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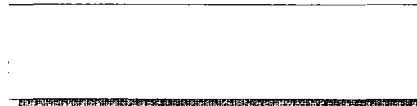
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THE SECRETARY-GENERAL

U.S.  
IRAQ PROGRAMME

16 April 2004

Dear Congressman Hyde,

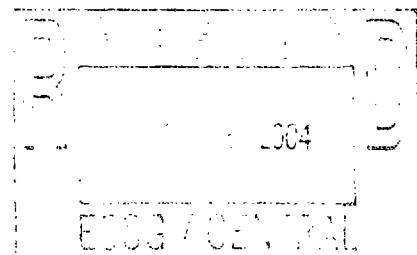
I am writing in response to your letter of 1 April 2004, in which you related your concerns about allegations surrounding the administration of the Oil-for-Food Programme, and expressed views with regard to the independent inquiry that I have established to examine these allegations.

At the outset, I should like to assure you that I, and the Organization as a whole, take these allegations very seriously. I am committed to addressing them forthrightly, in order to bring to light the truth and prevent an erosion of the trust and hope that the international community has invested in the Organization.

I have taken note of the particular points made in your letter regarding the independent inquiry, and I am pleased to be able to advise that the terms of reference that I have established for the independent inquiry address many of your points, and other points are addressed by steps that we have taken and are continuing to take. For your information, I enclose a copy of the terms of reference for the inquiry. I discuss below the points raised in your letter in the order in which they appeared.

1. The agencies and offices of the United Nations dealing with the Oil-for-Food Programme, as well as entities with which the United Nations contracted in connection with its administration and management of the Programme, including BNP-Paribas, have been advised to retain and safeguard all records relating to the Programme. In addition, agencies, funds and programmes of the United Nations which themselves entered into contracts in connection with the Programme have been advised to require these contractors to retain and safeguard all such records. With regard to

The Hon. Henry J. Hyde  
Chairman  
Committee on International Relations  
Congress of the United States  
Washington, D.C.



your point concerning access to these records by the inquiry, the terms of reference for the inquiry specify that “the independent inquiry shall have unrestricted access to all relevant United Nations records and information, written or unwritten ...”. This would include records kept by contractors of the United Nations and its agencies, funds and programmes pursuant to these contracts.

2. You may be assured that, in appointing persons to serve on the inquiry, I shall bear firmly in mind the necessity that they be truly independent.

3. With regard to obtaining the cooperation of Member States, the terms of reference of the inquiry provide that, “[t]he independent inquiry shall be authorized to approach and seek the cooperation of Member States and their relevant authorities, as appropriate, in order to obtain information needed to carry out its work”. In response to the terms of reference, the Security Council Members expressed to the Secretary-General “their readiness to cooperate with the inquiry” and called upon other Member States to do likewise.

4. The taking of affidavits from personnel involved in the Programme is, in my view, a matter that should be left to the independent inquiry, to avoid compromising in any way the integrity or effectiveness of the inquiry.

5. With regard to whistle-blower protection, as stated in the terms of reference of the inquiry, “I shall seek to protect such officials and personnel, as appropriate, from improper repercussions resulting from their cooperation with the inquiry”. In addition, the report of the inquiry will “respect any undertakings as to confidentiality that may have been granted by the inquiry”.

6. To address the necessity that the inquiry be free of any influence by any United Nations official, the terms of reference of the inquiry provide that, “[t]he independent inquiry will carry out its work impartially and objectively and without influence by any individual or group, regardless of their status”.

With reference to the last paragraph of your letter, while the Organization looks forward to cooperating, as may be appropriate, with the inquiry by the House Committee on International Relations, I would like to stress that I am committed to maintaining the independence and integrity of the high-level independent inquiry I am establishing. Towards that end, I will soon be appointing individuals with outstanding credentials and reputations to carry out this important inquiry.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'K. Annan', written in a cursive style.

Kofi A. Annan



LE SECRÉTAIRE GÉNÉRAL

Le 26 mars 2004

Monsieur le Président,

La présente fait suite à ma lettre du 19 mars 2004, par laquelle je vous faisais part de mon intention d'ouvrir une enquête indépendante de haut niveau sur les questions évoquées par la presse (articles et commentaires) mettant en cause l'administration et la gestion du programme « pétrole contre nourriture », y compris les allégations de fraude et de corruption.

