

# **OIL-FOR-FOOD PROGRAMME**

**Phasing down and termination of the Programme  
pursuant to Security Council resolution 1483 (2003)**

**Statement by**

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Mr. President,

In paragraph 16 of its resolution 1483 (2003) adopted on 22 May 2003 the Security Council requested the Secretary-General to continue to exercise his responsibilities under resolutions 1472 (2003) and 1476 (2003) for a period of six months following the adoption of resolution 1483 (2003), and terminate within this time period, in the most cost effective manner, the ongoing operations of the Oil-for-Food Programme, both at headquarters level and in the field, transferring responsibility for the administration of any remaining activity under the Programme to the Authority – the Coalition Provisional Authority (CPA).

As we count down to our termination of the Programme in two days (Friday, 21 November), I should like to update the information I provided to the Security Council at its 4851<sup>st</sup> meeting held on 28 October 2003, with regard to the phasing down and termination of the Programme, including the status of contract prioritisation, humanitarian deliveries, letters of credit, authentication of goods, contract processing, transfer of assets and projects, as well as the assignment of contracts. My update will cover action taken as at 18 November 2003.

The transfer process is being carried out through the use of model agreements and other documents that were prepared by the Office of the Iraq Programme (OIP) in close consultation with the United Nations Office of Legal Affairs, and approved by the CPA. Assets, facilities and installations purchased by UN agencies and programmes are being transferred to the CPA pursuant to the relevant provisions of resolution 1483 (2003), and from the CPA to the relevant Iraqi authorities, through the use of transfer agreements and transfer certificates, which describe the assets, facilities and installations being transferred. Active contracts are being assigned by the UN agencies and programmes concerned to the CPA pursuant to contract assignment/modification agreements. In addition, claims and disputes, which are not covered by one of the aforementioned agreements, will be transferred to the CPA through the use of assignment agreements designed for that purpose. Finally, the custody of goods which are in the possession of the United Nations, but which are not owned by the United Nations, is being transferred to the CPA through the use of possession and custody transfer agreements and certificates. This galaxy of agreements will transfer to the CPA virtually all of the rights, obligations and liabilities of the United Nations relating to the Programme, as envisioned by resolution 1483 (2003).

### **Transfer of activities in the centre and south**

### Prioritisation of contracts pursuant to paragraph 16 of resolution 1483 (2003)

Handover arrangements for the centre and south involved a tripartite review of all remaining contracts for humanitarian supplies and equipment submitted under the Programme. This review procedure by the United Nations, the CPA and the relevant Iraqi authorities has covered approved and fully funded contracts (4,834 with a total value of \$7.9 billion at the beginning of the exercise), as well as many of the approved but unfunded contracts (3,586 with a total value of \$7.07 billion). Adjustments were also made for alternative delivery and authentication sites to enable the delivery of supplies and equipment to Iraq.

Pursuant to Security Council resolutions 1472 (2003) and 1476 (2003), a total of \$1.4 billion worth of items were prioritised from the Programme's humanitarian delivery pipeline of over \$10 billion under the ESB (59 per cent) account. The goods that could be shipped to Iraq for emergency needs under the above resolutions, pertained to the following sectors: food (\$748 million), electricity (\$297 million), agriculture (\$184 million), health (\$126 million), and water and sanitation (\$40 million).

As at 17 November 2003, an additional 2,937 approved and funded contracts worth some \$6.51 billion had been classified to have relative utility in the following sectors: food (\$1.52 billion), electricity (\$1 billion), food handling (\$517 million), water and sanitation (\$406 million), agriculture (\$632 million), health (\$294 million), housing (\$442 million), telecommunications and transport (\$301 million), education (\$200 million) and oil spare parts (\$989 million). An additional 694 contracts worth \$715 million were initially determined to have relative utility but were later removed from the list for a variety of reasons. In some cases it was determined that the contracted goods had either been fully delivered or, for whatever reasons, the suppliers were not interested or able to complete deliveries at this time. These contracts will not be amended by the United Nations prior to 21 November 2003, and will be transferred to the CPA for further processing, where applicable.

