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Fw: SG Report on SCR 1956
Linda Taylor to: SGCentral

13/12/2011 09:09 AM

For logging please.

----- Forwarded by Linda Taylor/NY/UNO on 13/12/2011 09:09 AM -----

From: Mojtaba KAZAZI/UNCC/GVA/UNO@UNGVA
To: Vijay Nambiar/NY/UNO@UNHQ
Cc: Gina Casar/NY/UNO@UNHQ, Genc Osmani/NY/UNO@UNHQ, Linda Taylor/NY/UNO@UNHQ,
Stephane Vazelle/NY/UNO@UNHQ, Yasmin Fadlu-Deen/NY/UNO@UNHQ, Leah
KRAFT/UNCC/GVA/UNO@UNGVA, Irene MUCHIRA/UNCC/GVA/UNO@UNGVA
Date: 13/12/2011 09:03 AM
Subject: SG Report on SCR 1956

Dear Mr Nambiar,

Attached please find the final draft of the report of the Secretary-General pursuant to paragraph 6 of Security Council resolution 1956 for clearance. //

The draft report has been reviewed by the Office of the Controller and DPA .

This report is due on 2 January 2012, however we only became aware that the UNCC was the lead on this document last Wednesday. Now that this has been clarified, future reports on the same issue will be submitted to the EOSG well in advance of their due date.

I remain at your disposal for any further information or discussion of the report.

Best Regards,

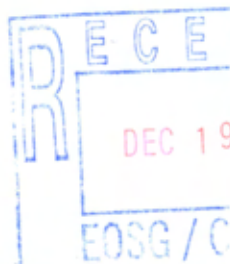
Mojtaba Kazazi



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email: mkazazi@uncc.ch



Draft report of SG under 1956.doc



POL/04/006

LT → VN
Potlun
14 for final
13/12

Sir,
You asked for my comments. I have checked
the relevant SC resolution and the 29 April 2011
report of the CoI. I have also discussed with
the Controller's office. I have 2 suggestions,
in para. 3 at 7. Adding reference to the CoI
could be para. 3 with content with para. 21
of SC res. 1483. The suggestion in para. 7 is
editorial. I have also set the draft report for
dissemination with CRV.

LT
13/12



Fw: SG Report on SCR 1956
Vijay Nambiar to: Linda Taylor

13/12/2011 09:50 AM

Please examine.

Vijay

Vijay Nambiar
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----- Forwarded by Vijay Nambiar/NY/UNO on 13/12/2011 09:49 AM -----

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Cc: Gina Casar/NY/UNO@UNHQ, Genc Osmani/NY/UNO@UNHQ, Linda Taylor/NY/UNO@UNHQ, Stephane Vazelle/NY/UNO@UNHQ, Yasmin Fadlu-Deen/NY/UNO@UNHQ, Leah KRAFT/UNCC/GVA/UNO@UNGVA, Irene MUCHIRA/UNCC/GVA/UNO@UNGVA
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Mojtaba Kazazi



Mojtaba Kazazi
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Security Council

Distr : General
13 December 2011

Approved on behalf of the Secretary-General.

Original: English


Vijay Nambiar

DRAFT

First Report of the Secretary-General pursuant to paragraph 6 of resolution 1956 (2010)**I. Introduction**

1. The present report is submitted pursuant to paragraph 6 of Security Council resolution 1956 (2010), in which the Council requested me to provide written reports on an ongoing basis to the Council every six months, with the first report due no later than 1 January 2012, about the United Nations Compensation Fund, evaluating the continued compliance with the provisions of paragraph 21 of resolution 1483 (2003).

II. Assessment following the 30 June 2011 transition to a post-Development Fund mechanism

2. It is recalled that in the 29 April 2011 report of the Government of Iraq to the Security Council, pursuant to paragraph 4 of resolution 1956 (2010) on progress towards the transition to a post-Development Fund for Iraq mechanism (S/2011/290), the Government of Iraq confirmed that it would continue to use the same mechanism established pursuant to resolution 1483 (2003) for the transfer of the five per cent of the proceeds from all export sales of petroleum, petroleum products and natural gas from Iraq to the Compensation Fund as it considered the mechanism to be transparent and would ensure that Iraq is able to continue to meet its obligations as provided for in paragraph 21 of resolution 1483 (2003). The Government of Iraq also reported that it would consult the UN Secretariat on in-kind payments of export sales of petroleum, petroleum products and natural gas from Iraq, with a view to finding a transparent mechanism to ensure that the equivalent of five per cent of such transactions is deposited into the Compensation Fund pursuant to paragraph 3 of resolution 1956 (2010).