Je vous fais tenir aujourd'hui des précisions sur les modalités et le mandat de cette enquête. Inspiré par un souci infini de transparence et d'efficacité dans l'examen qui sera fait de la conduite de l'Organisation des Nations Unies, des cocontractants (fournisseurs) et des autres entités qui ont concouru à l'administration et à la mise en oeuvre du programme, le mandat doit permettre de tirer de l'enquête tous enseignements utiles, dans l'intérêt de l'Organisation, du public et du peuple iraquien.

#### Composition

Comme membres du groupe d'enquête indépendant, je choisirai des personnalités dont j'estime qu'elles possèdent les plus hautes qualités d'intégrité et les compétences nécessaires pour mener l'enquête en toute diligence et efficacité. Ces membres exerceront leurs fonctions à titre individuel. J'informerai les membres du Conseil de sécurité de la composition du groupe le moment venu.

Son Excellence  
Monsieur Jean-Marc de La Sablière  
Président du Conseil de sécurité  
New York

## Mandat

Le groupe d'enquête indépendant réunira et examinera toutes informations intéressant l'administration et la gestion du programme « pétrole contre nourriture », y compris les allégations de fraude et de corruption portées contre des fonctionnaires, membres du personnel et agents de l'Organisation des Nations Unies, ainsi que des cocontractants (fournisseurs), y compris les entités ayant conclu des contrats avec l'Organisation ou avec l'Iraq dans le cadre du programme en vue d'établir :

a) Si les procédures arrêtées par l'Organisation, y compris le Conseil de sécurité et le Comité du Conseil de sécurité créé par la résolution 661 (1990) concernant la situation entre l'Iraq et le Koweït (ci-après appelé « Comité 661 »), pour le traitement et l'approbation des contrats relevant du programme, le contrôle de la vente et des livraisons de pétrole et de produits pétroliers et l'achat et la livraison d'articles humanitaires ont été violées, le rôle de chaque fonctionnaire, membre du personnel et agent des Nations Unies ainsi que de toutes entités ayant passé des contrats avec l'Organisation ou avec l'Iraq dans le cadre du programme étant pris en compte;

b) Si tel(s) fonctionnaire(s), membre(s) du personnel, agent(s) ou cocontractant(s) [fournisseur(s)] de l'Organisation se sont livrés à des activités illicites ou à des actes de corruption dans l'exercice de leurs fonctions respectives en relation avec le programme, y compris, par exemple, à des actes de corruption à l'occasion de la vente de pétrole, au paiement irrégulier de surtaxes sur les ventes de pétrole et à des paiements illicites à l'occasion de l'achat d'articles humanitaires;

c) Si la comptabilité du programme était en règle et tenue en conformité avec le Règlement financier et règles de gestion financière de l'Organisation des Nations Unies.

## Modalités de l'enquête

Dans l'exécution de son mandat, le groupe d'enquête indépendant tiendra compte des dispositions de la résolution 986 (1995) du Conseil de sécurité et des autres résolutions du Conseil de sécurité ayant trait au programme; des procédures arrêtées par le Comité 661 (S/1996/636\*); et du Mémorandum d'accord entre le Secrétariat de l'Organisation des Nations Unies et le Gouvernement iraquien sur l'application de la résolution 996 (1995) signé le 20 mai 1996 (S/1996/356\*).

Pour s'acquitter des tâches susmentionnées, le groupe d'enquête indépendant aura toute latitude pour consulter tous documents et renseignements pertinents, sous forme écrite ou non, des Nations Unies,

interroger tous fonctionnaires et membres du personnel intéressés de l'Organisation des Nations Unies, quel que soit leur rang. Je ferai en sorte que tous fonctionnaires et membres du personnel de l'Organisation auxquels il est demandé de coopérer avec le groupe d'enquête n'encourent aucun préjudice indu de ce fait. En outre, j'userai de mon autorité pour faire en sorte que les privilèges et immunités de l'Organisation ne viennent contrarier le groupe d'enquête dans sa mission.

Le groupe d'enquête indépendant pourra également obtenir tous documents et renseignements utiles en dehors de l'ONU et interroger des personnes extérieures à l'Organisation qui pourraient l'aider dans ses travaux. Il traitera ces documents et renseignements avec le degré de confidentialité qui lui semblera s'imposer et accordera à ces personnes telle protection qu'il jugera nécessaire, en veillant notamment, le cas échéant, à ce qu'elles n'encourent aucun préjudice indu du fait de leur concours à l'enquête.