The number of approved and funded contracts that have not been determined to have relative utility stands at 868, with a total value of \$1.35 billion. They include some 500 approved and funded contracts, with previously issued letters of credit, worth about \$288 million, against which the suppliers concerned had already delivered some of the goods to Iraq before the war stopped further deliveries. It should be noted that these 868 contracts do not include contracts with negligible balances which suppliers are not interested to pursue. There are 721 contracts worth a total of some \$28 million in this category.

As at 17 November 2003, 386 approved but unfunded contracts worth some \$706 million had been funded following determination of their relative utility and urgent need in the following sectors: food (\$539 million), electricity (\$20 million), food handling (\$62 million), water and sanitation (\$1.6 million), agriculture (\$67 million), health (\$2.8 million), housing (\$0.6 million), education (\$4.2 million), industry (\$8.2 million). There remain 3,226 approved but unfunded contracts, with a total value of \$6.4 billion.

While the United Nations and the CPA have continued to review the relative utility of the approved and funded contracts in the pipeline, the CPA has informed the Office of the Iraq Programme that they "do not anticipate that this process will result in a large number of additional contracts moving forward" by 21 November 2003. Prioritised contracts that cannot be amended by the UN agencies and programmes before the termination of the Programme, will be transferred to the CPA for appropriate action.

Pursuant to paragraph 16 (b) of resolution 1483 (2003), action on "contracts determined to be of questionable utility and their respective letters of credit" will be postponed "until an internationally recognized, representative government of Iraq is in a position to make its own determination as to whether such contracts shall be fulfilled."

#### Amendment of prioritized contracts

Of a total of 2,937 prioritised contracts, the UN agencies and programmes have negotiated amendments to 2,783 (94.8 per cent). I am happy to report that the UN agencies and programmes have successfully delivered on their repeated assurances to the Office of the Iraq Programme that the amendment of remaining prioritised contracts will be completed, albeit with some exceptional extension of the deadlines, and despite some additions to the list of priority contracts that have been submitted very recently. The Office of the Iraq Programme has made arrangements, on an exceptional basis, to process amendments that were delayed for reasons beyond the control of suppliers, up until 19 November 2003. I am providing the Council with a table categorizing contracts for which amendments were still pending as at 17 November (Table I).

#### New projects

On my recommendation, the Security Council Committee established by resolution 661 (1990) approved, on an exceptional basis, 13 projects for the procurement of items, including \$189 million for the local procurement of wheat and barley, not covered by approved and funded or unfunded contracts. Approval of these projects, with a total value of \$459 million, was based on the essential needs of the Iraqi people, as identified by the United Nations, in coordination with the CPA and the relevant Iraqi authorities. As at 17 November 2003, 183 contracts for goods and services worth \$134 million were submitted and approved under these projects in the health (\$18 million), agriculture (\$94 million) and education (\$22 million) sectors, respectively.

#### Delivery of supplies under resolutions 1472 (2003) and 1476 (2003)

As at 17 November 2003, under resolutions 1472 (2003), 1476 (2003) and 1483 (2003), UN agencies and programmes had arranged the delivery of goods worth over \$1.14 billion, including \$218 million worth of items authenticated under new procedures introduced on 10 October 2003. For those goods that are still at locations outside Iraq and cannot be delivered into Iraq by 21 November 2003, arrangements are being made for their transfer to the CPA outside Iraq before that date.

Goods that are consigned to UN agencies and programmes under resolutions 1472 (2003) and 1476 (2003) but not received by them by 21 November, will be consigned to the relevant Iraqi authority. The UN agencies and programmes will provide a list of the goods falling under these two categories to the CPA.

#### Goods in transit

Goods worth \$403 million were established to be in transit to Iraq when the United Nations independent inspection agents were withdrawn from the country in mid-March 2003 for security reasons. Among them are prioritised goods under 256 contracts valued at \$309 million. Arrangements are being made for the holders of the remaining 35 contracts to be compensated under paragraph 4 (g) of resolution 1472 (2003). UNOPS is currently assessing the storage,

transportation and insurance costs accrued under these contracts to determine the amounts of compensations that may be claimed, and will advise the suppliers shortly to dispose of the goods in alternative markets.