3. In its authority over the arrangements for ensuring payments are made to the Compensation Fund, the United Nations Compensation Commission has been actively monitoring the developments following the expiration of the mandate of the International Advisory and Monitoring Board for Iraq on 30 June 2011 and the transfer of the oversight of the control, reporting, and use of Iraqi oil export revenues to the Iraqi Committee of Financial Experts.

4. The Executive Head of the Compensation Commission Secretariat and the Controller of the United Nations met with the Committee of Financial Experts in early July 2011 and the Head of the Committee reaffirmed that the arrangements for the transfer of five percent of the proceeds from all export sales of petroleum, petroleum

products and natural gas from Iraq would remain unchanged. The issue of non-monetary payments of petroleum, petroleum products and natural gas from Iraq was also discussed and both the Executive Head and the Controller stressed that if Iraq will be engaging in such transactions, a proper accounting mechanism must be put in place to ensure that five per cent of their value is recorded and an equivalent amount transferred to the Compensation Fund. On 24 August 2011, the Compensation Commission reiterated this position in response to an enquiry from the Government of Iraq and again on 20 October 2011 in a letter to the Committee of Financial Experts following the Governing Council's seventy-second session, and is awaiting confirmation from the Committee of Financial Experts that such a mechanism has been put in place.

5. In its conclusion at its seventy-second session in October 2011 on the issue of arrangements for ensuring payments are made to the Compensation Fund, the Governing Council of the Compensation Commission noted with satisfaction that since the transfer of the oversight function to the Government of Iraq, there has been no change in the mechanism and that payments continue to be transferred to the Compensation Fund through the Federal Reserve Bank of New York. The Governing Council also directed the Executive Head to continue to regularly engage with the Committee of Financial Experts regarding all payment and accounting mechanisms and to keep the Governing Council advised of any developments.

6. Prior to the transfer of the oversight function from the International Advisory and Monitoring Board for Iraq to the Committee of Financial Experts, the average monthly income to the Compensation Fund for the first half of 2011 was USD319.3 million. The average monthly income for the five months following the transfer was \$341 million, with a total of \$1.3 billion transferred in the quarter following the transition and approximately \$1 billion expected in the final quarter of 2011. Since the transition, the Compensation Commission has made two payments to Kuwait of more than \$1 billion each; the first was made on 28 July 2011 and the second on 27 October 2011. The next payment is scheduled for 26 January 2012.

✓ 7. While all the indicators are positive and suggest that the Government of Iraq is compliant with its obligations under paragraph 21 of resolution 1483 (2003), only after an audit has been conducted on the successor account to the Development Fund for Iraq will it be possible to confirm this conclusion. In this regard, it is noted that the Committee of Financial Experts has appointed the firm of Ernst & Young to conduct the 2011 audit of the Development Fund for Iraq and its successor account.

8. I would like to conclude by expressing my appreciation to the Government of Iraq, including its Committee of Financial Experts, for its maintenance of the mechanism for the transfer of the five per cent of oil proceeds established pursuant to resolution 1483 (2003) and its continued cooperation with the Compensation Commission.

**Security Council**

Distr.: General
13 December 2011

Original: English

DRAFT

First Report of the Secretary-General pursuant to paragraph 6 of resolution 1956 (2010)

I. Introduction

1. The present report is submitted pursuant to paragraph 6 of Security Council resolution 1956 (2010), in which the Council requested me to provide written reports on an ongoing basis to the Council every six months, with the first report due no later than 1 January 2012, about the United Nations Compensation Fund, evaluating the continued compliance with the provisions of paragraph 21 of resolution 1483 (2003).

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3. In its authority over the arrangements for ensuring payments are made to the Compensation Fund, the United Nations Compensation Commission has been actively monitoring the developments following the expiration of the mandate of the International Advisory and Monitoring Board for Iraq on 30 June 2011 and the transfer of the oversight of the control, reporting, and use of Iraqi oil export revenues to the Iraqi Committee of Financial Experts.