Le groupe d'enquête indépendant pourra s'adresser aux États Membres et à leurs autorités compétentes, selon que de besoin, et leur demander de coopérer avec lui pour obtenir toutes informations utiles pour ses travaux. À cet égard, je compte sur le Conseil de sécurité et sur les États Membres pour prendre toutes les mesures voulues afin qu'eux-mêmes et leurs autorités compétentes apportent au groupe toute l'assistance et la coopération dont il pourrait avoir besoin pour mener ses travaux.

Le groupe d'enquête indépendant mènera ses travaux en toute impartialité et objectivité et sans se laisser influencer par quelque personne ou quelque groupe que ce soit, quel que soit son statut.

En vertu des pouvoirs à lui conférés par l'Assemblée générale (dans ses résolutions 48/218 B et 54/244), le Bureau des services de contrôle interne (BSCI) a récemment ouvert une enquête sur les allégations d'actes de corruption et d'autres infractions contre le programme « pétrole contre nourriture ». Je demanderai au BSCI de clore son enquête et de transmettre tous documents et autres pièces qu'il pourrait avoir réunis à cette occasion, dans la mesure où il y est autorisé par les règles de protection de la confidentialité des sources d'information définies dans son mandat (ST/SGB/273 du 7 septembre 1994).

Le groupe d'enquête indépendant sera secondé par une équipe de fonctionnaires que le Secrétariat mettra à sa disposition pour qu'elle lui fournisse l'appui administratif nécessaire. Il pourra aussi solliciter le concours d'enquêteurs, d'auditeurs et de comptables professionnels, d'experts scientifiques et techniques et d'autres experts ou cabinets d'experts.

Je demanderai que les montants nécessaires au financement des activités du groupe d'enquête indépendant soient inscrits au budget ordinaire de l'Organisation.

Dans le cadre de ses activités, le groupe d'enquête indépendant respectera le droit à une procédure régulière des personnes qu'il entendra. À cet égard, toute personne dont le nom figurera dans les rapports du groupe d'enquête indépendant devra, dans la mesure du possible, avoir été entendue par lui. Toute personne ou entité mentionnée dans les rapports aura la faculté de présenter au groupe d'enquête des observations écrites qui seront reproduites dans une annexe au rapport final.

Le groupe d'enquête indépendant pourra demander ou accepter que des renseignements lui soient soumis à titre confidentiel si cela s'avère nécessaire ou utile aux fins de l'enquête.


Rapport du groupe d'enquête indépendant

Le groupe d'enquête indépendant s'efforcera d'achever ses travaux le plus tôt possible et, en tout état de cause, de me soumettre dans les trois mois suivant la date de la présente lettre un rapport sur l'état d'avancement de ses travaux.

Le rapport final du groupe d'enquête indépendant me sera présenté en cinq exemplaires et comprendra deux parties : le résumé et le corps du rapport. Dans le corps du rapport seront données des explications complètes à l'appui des conclusions du groupe. Le rapport sera rendu public sous une forme qui tiendra compte des droits des fonctionnaires et, le cas échéant, des engagements pris par le groupe d'enquête en matière de confidentialité.

Suivant les conclusions du rapport, je prendrai, dans les limites de mes compétences, les mesures que je jugerai appropriées à l'encontre des personnes ou des entités dont il aura été établi qu'elles ont enfreint les règles ou les procédures de l'Organisation, ou qu'elles se sont livrées à des activités irrégulières ou illicites ou se sont rendues coupables de corruption.

Je vous prie d'agréer, Monsieur le Président, les assurances de ma très haute considération.



Kofi A. Annan



26 March 2004

Dear Mr. President,

This is further to my letter of 19 March 2004, in which I informed you of my intention to establish an independent, high-level inquiry concerning matters arising from the public news reports and commentaries that have called into question the administration and management of the Oil-for-Food Programme, including allegations of fraud and corruption. I have the honour to communicate in the present letter details relating to the organization and the terms of reference of this inquiry. These terms of reference are designed to promote the maximum degree of transparency and effectiveness in examining the conduct of the Organization, contractors and other entities involved in the administration and implementation of the Programme, with a view to ensuring that all appropriate lessons from that experience are derived for the benefit of the Organization, the public, and the Iraqi people.

Composition

In determining the members of the inquiry, I shall select individuals whom I consider to be of the highest integrity and to possess the necessary expertise for carrying out the inquiry in an expeditious and effective manner. The members of the independent inquiry will serve in their personal capacity. I shall inform the Members of the Security Council of the composition of the panel in due course.

