



OPPGA

Iraq Programme

Vijay - FYI only.

To: Mr. Nambiar,

Termination of the Oil-for-Food Programme

I attach a note from the Controller reversing his earlier request to you to convene meetings with the P5 regarding the terms of a letter from the Security Council to the Secretary-General regarding the above.

Nicholas Haysom
13 November 2008

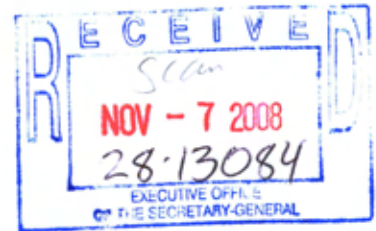
cc: KWS

Noted

for amh

28-13084

6445 pm
ACTION
COPY



Note to Mr. Nambiar

Through Mr. Haysom

Subject: Termination of the Oil-for-Food Programme ✓

(28-11145)

1. I refer to my Notes to you of 19 September 2008 and 22 October 2008 concerning a proposed draft letter from the President of the Security Council to the Secretary-General that was shared with the representatives of the Secretariat. The draft letter contained certain proposals for the resolution of the outstanding issue under the Oil-for-Food Programme that were reflected in the 25 July 2008 letter of the Secretary-General to the President of the Security Council (S/2008/442).

(28-12464)

2. Further to my note of 22 October 2008, a discussion with the US Mission was initiated by my office. The draft letter was subsequently revised by the Permanent Members of the Security Council and it addresses the concerns discussed at the Experts Meeting held on 19 September 2008 (see copy enclosed).

3. In light of the circumstances, unless further development necessitates such action, I would like to retract my previous suggestion to you to consider holding consultations with the Permanent Members of the Security Council.

67

Jun Yamazaki
6 November 2008

cc: Ms. Kane
Ms. Vicien-Milburn



DRAFT LETTER
FROM THE PRESIDENT OF THE UNSC TO THE SECRETARY-GENERAL

Dear Mr. Secretary-General,

I have the honour to inform you that your letters dated 11 March 2008 and 25 July 2008 and the accompanying Notes concerning the processing of letters of credit pertaining to the Oil for Food Programme, have been brought to the attention of the members of the Security Council.

Security Council members continue to welcome the ongoing work of the United Nations Secretariat to bring a complete and timely conclusion to all outstanding issues related to the Oil for Food Programme, which terminated on 31 December 2007. In this regard, Council members express their concern at the slow processing of authentication documents by the Government of Iraq, and of the lack of resolution in the matter of the remaining 125 letters of credit with outstanding claims of delivery.

Accordingly, members of the Council decide that the Government of Iraq be given a final period of 45 days from the date of this letter to confirm delivery of the goods associated with the remaining 125 letters of credit with outstanding claims of delivery, and to issue and transmit the necessary confirmations of arrival to the UN Secretariat, in order for payment to be made under the relevant letters of credit. In the event that the necessary confirmations of arrival for the remaining letters of credit are not received by the UN Secretariat within 45 days, the Council members will consider other options pursuant to the definitive closure of the remaining activity of the Programme.

The Council members wish to reiterate that confirmations of arrival under the letter of credit should not be delayed or made contingent upon the resolution of commercial disputes. The Council members recall that such disputes should be handled in accordance with the dispute resolution mechanism provided for in the underlying contract, as stated in paragraph 5 of the accompanying Note to the Secretary-General's letter dated 11 March 2008.

