of resolution 1958 (2010). However, differences continue to remain between the Government of Iraq and the Secretariat. The Secretariat is of the view that, pursuant to resolution 1958 (2010), the Government of Iraq's obligation to indemnify the United Nations, its representatives, agents and independent contractors, should not: (i) be limited to the amount held in the Indemnification Escrow Account (ii) expire and lapse on 31 December 2016. This ensures that the United Nations, its representatives, agents and independent contractors would be adequately protected from exposure to liability resulting from the oil-for-food programme.

8. At the request of the Government of Iraq, I attach to this report communications from the Government of Iraq from October 2012, February 2014 and August 2014. I should like to stress the importance for the indemnification agreements to be concluded in the very near future. In this regard, the Secretariat remains ready to continue discussions with the Government of Iraq and I will apprise the Security Council of the outcome of the Secretariat's continued efforts.

9. In the absence of a successful conclusion of the indemnification agreements between the United Nations and the Government of Iraq, I would revert to the members of the Council in respect of the Government of Iraq's obligation to indemnify the United Nations, its representatives, agents and independent contractors, including on paragraph 8 of Security Council resolution 1958 (2010), which provides that the remaining funds in the Indemnification Escrow Account shall be returned to the Government of Iraq by 31 December 2016, unless otherwise authorized by the Security Council.

V. Other

10. In paragraph 2 of resolution 1958 (2010), the Council called upon the Government of Iraq to provide without delay direct payment to the beneficiaries or its representatives of the letters of credit as referenced in the Secretary-General's Note, dated 8 December 2010 (S/2010/619), paragraphs 11 and 12 and Annexes II and III.

11. In my reports of 2 April 2012 (S/2012/191), 26 March 2013 (S/2013/191) and 26 March 2014 (S/2014/221), I advised the Council that payments to certain beneficiaries remained outstanding. I am concerned that the payments have not been made and I continue to urge the Government of Iraq to provide the payments without any delay to the beneficiaries as called for by the Council in its resolution 1958 (2010).