His Excellency  
Mr. Jean-Marc de La Sablière  
President of the Security Council  
New York

### Terms of Reference

The independent inquiry shall collect and examine information relating to the administration and management of the Oil-for-Food Programme, including allegations of fraud and corruption on the part of United Nations officials, personnel and agents, as well as contractors, including entities that have entered into contracts with the United Nations or with Iraq under the Programme:

(a) to determine whether the procedures established by the Organization, including the Security Council and the Security Council Committee Established by Resolution 661 (1990) Concerning the Situation between Iraq and Kuwait (hereinafter referred to as the "661 Committee") for the processing and approval of contracts under the Programme, and the monitoring of the sale and delivery of petroleum and petroleum products and the purchase and delivery of humanitarian goods, were violated, bearing in mind the respective roles of United Nations officials, personnel and agents, as well as entities that have entered into contracts with the United Nations or with Iraq under the Programme;

(b) to determine whether any United Nations officials, personnel, agents or contractors engaged in any illicit or corrupt activities in the carrying out of their respective roles in relation to the Programme, including, for example, bribery in relation to oil sales, abuses in regard to surcharges on oil sales and illicit payments in regard to purchases of humanitarian goods;

(c) to determine whether the accounts of the Programme were in order and were maintained in accordance with the relevant Financial Regulations and Rules of the United Nations.

### Organization of the inquiry

In performing these functions, the independent inquiry shall take into account Security Council resolution 986 (1995) and other resolutions of the Security Council relating to the Programme; Procedures established by the 661 Committee (S/1996/636\*) and the Memorandum of Understanding between the Secretariat of the United Nations and the Government of Iraq on the Implementation of Security Council resolution 986 (1995), signed on 20 May 1996 (S/1996/356\*).

To carry out the above-referred tasks, the independent inquiry shall have unrestricted access to all relevant United Nations records and information, written or unwritten, and to interview all relevant United Nations officials and personnel, regardless of their seniority. In requiring United Nations officials and personnel to cooperate with the inquiry, I shall seek to protect such officials and personnel, as appropriate, from improper repercussions resulting from their cooperation with the inquiry. In addition, I will employ my authority to ensure that the Organization's privileges and immunities do not impede the work of the inquiry.

The independent inquiry shall also seek to obtain records and information and interview persons outside the United Nations Organization that may be relevant to the inquiry. In doing so, the inquiry will accord such confidentiality and protection as it deems appropriate to such records, information and persons, including such as may be necessary to protect such persons, as appropriate, from improper repercussions resulting from their cooperation with the inquiry.

The independent inquiry shall be authorized to approach and seek the cooperation of Member States and their relevant authorities, as appropriate, in order to obtain information needed to carry out its work. In this regard, I look to the Security Council and the Member States to take such measures as are necessary to ensure that they and relevant authorities falling under their jurisdiction provide all assistance and cooperation which the inquiry may require in connection with its work.

The independent inquiry will carry out its work impartially and objectively and without influence by any individual or group, regardless of their status.

The Office of Internal Oversight Services recently commenced an inquiry into the reported allegations of corruption, including criminal acts, in the Oil for Food Programme pursuant to the authority granted by the General Assembly [A/RES/48-218 B, A/RES/ 54/244]. I will request that OIOS terminate its inquiry and provide such documents and other materials as they may have collected in connection with that investigation to the extent possible pursuant to the confidentiality requirements for sources of information as provided in the OIOS mandate [ST/SGB/273 of 7 September 1994].

The independent inquiry shall be supported by a core staff provided by the United Nations Secretariat to render necessary administrative assistance. In addition, the independent inquiry shall be authorized to engage professional investigators, auditors, accountants, forensic experts, and similar personnel or firms to assist it in carrying out its work.

I will seek the necessary appropriation from the regular budget of the Organization to fund the activities of the independent inquiry.

In carrying out its work, the inquiry shall respect the due process of persons appearing before it. In this connection, any individual named in the reports of the independent inquiry shall, whenever practicable, have been interviewed by the independent inquiry. Any individual or entity named in the reports shall have an opportunity to submit written comments to the independent inquiry, which shall be annexed to the final report.

The independent inquiry may seek and accept information provided on a confidential basis if necessary or appropriate to the completion of its work.

#### Report of the inquiry

The independent inquiry shall seek to complete its work as soon as practicable, and in any event shall submit to me, within three months after the date of this letter, a report as to the status of its work.