#### Letters of credit

The "cash collateral" associated with all contracts in the following categories will be maintained in the United Nations Iraq Account until the contracted goods are delivered in full and payments have been made to suppliers according to the terms and conditions of the related letters of credit as follows:

- a. Contracts assigned relative utility and priority which have letters of credit issued and outstanding and which will be extended according to the amended agreements between the UN agencies and programmes concerned and the supplier;
- b. Contracts assigned relative utility and priority for which new letters of credit are being issued by BNP Paribas at the request of the United Nations Treasury in accordance with the amendment agreed to between the adopting UN agency and programme and supplier;
- c. Contracts of questionable utility that have letters of credit issued and outstanding. The United Nations will allow such expiring letters of credit to lapse. These contracts will be held in abeyance until an internationally recognized, representative government of Iraq is in a position to make its own determination as to whether such contracts shall be fulfilled;
- d. Contracts considered a priority which will be amended by CPA after 21 November 2003.

#### Authentication of goods

The UN independent inspection agent (Cotecna) is currently stationed at inspection sites outside Iraq and authenticates the arrival of goods consistent with arrangements agreed upon between the UN, the CPA and the relevant Iraqi authorities. However, for security reasons, Cotecna personnel are not permitted to operate at the port of Umm Qasr. Bulk and general cargo destined for Umm Qasr are therefore inspected at sea near Dubai, and authenticated confirmation of their arrival is issued once the vessels discharge their consignments at Umm Qasr. Since the establishment on 10 October 2003 of the revised authentication procedures, Cotecna has authenticated delivery of goods to Iraq valued at \$214.9 million. This includes the first confirmations of receipt in Umm Qasr received by OIP on 14 November 2003.

In July 2003, the CPA was provided with details of 21 contracts against which suppliers have claimed to have provided services prior to the war and could not be authenticated due to Cotecna's withdrawal. Despite repeated reminders, the CPA has only been able to produce a negative response in connection with three of these contracts. The number of outstanding cases with services to be authenticated has recently increased to 29, with a combined value of \$5.2 million. The Office of the Iraq Programme will provide the CPA with electronic copies of all correspondence associated with these cases for further processing after 21 November 2003.

The CPA should ensure that appropriate arrangements are in place from 22 November 2003, for the effective management of the billions of dollars worth of supplies and equipment destined for Iraq from the Programme's delivery pipeline and for authenticating arrival of these goods in order to facilitate payment to the suppliers. The CPA has been in close discussions with Cotecna with a view to the retention of its services for a limited period after the termination of the Programme and has given assurances to OIP as well as to the Security Council Committee that a final decision in that regard will soon be taken, thus ensuring the continuation of authentication arrangements beyond 21 November 2003.

#### Copies of contracts

The Office of the Iraq Programme has provided the CPA and the relevant Iraqi ministries with two electronic copies of all approved and executed contracts for the sale of Iraqi oil, as well as all approved and funded contracts and their relevant applications in the humanitarian and oil spare parts sectors. The number of contracts currently stands at more than 5,000, with just a handful remaining to be prepared for transfer by 21 November 2003. In addition, the Office of the Iraq Programme will complete scanning of all approved but unfunded contracts, as well as contracts registered but not approved, for transfer to the CPA. The Office of the Iraq Programme has also adjusted its databases to include information concerning the delivery dates negotiated by the UN agencies and programmes for contracts prioritised pursuant to resolution 1483 (2003). The databases include delivery locations and up-to-date contact information for suppliers. The entire Oil-for-Food database will be transferred to the CPA on 21 November 2003.

#### Transfer of activities in the three northern governorates

##### The transfer process

The High Level Tripartite Working Group (HLTWG), composed of the CPA Senior Advisor, who also chairs the meetings, a representative of the United Nations Office of the Humanitarian Coordinator in Iraq (UNOHCI), and senior representatives of the local authorities in Erbil and Sulaymaniyah, has met regularly since its establishment on 10 August 2003. All policy matters and final decisions regarding the transfer of Programme activities in the three northern governorates have been taken by the HLTWG. The Working Group has taken the necessary measures to ensure that the delivery of essential services will not be interrupted after the termination of the Programme on 21 November 2003.