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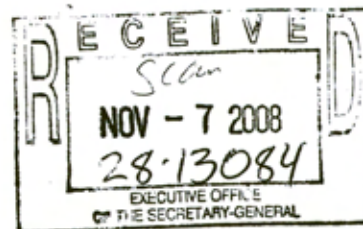
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Rec'd
6:45 pm
Iraq Programme
DPPBA

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NH ✓
VN



Note to Mr. Nambiar

Through Mr. Haysom

Subject: Termination of the Oil-for-Food Programme ✓

(28-11145)

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6 November 2008

cc: Ms. Kane
Ms. Vicien-Milburn

United Nations



Nations Unies

Executive Office of the Secretary-General
Cabinet du Secrétaire général

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Accordingly, members of the Council decide that the Government of Iraq be given 45 days from the date of this letter to confirm delivery of the goods associated with the remaining 132 letters of credit with outstanding claims of delivery, as reported in the accompanying Note to the Secretary-General's letter dated 25 July 2008, and to issue and transmit the necessary confirmations of arrival to the UN Secretariat, in order for payment to be made under the relevant letters of credit. In the event that the necessary confirmations of arrival for the remaining 132 letters of credit are not received by the UN Secretariat within 45 days, and notwithstanding the provisions of relevant Security Council resolutions, Council members request the Secretariat to instruct BNP Paribas to proceed with payment to the suppliers provided that, with the exception of the confirmation of arrival, all other documentation required for payment by the letter of credit has been presented by the suppliers.

For those letters of credit within the last group of 132 letters of credit where the Government of Iraq credibly contests delivery in spite of the documents presented by the beneficiaries, the Council members will consider other options following the conclusion of the 45-day period noted in the preceding paragraph.

The Council members wish to reiterate that confirmations of arrival under the letter of credit should not be delayed or made contingent upon the resolution of commercial disputes. The Council members recall that such disputes should be handled in accordance with the dispute resolution mechanism provided for in the underlying contract, as stated in paragraph 5 of the accompanying Note to the Secretary-General's letter dated 11 March 2008.

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Council members reiterate their call upon the Government of Iraq to do its utmost, in liaison with the Secretariat of the United Nations, to expedite the processing of the remaining 132 letters of credit. Council members take note of your recommendation that the situation be reviewed by the Working Group between the representatives of the Government of Iraq, the Central Bank of Iraq and the Secretariat, in early May. Members of the Council welcome your proposal for a further progress report, and request such a report after the expiration of the 45 day deadline outlined above.

The members of the Security Council also take note of the possibility of transferring \$100 million of unencumbered funds to the Development Fund for Iraq (DFI). While Council members recognise the availability, in principle, of such funds for the transfer to the DFI in accordance with resolution 1483 (2003), members of the Council recommend that all unencumbered funds associated with the Oil for Food Programme remain in the Iraq escrow account until such time as all outstanding issues are resolved.

Nicholas Haysom/NY/UNO
05/11/2008 03:37 PM

To Linda Taylor/NY/UNO@UNHQ
cc
bcc
Subject Re: Fw: Revised letter - oil for food

Good news. We will leave it then until we get the letter from the SC



Mr. Nicholas Haysom
Director
Political, Peacekeeping and Humanitarian Affairs
Executive Office of the Secretary-General
New York
Tel: 212 963 4861
Fax: 212 963 2155

Linda Taylor/NY/UNO

Linda Taylor/NY/UNO
05/11/2008 03:24 PM

To Nicholas Haysom/NY/UNO@UNHQ
cc
Subject Fw: Revised letter - oil for food

Fink,

Further to my earlier message, a revised letter was circulated in response to the Secretariat's concerns and both the Controller's office and OLA have confirmed that the revised document addresses those concerns. In their view, there is no longer any need for a technical meeting. You will see from Mr. Afeworki's e-mail of 4 November that the next step proposed is a note from Mr. Yamazaki to the S-G's office to confirm that the issue has been resolved.

Linda

----- Forwarded by Linda Taylor/NY/UNO on 05/11/2008 03:21 PM -----

Christian Peters/NY/UNO
05/11/2008 03:10 PM

To taylor17@un.org
cc Jun Yamazaki/NY/UNO@UNHQ, Moses
Bamuwanye/NY/UNO@UNHQ, Teklay
Afeworki/NY/UNO@UNHQ, Maria
Vicien-Milburn/NY/UNO@UNHQ, Blanca
Montejo/NY/UNO@UNHQ
Subject Fw: Revised letter - oil for food

Dear Linda,

Further to Mr. Afeworki's e-mail below, we have discussed this matter with Mrs. Milburn, who is not in the Office until later today.