4. The Executive Head of the Compensation Commission Secretariat and the Controller of the United Nations met with the Committee of Financial Experts in early July 2011 and the Head of the Committee reaffirmed that the arrangements for the transfer of five percent of the proceeds from all export sales of petroleum, petroleum

products and natural gas from Iraq would remain unchanged. The issue of non-monetary payments of petroleum, petroleum products and natural gas from Iraq was also discussed and both the Executive Head and the Controller stressed that if Iraq will be engaging in such transactions, a proper accounting mechanism must be put in place to ensure that five per cent of their value is recorded and an equivalent amount transferred to the Compensation Fund. On 24 August 2011, the Compensation Commission reiterated this position in response to an enquiry from the Government of Iraq and again on 20 October 2011 in a letter to the Committee of Financial Experts following the Governing Council's seventy-second session, and is awaiting confirmation from the Committee of Financial Experts that such a mechanism has been put in place.

5. In its conclusion at its seventy-second session in October 2011 on the issue of arrangements for ensuring payments are made to the Compensation Fund, the Governing Council of the Compensation Commission noted with satisfaction that since the transfer of the oversight function to the Government of Iraq, there has been no change in the mechanism and that payments continue to be transferred to the Compensation Fund through the Federal Reserve Bank of New York. The Governing Council also directed the Executive Head to continue to regularly engage with the Committee of Financial Experts regarding all payment and accounting mechanisms and to keep the Governing Council advised of any developments.

6. Prior to the transfer of the oversight function from the International Advisory and Monitoring Board for Iraq to the Committee of Financial Experts, the average monthly income to the Compensation Fund for the first half of 2011 was USD319.3 million. The average monthly income for the five months following the transfer was \$341 million, with a total of \$1.3 billion transferred in the quarter following the transition and approximately \$1 billion expected in the final quarter of 2011. Since the transition, the Compensation Commission has made two payments to Kuwait of more than \$1 billion each; the first was made on 28 July 2011 and the second on 27 October 2011. The next payment is scheduled for 26 January 2012.

7. While all the indicators are positive and suggest that the Government of Iraq is compliant with its obligations under paragraph 21 of resolution 1483 (2003), only after an audit has been conducted on the successor account to the Development Fund for Iraq will it be possible to confirm this conclusion. In this regard, it is noted that Committee of Financial Experts has appointed the firm of Ernst & Young to conduct the 2011 audit of the Development Fund for Iraq and its successor account.

8. I would like to conclude by expressing my appreciation to the Government of Iraq, including its Committee of Financial Experts, for its maintenance of the mechanism for the transfer of the five per cent of oil proceeds established pursuant to resolution 1483 (2003) and its continued cooperation with the Compensation Commission.

relevant documentation and the transfer of all operational responsibility of the Programme to the Authority;

17. *Requests further* that the Secretary-General transfer as soon as possible to the Development Fund for Iraq 1 billion United States dollars from unencumbered funds in the accounts established pursuant to paragraphs 8 (a) and 8 (b) of resolution 986 (1995), restore Government of Iraq funds that were provided by Member States to the Secretary-General as requested in paragraph 1 of resolution 778 (1992), and *decides* that, after deducting all relevant United Nations expenses associated with the shipment of authorized contracts and costs to the Programme outlined in paragraph 16 (c) above, including residual obligations, all surplus funds in the escrow accounts established pursuant to paragraphs 8 (a), 8 (b), 8 (d), and 8 (f) of resolution 986 (1995) shall be transferred at the earliest possible time to the Development Fund for Iraq;

18. *Decides* to terminate effective on the adoption of this resolution the functions related to the observation and monitoring activities undertaken by the Secretary-General under the Programme, including the monitoring of the export of petroleum and petroleum products from Iraq;

19. *Decides* to terminate the Committee established pursuant to paragraph 6 of resolution 661 (1990) at the conclusion of the six month period called for in paragraph 16 above and *further decides* that the Committee shall identify individuals and entities referred to in paragraph 23 below;