##### Transfer of projects and activities through dossiers

The Council was informed on 28 October 2003, that the United Nations required a minimum of 115 international staff for an orderly transfer of over \$3.5 billion worth of completed and ongoing

projects, including \$1.5 billion worth of assets, in the three northern governorates. Given a substantial reduction in the number of UN personnel for security reasons and the late deployment of a handover team by the CPA, the intended joint physical review of all Programme assets by the United Nations, the CPA and the local authorities, was not possible. Accordingly, it was agreed that completed and ongoing projects and activities would be transferred to the CPA through dossiers prepared for each project and activity. The Council was also provided with details of the information to be included in the dossiers.

The representatives of the UN agencies and programmes and the CPA Sectoral Advisors have been initialling these dossiers. The dossiers will be annexed to the transfer Agreement.

#### Transfer of completed and ongoing projects

By 21 November, 268 completed projects and activities, with a total value of \$2.1 billion, would be transferred to the CPA. Details on the number and value of these projects, by sector, were also provided to the Council. The CPA accepted our recommendation, as also advocated by the local authorities, to fund all viable ongoing projects. The United Nations will also hand over 159 projects, with a total value of \$1.5 billion, which will not be completed by 21 November. It should be borne in mind, however, that the initiation of the execution of some of the approved projects was delayed for a variety of reasons, most of them beyond the control of the UN agencies and programmes, which include the interruption of the United Nations operations prior to the conflict and due to security reasons during the post-conflict period.

#### Assignment of third party contracts

Negotiations for the assignment of third party international contracts to the CPA, which were originally signed by the UN agencies and programmes, have been underway in Amman, Jordan, for over a month. While most have been finalized, some are still outstanding. An all out effort is being made to finalize the assignment of all outstanding third party international contracts to the CPA by 21 November.

As at 17 November, there were 380 international contracts and purchase orders to be assigned to the CPA by 21 November. The CPA has decided to assume legal responsibility for all active third party local contracts signed by the UN agencies and programmes and renegotiate with the local contractors, as necessary, after the termination of the Programme. Accordingly, 261 local contracts have been assigned to the CPA.

#### Warehouse inventories

On 10 November, the CPA confirmed to the United Nations in writing, its acceptance of the report of a CPA team of experts who applied statistical sampling techniques to determine the accuracy of inventories of assets in the warehouses of UN agencies and programmes. The experts concluded that the warehouse inventory balances reported by the UN agencies and programmes to the CPA were accurate.

The UN agencies and programmes and CPA Sectoral Advisors have already been initialing the inventory of items in the warehouses. These inventories will be attached to the hand-over Agreements and transferred to the CPA. As at 18 November, the total value of the items to be transferred was \$384 million.

#### Office of Project Coordination (OPC)

In order to return responsibility for the management of affairs to the Iraqi people as soon as practicable, the CPA Administrator, in a letter dated 11 November 2003 addressed to the President of the Governing Council, proposed that the Council accept authority for the administration of the Programme's projects and its assets in the three northern governorates, upon the transfer of authority from the United Nations to the CPA on 21 November. The Administrator also recommended that the Council establish without delay an Office of Project Coordination (OPC) in the three northern governorates for this purpose.

On 16 November, the Governing Council authorized the OPC to accept all Programme assets on behalf of the Council, and authorized the relevant officials of the local authorities in the three northern governorates to designate the individuals to sign the transfer documents. The organizational structure of the OPC has been finalized and the local authorities have identified a candidate for Director General of the OPC. The OPC will manage \$748 million worth of ongoing projects whose implementation would extend beyond 21 November 2003.

### Joint Humanitarian Information Centre (JHIC)

The Joint Humanitarian Information Centre (JHIC) in Erbil has served as the central database for the United Nations inter-agency humanitarian operations in the three northern governorates of Iraq. The JHIC and its assets will also be transferred to the CPA.