In her absence, Mrs. Milburn has asked us to confirm that the revised draft letter, circulated by the United

States (attached to Mr. Kujawinski's below e-mail), addresses the Secretariat's concerns. Accordingly, we agree that there is no need to meet and discuss this matter with the Permanent Members of the Security Council.

We are available should you wish to discuss or should you need any further assistance.

Best regards,

Christian

----- Forwarded by Christian Peters/NY/UNO on 05/11/2008 11:14 AM -----



Teklay Afeworki/NY/UNO

04/11/2008 04:22 PM

To Taylor17@un.org

cc Christian Peters/NY/UNO@UNHQ, Blanca
Montejo/NY/UNO@UNHQ

Subject Fw: Revised letter - oil for food

Dear Ms. Taylor,

Per your request, please find attached the "revised draft" letter that has been circulated by the US Mission to the P-5. I do not see the need for a Technical Meeting as the issues that the Secretariat was concerned with have been removed from the original draft. Should you need an explanation, please let me know.

Regards.

Teklay Afeworki
Principal Officer
Treasury/OPPBA/DM

This message and any attachments (the "message") is intended solely for the addressees and is confidential.

----- Forwarded by Teklay Afeworki/NY/UNO on 04/11/2008 04:17 PM -----



Teklay Afeworki/NY/UNO

04/11/2008 04:06 PM

To Christian Peters/NY/UNO, Blanca Montejo/NY/UNO

cc Maria Vicien-Milburn/NY/UNO@UNHQ, Jun
Yamazaki/NY/UNO@UNHQ, Moses
Bamuwanye/NY/UNO@UNHQ

Subject Fw: Revised letter - oil for food

Dear Christain and Blanca,

1. As you know, I had forwarded to Peter of the US Mission our comments on the "draft letter" that was being considered by the P-5 as a response to the SG's letter of 25 July 2008 (S/2008/492). As you also know, there are two Notes that was sent to the SG's office from Mr. Yamazaki on the issue of paying suppliers without "confirmation of the arrival of goods in Iraq".

2. I have had telephone discussions with Peter of the US Mission on the "draft letter" and explained our position in detail. Please find attached the "revised draft letter" that was circulated among the P-5 and which seems to take into consideration the Secretariat's suggestion. This draft letter takes into consideration our proposals and it does take out the language that we objected to.

3. I would appreciate it very much if you would review this letter and get a concurrence on your end to let the US Mission know that this is OK. If you agree with my assessment of this draft letter, we will have to prepare another Note for Mr. Yamazaki's signature to inform the SG's office that the issue has been resolved.

In addition, we might have to inform the SG's office that there is no need to have a high level meeting on this "revised draft letter".

Regards.

Teklay Afeworki
Principal Officer
Treasury/OPPBA/DM

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----- Forwarded by Teklay Afeworki/NY/UNO on 04/11/2008 03:49 PM -----



"McKernan, Aud-Frances"
<McKernanA@state.gov>

04/11/2008 03:48 PM

To "Teklay Afeworki" <afeworki@un.org>

cc

Subject FW: Revised letter - oil for food

From: Kujawinski, Peter I (USUN)

Sent: Tuesday, October 28, 2008 5:38 PM

To: Kujawinski, Peter I (USUN); 'zhiqiang sun'; 'Nicolas KASSIANIDES'; 'Gareth.Bayley@fco.gov.uk'; 'd.paletskiy@gmail.com'; 'gdesyatnikov@inbox.ru'

Cc: McKernan, Aud-Frances; Germain, Ellen J (USUN); Delaurentis, Jeffrey A (USUN)

Subject: Revised letter - oil for food

Colleagues -

Attached is the latest letter, with changes suggested by the UN. You will see that the major theme to their suggested changes are to give the UN more wiggle room, for example, they deleted the section mentioning BNP Paribas, so that they can be given more of a free hand in negotiating with them. All of these changes seem fine to me - in fact, they are essentially deleting language they suggested in previous versions. Could you take a look and let me know your thoughts?