20. *Decides* that all export sales of petroleum, petroleum products, and natural gas from Iraq following the date of the adoption of this resolution shall be made consistent with prevailing international market best practices, to be audited by independent public accountants reporting to the International Advisory and Monitoring Board referred to in paragraph 12 above in order to ensure transparency, and *decides further* that, except as provided in paragraph 21 below, all proceeds from such sales shall be deposited into the Development Fund for Iraq until such time as an internationally recognized, representative government of Iraq is properly constituted;

21. *Decides further* that 5 per cent of the proceeds referred to in paragraph 20 above shall be deposited into the Compensation Fund established in accordance with resolution 687 (1991) and subsequent relevant resolutions and that, unless an internationally recognized, representative government of Iraq and the Governing Council of the United Nations Compensation Commission, in the exercise of its authority over methods of ensuring that payments are made into the Compensation Fund, decide otherwise, this requirement shall be binding on a properly constituted, internationally recognized, representative government of Iraq and any successor thereto;

22. *Noting* the relevance of the establishment of an internationally recognized, representative government of Iraq and the desirability of prompt completion of the restructuring of Iraq's debt as referred to in paragraph 15 above, *further decides* that, until December 31, 2007, unless the Council decides otherwise, petroleum, petroleum products, and natural gas originating in Iraq shall be immune, until title passes to the initial purchaser from legal proceedings against them and not be subject to any form of attachment, garnishment, or execution, and that all States shall take any steps that may be necessary under their respective domestic legal systems to assure this protection, and that proceeds and obligations arising from sales thereof, as well as the Development Fund for Iraq, shall enjoy privileges and

that, subject to the exception provided for in paragraph 27 of resolution 1546 (2004), the provisions of paragraph 22 of resolution 1483 (2003) shall continue to apply until that date, including with respect to funds and financial assets and economic resources described in paragraph 23 of that resolution;

2. *Welcomes and affirms* the Government of Iraq's decision not to request any further extensions of the Development Fund for Iraq arrangements; and further decides this is the final extension of the Development Fund for Iraq arrangements;

3. *Decides* that after 30 June 2011, the requirement established in paragraph 20 of UNSCR 1483 (2003) that all proceeds from export sales of petroleum, petroleum products and natural gas from Iraq be deposited into the Development Fund for Iraq shall no longer apply, and affirms that the requirement established in paragraph 21 of UNSCR 1483 (2003) that 5 percent of the proceeds from all export sales of petroleum, petroleum products and natural gas shall be deposited into the compensation fund established in accordance with resolution 687 (1991), and subsequent resolutions, shall continue to apply, and further decides that 5 percent of the value of any non-monetary payments of petroleum, petroleum products and natural gas made to service providers shall be deposited into the compensation fund, and that unless the Government of Iraq and the governing council of the United Nations Compensation Commission, in the exercise of its authority over methods of ensuring that payments are made into the compensation fund, decide otherwise, the above requirements shall be binding on the Government of Iraq;

4. *Calls upon* the Government of Iraq to work closely with the Secretary-General to finalize the full and effective transition to a post-Development Fund mechanism by or before 30 June 2011, which takes into account IMF stand-by arrangement requirements, includes external auditing arrangements and ensures that Iraq will continue to meet its obligations as established in the provisions of paragraph 21 of resolution 1483 (2003); further requests that the Government of Iraq provide a written report to the council no later than 1 May 2011 on progress towards the transition to a post-Development Fund mechanism;

5. *Directs* the transfer of the full proceeds from the Development Fund for Iraq to the Government of Iraq's successor arrangements account or accounts and the termination of the Development Fund for Iraq no later than 30 June 2011 and requests written confirmation to the Council once the transfer and termination are completed;

6. *Requests* the Secretary-General to provide written reports on an ongoing basis to the council every six months, with the first report due no later than 1 January 2012, about the United Nations compensation fund, evaluating the continued compliance with the provisions of paragraph 21 of resolution 1483 (2003);

7. *Decides* to remain actively seized of the matter.