Assets purchased with funds from the ESD (2.2 per cent) account

The ESD (2.2 per cent) account was established pursuant to paragraph 8 (d) of Security Council resolution 986 (1995) for United Nations administrative and operational costs. In identical letters dated 23 October 2003 addressed to the Executive Heads of the United Nations agencies and programmes concerned, the Secretary-General stated as follows:

"As the operations of the 'Oil-for-Food' Programme wind down and we prepare ourselves to complete the transfer of responsibility for the administration for any remaining activity to the Coalition Provisional Authority (CPA), I have directed that assets purchased with funds from the 2.2 per cent account that would not be required by the United Nations for its activities relating to Iraq, either at the headquarters or in the field, should be transferred to the CPA for the benefit of the people of Iraq."

Accordingly, the United Nations, its agencies and programmes, have been reviewing their respective inventories of all assets purchased with funds from the 2.2 per cent account, to determine which assets should be transferred to the CPA, pursuant to the Secretary-General's directive.

### **Concluding observations**

It is gratifying to state without hesitation that the United Nations has met the challenge for an orderly termination of the Programme by 21 November 2003 pursuant to resolution 1483 (2003). It has achieved this in spite of the Programme's magnitude in terms of scope, level of funding, operational scale and complexity. This challenge has been met in the face of prevailing security conditions, and the ensuing substantial



reduction in UN international personnel in Iraq after the terrorist bombing of the United Nations headquarters in Baghdad on 19 August.

I should like to pay a special tribute to the memory of all our international and national colleagues who made the ultimate sacrifice in the line of duty. Over 100 hundred colleagues suffered injuries, some still recovering from serious injuries.

On behalf of the Office of the Iraq Programme I should like to express my sincere appreciation and gratitude to all our United Nations international and national colleagues, both at headquarters and in the field, for their dedicated service throughout the life of the Programme, and especially during the extremely difficult period of its phasing down and termination.

In this connection, it is satisfying to learn that the CPA is making arrangements to transfer most of the 2,600 United Nations national staff in the three northern governorates to posts in the local government or to retain them on personal services contracts, thereby recognizing their capacity and expertise, which will support the future administration of the projects and activities transferred by the United Nations to the CPA. I should like to appeal to the CPA and the relevant Iraqi authorities to give similar consideration to the future employment of over 1,000 United Nations national staff serving in the centre and south of Iraq.

It is also a source of satisfaction to note that the CPA has found the local technical capacity in the three northern governorates to be adequate for the handover of authority for the administration of the Programme's projects and assets, which will be administered by the Office of Project Coordination.

On behalf of my colleagues I should like to thank sincerely the members of the Security Council as well as its Committee and the distinguished Chairman, H.E. Mr. Gunter Pleuger (Germany), for their understanding and support. I should also like to thank our counterparts in the CPA and the relevant Iraqi authorities for their close cooperation and understanding throughout the transition period.

Irrespective of the political and other constraints, the Programme made a real difference in the daily lives of the average Iraqi citizen. As long as sanctions remained in place, there was no alternative to the Programme in alleviating the humanitarian situation in Iraq and mitigating the unintended consequences of the sanctions regime.

On behalf of all my colleagues, I wish to express our gratitude for the privilege of serving the Iraqi people during their most difficult period.

## **TABLE I**

**Summary of outstanding contracts as per OIP files as at 17 November 2003**

<b>CATEGORY</b>	<b># OF CASES</b>
Amendments completed, sent out, suppliers' signature pending	5
Amendments for 'late priorities' still negotiated by the UN agencies and programmes	30
Contracts with responses from CPA or suppliers pending	33
Cases pending for other reasons (subject to reconciliation)*	85*
<b>TOTAL OUTSTANDING CONTRACTS</b>	153

*\*includes contracts from UNOPS, Habitat and WFP (food) for which no categorization was received at the time of this update*

**TABLE II**

**Summary of contracts, as at 17 November 2003, removed from the list of prioritized contracts that were to be amended by 21 November 2003**

<b>Reason for removal from the list of 'amendable' contracts</b>	<b># of contracts</b>
Considered as fully delivered	171

Supplier not interested/willing to proceed (security concerns, not financially viable, no agreement possible on price/specifications change, not accepting confirmed "extra fee", etc.	341
Supplier does not exist/went bankrupt	13
Could not contact the supplier/does not respond to queries	111
Other	57
<b>TOTAL</b>	<b>693</b>