Best,

Peter

[attachment "SC draft letterSecretariat_10_28_08.doc" deleted by Nicholas Haysom/NY/UNO]

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Christian Peters/NY/UNO

05/11/2008 03:10 PM

To taylor17@un.org

cc Jun Yamazaki/NY/UNO@UNHQ, Moses
Bamuwanye/NY/UNO@UNHQ, Teklay
Afeworki/NY/UNO@UNHQ, Maria

bcc

Subject Fw: Revised letter - oil for food

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<McKernanA@state.gov>
04/11/2008 03:48 PM

To "Teklay Afeworki" <afeworki@un.org>
cc
Subject FW: Revised letter - oil for food

From: Kujawinski, Peter I (USUN)
Sent: Tuesday, October 28, 2008 5:38 PM
To: Kujawinski, Peter I (USUN); 'zhiqiang sun'; 'Nicolas KASSIANIDES'; 'Gareth.Bayley@fco.gov.uk'; 'd.paletskiy@gmail.com'; 'gdesyatnikov@inbox.ru'
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Teklay Afeworki/NY/UNO

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Regards.

Teklay Afeworki
Principal Officer
Treasury/OPPBA/DM

This message and any attachments (the "message") is
intended solely for the addressees and is confidential.

----- Forwarded by Teklay Afeworki/NY/UNO on 04/11/2008 04:17 PM -----



Teklay Afeworki/NY/UNO

04/11/2008 04:06 PM

To Christian Peters/NY/UNO, Blanca Montejo/NY/UNO

cc Maria Vicien-Milburn/NY/UNO@UNHQ, Jun
Yamazaki/NY/UNO@UNHQ, Moses
Bamuwanye/NY/UNO@UNHQ

Subject Fw: Revised letter - oil for food

Dear Christain and Blanca,

1. As you know, I had forwarded to Peter of the US Mission our comments on the "draft letter" that was being considered by the P-5 as a response to the SG's letter of 25 July 2008 (S/2008/492). As you also know, there are two Notes that was sent to the SG's office from Mr. Yamazaki on the issue of paying suppliers without "confirmation of the arrival of goods in Iraq".

2. I have had telephone discussions with Peter of the US Mission on the "draft letter" and explained our position in detail. Please find attached the "revised draft letter" that was circulated among the P-5 and which seems to take into consideration the Secretariat's suggestion. This draft letter takes into consideration our proposals and it does take out the language that we objected to.

3. I would appreciate it very much if you would review this letter and get a concurrence on your end to let the US Mission know that this is OK. If you agree with my assessment of this draft letter, we will have to prepare another Note for Mr. Yamazaki's signature to inform the SG's office that the issue has been resolved.

In addition, we might have to inform the SG's office that there is no need to have a high level meeting on this "revised draft letter".

Regards.

Teklay Afeworki

Principal Officer
Treasury/OPPBA/DM

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intended solely for the addressees and is confidential.

----- Forwarded by Teklay Afeworki/NY/UNO on 04/11/2008 03:49 PM -----



"McKernan, Aud-Frances"
<McKernanA@state.gov>

04/11/2008 03:48 PM

To "Teklay Afeworki" <afeworki@un.org>

cc

Subject FW: Revised letter - oil for food

From: Kujawinski, Peter I (USUN)

Sent: Tuesday, October 28, 2008 5:38 PM

To: Kujawinski, Peter I (USUN); 'zhiqiang sun'; 'Nicolas KASSIANIDES'; 'Gareth.Bayley@fco.gov.uk';
'd.paletskiy@gmail.com'; 'gdesyatnikov@inbox.ru'

Cc: McKernan, Aud-Frances; Germain, Ellen J (USUN); Delaurentis, Jeffrey A (USUN)

Subject: Revised letter - oil for food

Colleagues -

Attached is the latest letter, with changes suggested by the UN. You will see that the major theme to their suggested changes are to give the UN more wiggle room, for example, they deleted the section mentioning BNP Paribas, so that they can be given more of a free hand in negotiating with them. All of these changes seem fine to me - in fact, they are essentially deleting language they suggested in previous versions. Could you take a look and let me know your thoughts?