The final report of the independent inquiry shall be submitted to me in five copies, and shall be in two parts: a summary and the underlying report. The underlying report shall provide full explanation to support its findings. The report will be made available to the public in a form that will take into account the rights of staff members and, where necessary, respect any undertakings as to confidentiality that may have been granted by the inquiry.

Taking into account the findings of the report, I will take such action as I may deem appropriate and is within my authority in regard to individuals or entities found to have violated the rules or procedures of the Organization or to have engaged in abusive, illicit or corrupt activities.

Please accept, Mr. President, the assurances of my highest consideration.

Kofi A. Annan

One Hundred Eighth Congress  
Congress of the United States  
Committee on International Relations  
House of Representatives  
Washington, DC 20515

(202) 225-5021

[http://www.house.gov/international\\_relations/](http://www.house.gov/international_relations/)

April 1, 2004

His Excellency Kofi A. Annan  
Secretary-General  
The United Nations Secretariat  
One United Nations Plaza  
New York, New York 10017

Dear Mr. Secretary-General:

Please permit me to bring to your attention concerns I have about allegations surrounding the administration of the U.N. Oil-for-Food Program, and reports that you are ready to announce members of a panel to investigate potential criminal wrongdoing by U.N. officials and others. The Iraqi people suffered three decades of unspeakable horror at the hands of Saddam Hussein, and they are owed an honest and comprehensive explanation of whether proceeds from oil sales - overseen by the United Nations for Iraq's humanitarian needs - were used instead as an instrument of repression and corruption. All U.N. member states deserve an accounting of alleged U.N. management failures.

Your decision to endorse a second more thorough and independent investigation is welcomed, but its structure and scope is a matter of great concern to many in Congress. If there is truth to allegations that the Iraqi regime, with assistance from U.N. officials in some cases, wrongfully acquired \$10.1 billion through oil smuggling, oil sale surcharges, and illegal commissions on Oil-for-Food contracts, this represents a scandal without precedent in U.N. history. Your response to these allegations must be equally unprecedented.

I am sure you agree that any investigation approved by the Security Council must be independent, or it will suffer from fatal credibility questions and charges of bias and conflict of interest. I believe it is in your interest, and that of the U.N., to be mindful of a number of concerns that we have about procedures now being contemplated by you in the creation of this panel:

1. All documents (paper and electronic) including, but not limited to, contracts, audits, accounting ledgers, vouchers, contract approval records, all records of the 661 Committee, phone logs and records, schedules, travel records, bids, bank records (including those of Banque National de Paris), notes, computer email, and other information related to the U.N. Office of Iraq Programs and all U.N. offices operating

24-04942

His Excellency Kofi A. Annan

April 1, 2004

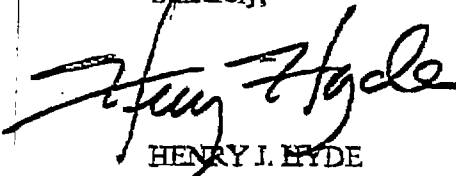
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- in Iraq and other information related to the Oil-for-Food Program must be preserved and secured from all locations for use by independent investigators. The panel must have full authority to ask for and review these documents and to conduct wide-ranging interviews with current and former staff in New York, Geneva, Paris, Moscow, Iraq and other appropriate locations.
2. Vetting procedures that ensure independence of potential commission members are vitally important and address potential conflicts of interest of prospective members with links to the U.N. and member states, companies, contractors, subcontractors or individuals, connected with the Oil-for-Food Program.
  3. Cooperation from member governments must be secured.
  4. Affidavits from persons involved in the program must be taken immediately.
  5. Whistle-blower protections must be provided for any and all persons who might come forward with information regarding alleged criminal activities by U.N. employees.
  6. At no time in the course of this panel's deliberations should any U.N. official be in a position to influence the panel's activities or conclusions.

As you might be aware, I have ordered an inquiry into this matter by the House Committee on International Relations. It is my intention to convene public hearings soon. Your willingness to make available to the Committee a manager in the U.N. Office of Iraq Programs was much appreciated. You may expect additional similar requests shortly from the Committee including requests for documents and access as described in Item 1. You should also expect that the Committee will formally request that representatives of your office be available to brief Committee staff and give testimony during the course of our inquiry.

With best wishes, I remain

Sincerely,



HENRY I. HYDE  
Chairman

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