Enclosure

Report of the Government of Iraq pursuant to Security Council resolution 1956 (2010) on transition to a post-Development Fund mechanism

[Original: Arabic]

1. Pursuant to Security Council resolution 1956 (2010), paragraph 4, in which it is requested that the Government of Iraq provide a written report to the Council no later than 1 May 2011 on progress towards the transition to a post-Development Fund mechanism, we should like to inform the Security Council that the Government of Iraq has completed the arrangements that will ensure full and effective transition to such a mechanism. Those measures include the following:

- (a) The post-Development Fund mechanism;
- (b) Arrangements for the external auditing of accounts;
- (c) Deduction of the 5 per cent compensation percentage or any other lesser percentage;
- (d) Settlement of the foreign debts of Iraq.

2. With respect to the post-Development Fund mechanism, the Government of Iraq has decided that after 30 June 2011, it will continue to use the same mechanisms for the Development Fund for Iraq, including the following:

(a) After 30 June 2011, the Government of Iraq will continue to operate the Oil Proceeds Receipts Account that is held by the Central Bank of Iraq in order to receive revenues from the export of oil, oil derivatives and gas;

(b) In replacement of the Development Fund for Iraq account, a new account will be opened in the name of the Government of Iraq, to be held by the Central Bank of Iraq at the Federal Reserve Bank, and transfer will be made to that new account of all the financial assets currently held in the Development Fund for Iraq and any other Iraqi Government assets, including those referred to in Security Council resolution 1483 (2003), paragraph 23, the work of the 1518 Committee will be continued until such time as pertinent issues are resolved;

(c) Beginning 1 July 2011, 95 per cent of the funds held in the Oil Proceeds Receipts Account referred to in paragraph (a) above will be transferred to the account referred to in paragraph (b) above;

(d) Five per cent or any other subsequently determined lesser percentage will continue to be transferred from the Oil Proceeds Receipts Account referred to in paragraph (a) above to the United Nations Compensation Fund account, using the same name, number and mechanism that were established pursuant to Security Council resolution 1483 (2003).

3. With regard to arrangements for the external auditing of accounts, the international audit firm PricewaterhouseCoopers was appointed to audit Development Fund for Iraq accounts for 2010 according to the recommendation of the International Advisory and Monitoring Board and the Committee of Financial Experts. The aforementioned firm presented its preliminary report at a meeting of the International Advisory and Monitoring Board that was held in Geneva on 6 and

7 January 2011, and will present its draft final report at an International Advisory and Monitoring Board meeting that is to be held in Paris on 27 and 28 April 2011.

4. With the approval of the International Advisory and Monitoring Board and in coordination with the Committee of Financial Experts, an announcement of request for proposals for Development Fund for Iraq and successor accounts audit for 2011 was made and proposals were received from the following international big four firms to audit Development Fund for Iraq accounts to 30 June 2011 and the successor account to 31 December 2011:

- (a) Ernst & Young;
- (b) PricewaterhouseCoopers;
- (c) KPMG;
- (d) Deloitte.

5. The proposals submitted were considered and analysed and were presented with recommendations to the International Advisory and Monitoring Board for its opinion on those recommendations and the selection of a suitable auditor. Once the external auditor has been selected, it will submit a preliminary report to the International Advisory and Monitoring Board before it concludes its mandate. The final report on the accounts will be received by the Committee of Financial Experts. As for successor arrangements, the Committee of Financial Experts will replace the International Advisory and Monitoring Board with effect from 1 July 2011, and the accounts referred to in paragraph 2 (b) above will be supervised by that Committee of Financial Experts. All the oversight authorities of the International Advisory and Monitoring Board will be transferred to the Committee of Financial Experts, which will exercise those authorities in accordance with its terms of reference approved by the Council of Ministers.

6. Concerning the deduction of the 5 per cent compensation percentage or any other lesser percentage, the Government of Iraq has decided to continue to use the same mechanism that was adopted under the Development Fund for Iraq, because that mechanism is transparent and will ensure that Iraq is able to continue to meet its obligations, as provided for in Security Council resolution 1483 (2003), paragraph 21. With regard to Security Council resolution 1956 (2010), paragraph 3, concerning proceeds from in kind payments of export sales of petroleum, petroleum products and natural gas, the United Nations Secretariat will be consulted with a view to finding a transparent mechanism to ensure that 5 per cent or any other lesser percentage of such payments is deducted and deposited to the United Nations Compensation Fund.

7. Iraq will continue its serious attempts to settle its foreign debts in accordance with the Paris Club agreement that was signed in November 2004.

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