Best,

Peter



SC draft letterSecretariat_10_28_08.doc

DRAFT LETTER
FROM THE PRESIDENT OF THE UNSC TO THE SECRETARY-GENERAL

Dear Mr. Secretary-General,

I have the honour to inform you that your letters dated 11 March 2008 and 25 July 2008 and the accompanying Notes concerning the processing of letters of credit pertaining to the Oil for Food Programme, have been brought to the attention of the members of the Security Council.

Security Council members continue to welcome the ongoing work of the United Nations Secretariat to bring a complete and timely conclusion to all outstanding issues related to the Oil for Food Programme, which terminated on 31 December 2007. In this regard, Council members express their concern at the slow processing of authentication documents by the Government of Iraq, and of the lack of resolution in the matter of the remaining 125 letters of credit with outstanding claims of delivery.

Accordingly, members of the Council decide that the Government of Iraq be given a final period of 45 days from the date of this letter to confirm delivery of the goods associated with the remaining 125 letters of credit with outstanding claims of delivery, and to issue and transmit the necessary confirmations of arrival to the UN Secretariat, in order for payment to be made under the relevant letters of credit. In the event that the necessary confirmations of arrival for the remaining letters of credit are not received by the UN Secretariat within 45 days, the Council members will consider other options pursuant to the definitive closure of the remaining activity of the Programme.

The Council members wish to reiterate that confirmations of arrival under the letter of credit should not be delayed or made contingent upon the resolution of commercial disputes. The Council members recall that such disputes should be handled in accordance with the dispute resolution mechanism provided for in the underlying contract, as stated in paragraph 5 of the accompanying Note to the Secretary-General's letter dated 11 March 2008.

Regarding letters of credit which were cancelled and where beneficiaries had made claims of delivery prior to their expiry, as identified in paragraph 8 of the accompanying Note to the Secretary-General's letter dated 7 December 2007, the Council members look forward to the Secretary-General's keeping the Security Council apprised of the developments in relation to such letters of credit.

Regarding letters of credit with no claims of delivery asserted by the supplier, Council members await the conclusion of the Secretariat's evaluation whether any or all of these letters of credit can be cancelled, and endorse the recommendation of cancellation. For any letter of credit cancelled, Council members request that the associated funds on deposit with the UN be made

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Deleted: and non-negotiable

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Deleted: 132

Deleted: and notwithstanding the provisions of relevant Security Council resolutions, Council members request the Secretariat to instruct BNP Paribas to proceed with payment to the suppliers provided that, with the exception of the confirmation of arrival, all other documentation required for payment by the letter of credit has been presented by the suppliers. ¶
¶

¶
For those letters of credit within the last group of 132 letters of credit where the Government of Iraq credibly contests delivery in spite of the documents presented by the beneficiaries,

Deleted: following the conclusion of the 45-day period noted in the preceding paragraph

available to the Development Fund for Iraq when all outstanding issues are resolved.

Council members reiterate their call upon the Government of Iraq to do its utmost, in liaison with the Secretariat of the United Nations, to expedite the processing of the remaining 125 letters of credit with outstanding claims of delivery. Members of the Council look forward to receiving a further progress report, and request that you provide such a report after the expiration of the 45-day deadline outlined above.

The members of the Security Council also take note of the possibility of transferring \$100 million of unencumbered funds to the Development Fund for Iraq (DFI). While Council members recognise the availability, in principle, of such funds for the transfer to the DFI in accordance with resolution 1483 (2003), members of the Council recommend that all unencumbered funds associated with the Oil for Food Programme remain in the Iraq escrow account until such time as all outstanding issues are resolved.

Deleted: The Council members wish to recall that commercial disputes in connection with the above letters of credit should be handled in accordance with the dispute resolution mechanism provided for in the underlying contract.

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Deleted: Council members take note of your recommendation that the situation be reviewed by the Working Group between the representatives of the Government of Iraq, the Central Bank of Iraq and the Secretariat, in early May.

Deleted: welcome your proposal for

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Deleted: 45

Christian Peters/NY/UNO
30/10/2008 11:19 AM

To taylor17@un.org
cc Maria Vicien-Milburn/NY/UNO@UNHQ, Blanca
Montejo/NY/UNO@UNHQ
bcc
Subject Termination of the Oil-for-Food Programme

Dear Ms. Taylor,

Further to our telephone conversation of earlier today, Mr. Peter Kujawinski of the US Mission to the United Nations has been coordinating the proposed draft letter from the President of the Security Council to the Secretary-General.

Mr. Kujawinski's e-mail address is: KujawinskiPI@state.gov

+tel 212 415 4373

We are available should you need any further information.

Thank you.

Best regards,

Christian

Christian Peters
General Legal Division
Office of Legal Affairs
United Nations

Phone: (917) 367-3348
Facsimile: (212) 963-3155

1st. try in Sept. 08
TCW PK on 31 Oct. 08
In Sept. SC sent a letter to UN. UN's agents
were with.
2 follow-up attempts.
UN has sent. UN has deleted most of the
suggestions.
+ Want to know exactly what the UN's
position is. Not clear. Says to keep
changing.
Agree that it is an open letter until we get back
to him with clarification.
LT

TCT Ms. McKenna 4 Nov. 08
My agent spoke to Taylor.
A Frenchman who said the letter was OK.
What is it? I told him I'd confirm
to him later.

TCT PK on 3 Nov. 08
Left a message for him for reply to
NH + CP.
LT

TCT Andrew McKenna 3 Nov. 08 212 415 4008
Told him the UN Secretariat has been with the
initial draft letter + wants to meet with the President
at a high level asap. PK is anxious to finish
everything. She'll get back to us. LT

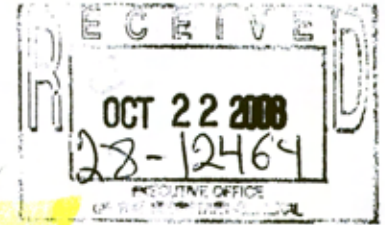
ACTION NH
COPY UN
KWB

STRICTLY CONFIDENTIAL

Note to Mr. Nambiar

Through Mr. Haysom

Termination of the Oil-for-Food Programme



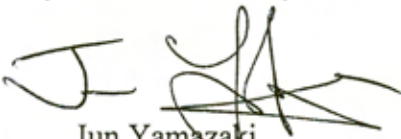
1. I refer to my Note to you of 19 September 2008 (*see* copy enclosed) concerning a proposed draft letter from the President of the Security Council to the Secretary-General that was shared with representatives of the Secretariat (the "Draft Letter"), setting forth certain proposals for the resolution of outstanding issues under the Oil-for-Food Programme (the "Programme").

2. Further to my Note, at an experts' meeting of the Permanent Members of the Security Council held on 19 September 2008 (the "Experts Meeting"), the Secretariat advised that the proposal set forth in the Draft Letter was not consistent with the legal framework of the Programme, as established by the Security Council, and that it could expose the Organization to litigation. On 17 October 2008, a revised Draft Letter was shared with the Secretariat for comments (*see* copy enclosed). Regrettably, the revised Draft Letter does not address any of the concerns discussed at the Experts Meeting, described in more detail in my referenced Note to you, which remain valid. However, I understand that the revised Draft Letter represents the consensus of the Permanent Members of the Security Council.

3. In light of the circumstances, you may wish to consider holding consultations with the Permanent Members of the Security Council to propose certain amendments to the revised Draft Letter. I would, of course, be pleased to participate in any such consultations. Attached herewith is our suggested draft letter which could be discussed with the Permanent Members of the Security Council. In essence, the Secretariat would advise that the Government of Iraq be given a final and non-negotiable 45-day time period from the date of the issuance of letter by the Security Council to confirm delivery of the goods associated with the remaining letters of credit with outstanding claims of delivery (*see* copy attached). Following the expiry of such period, the Security Council may consider the following alternatives:

- (a) the establishment of the dispute resolution mechanism, as proposed by the Secretary-General in his letter to the President of the Security Council, dated 7 December 2007 (S/2007/725) or a simplified version thereof, or,
- (b) the transfer of the administration of the remaining activity under the Programme to the Government of Iraq; or
- (c) the cancellation of all remaining letters of credit with outstanding claims of delivery pursuant to the definitive closure of the Programme.

Any of the above alternatives would require a comprehensive and fully funded indemnity from the Government of Iraq to the United Nations.


Jun Yamazaki
22 October 2008

cc: Ms. Kane

DRAFT LETTER
FROM THE PRESIDENT OF THE UNSC TO THE SECRETARY-GENERAL

Dear Mr. Secretary-General,

I have the honour to inform you that your letters dated 11 March 2008 and 25 July 2008 and the accompanying Notes concerning the processing of letters of credit pertaining to the Oil for Food Programme, have been brought to the attention of the members of the Security Council.

Security Council members continue to welcome the ongoing work of the United Nations Secretariat to bring a complete and timely conclusion to all outstanding issues related to the Oil for Food Programme, which terminated on 31 December 2007. In this regard, Council members express their concern at the slow processing of authentication documents by the Government of Iraq, and of the lack of resolution in the matter of the remaining 132 letters of credit with outstanding claims of delivery.

Accordingly, members of the Council decide that the Government of Iraq be given 45 days from the date of this letter to confirm delivery of the goods associated with the remaining 132 letters of credit with outstanding claims of delivery, as reported in the accompanying Note to the Secretary-General's letter dated 25 July 2008, and to issue and transmit the necessary confirmations of arrival to the UN Secretariat, in order for payment to be made under the relevant letters of credit. In the event that the necessary confirmations of arrival for the remaining 132 letters of credit are not received by the UN Secretariat within 45 days, and notwithstanding the provisions of relevant Security Council resolutions, Council members request the Secretariat to instruct BNP Paribas to proceed with payment to the suppliers provided that, with the exception of the confirmation of arrival, all other documentation required for payment by the letter of credit has been presented by the suppliers.

For those letters of credit within the last group of 132 letters of credit where the Government of Iraq credibly contests delivery in spite of the documents presented by the beneficiaries, the Council members will consider other options following the conclusion of the 45-day period noted in the preceding paragraph.

The Council members wish to reiterate that confirmations of arrival under the letter of credit should not be delayed or made contingent upon the resolution of commercial disputes. The Council members recall that such disputes should be handled in accordance with the dispute resolution mechanism provided for in the underlying contract, as stated in paragraph 5 of the accompanying Note to the Secretary-General's letter dated 11 March 2008.

Regarding letters of credit which were cancelled and where beneficiaries had made claims of delivery prior to their expiry, as identified in paragraph 8 of the accompanying Note to the Secretary-General's letter dated 7 December 2007, the Council members look forward to the Secretary-General's keeping the Security Council apprised of the developments in relation to such letters of credit.

Regarding letters of credit with no claims of delivery asserted by the supplier, Council members await the conclusion of the Secretariat's evaluation whether any or all of these letters of credit can be cancelled, and endorse the recommendation of cancellation. For any letter of credit cancelled, Council members request that the associated funds on deposit with the UN be made available to the Development Fund for Iraq when all outstanding issues are resolved. The Council members wish to recall that commercial disputes in connection with the above letters of credit should be handled in accordance with the dispute resolution mechanism provided for in the underlying contract.

Council members reiterate their call upon the Government of Iraq to do its utmost, in liaison with the Secretariat of the United Nations, to expedite the processing of the remaining 132 letters of credit. Council members take note of your recommendation that the situation be reviewed by the Working Group between the representatives of the Government of Iraq, the Central Bank of Iraq and the Secretariat, in early May. Members of the Council welcome your proposal for a further progress report, and request such a report after the expiration of the 45 day deadline outlined above.

The members of the Security Council also take note of the possibility of transferring \$100 million of unencumbered funds to the Development Fund for Iraq (DFI). While Council members recognise the availability, in principle, of such funds for the transfer to the DFI in accordance with resolution 1483 (2003), members of the Council recommend that all unencumbered funds associated with the Oil for Food Programme remain in the Iraq escrow account until such time as all outstanding issues are resolved.

DRAFT LETTER – With the Secretariat suggested changes
FROM THE PRESIDENT OF THE UNSC TO THE SECRETARY-GENERAL

Dear Mr. Secretary-General,

I have the honour to inform you that your letters dated 11 March 2008 and 25 July 2008 and the accompanying Notes concerning the processing of letters of credit pertaining to the Oil for Food Programme, have been brought to the attention of the members of the Security Council.

Security Council members continue to welcome the ongoing work of the United Nations Secretariat to bring a complete and timely conclusion to all outstanding issues related to the Oil for Food Programme, which terminated on 31 December 2007. In this regard, Council members express their concern at the slow processing of authentication documents by the Government of Iraq, and of the lack of resolution in the matter of the remaining 132-letters of credit with outstanding claims of delivery, as reported in the accompanying Note to the Secretary-General's letter dated 25 July 2008.

Accordingly, members of the Council decide that the Government of Iraq be given a final and non-negotiable period of 45 days from the date of this letter to confirm delivery of the goods associated with the remaining 132 letters of credit with outstanding claims of delivery, ~~as reported in the accompanying Note to the Secretary-General's letter dated 25 July 2008,~~ and to issue and transmit the necessary confirmations of arrival to the UN Secretariat, in order for payment to be made under the relevant letters of credit. In the event that the necessary confirmations of arrival for the remaining 132 letters of credit are not received by the UN Secretariat within 45 days, ~~and notwithstanding the provisions of relevant Security Council resolutions, Council members request the Secretariat to instruct BNP Paribas to proceed with payment to the suppliers provided that, with the exception of the confirmation of arrival, all other documentation required for payment by the letter of credit has been presented by the suppliers.~~

~~For those letters of credit within the last group of 132 letters of credit where the Government of Iraq credibly contests delivery in spite of the documents presented by the beneficiaries, the Council members will consider other options pursuant to the definitive closure of the remaining activity of the Programme following the conclusion of the 45-day period noted in the preceding paragraph.~~

The Council members wish to reiterate that confirmations of arrival under the letter of credit should not be delayed or made contingent upon the resolution of commercial disputes. The Council members recall that such disputes should be handled in accordance with the dispute resolution mechanism provided for in

the underlying contract, as stated in paragraph 5 of the accompanying Note to the Secretary-General's letter dated 11 March 2008.

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Council members reiterate their call upon the Government of Iraq to do its utmost, in liaison with the Secretariat of the United Nations, to expedite the processing of the remaining 132 letters of credit with outstanding claims of delivery. ~~Council members take note of your recommendation that the situation be reviewed by the Working Group between the representatives of the Government of Iraq, the Central Bank of Iraq and the Secretariat, in early May. Members of the Council look forward to receiving welcome your proposal for a further progress report, and request that you provide such a report after the expiration of the 45-45-day deadline outlined above.~~

The members of the Security Council also take note of the possibility of transferring \$100 million of unencumbered funds to the Development Fund for Iraq (DFI). While Council members recognise the availability, in principle, of such funds for the transfer to the DFI in accordance with resolution 1483 (2003), members of the Council recommend that all unencumbered funds associated with the Oil for Food Programme remain in the Iraq escrow account until such time as all outstanding issues are resolved.