

## Reforming United Nations: The scandal of Oil-for-Food corruption

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### Abstract

Why Saddam attacked Kuwait? The Security Council, alarmed by the invasion of Kuwait, immediately (the same day) adopted Resolution 660 in which condemned the invasion and demanded from Iraq to withdraw all his military forces.

Iraq failed to comply with Resolution 660 and the Security Council acting under Chapter VII of the UN Charter concerned by the loss of human life and material destruction, determined to restore sovereignty, independence and territorial integrity of Kuwait, decided to impose economic sanctions to secure Iraq compliance.

The theory of embargo toward Iraq raised many supporters as an effective international tool that could "bring democracy to the Iraqi people". Although years later it produced quite the opposite effect.

On 14 April 1995 Security Council created the framework for Oil-for-Food Programme, by allowing Saddam's regime to sell oil not exceeding a total of 1 billion US dollars for 180 days, exclusively for humanitarian aid for the Iraqi people.

The tempo that the United Nations eased the purchase volume raised ethical problems in the endeavour of pursuing international peace. There was a proactive role to widen these sectors of intervention to justify the volume of oil purchased, while Iraq lacks the technical capabilities to keep up with the growing demand. Where can we draw the line between exploitation and humanitarian aid?

**Keywords:** United Nations, Security Council, Iraqi Regime, Volcker Commission, Corruption.

### Introduction

Almost three decades after the fall of the Berlin Wall, the enthusiasm of a new beginning is eroding by the day from the ongoing civil wars, conflicts, famine and the rise of populism. The heavy burden to lead this new world relied solely upon the United States of America, which at some point fused the interest of the USA with the interest of the world system. In this perspective, any action against the system would trigger US counter-response and *vice versa*. This assumption sheds light on the proactive role of the USA lead coalition forces in the Gulf War. *In what possible political realm could any state challenge the US regime a few months after the fall of the Berlin Wall<sup>1</sup>?* From a realist perspective, Saddam had many plausible arguments to justify the

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<sup>1</sup> Constructed by the German Democratic Republic, starting on 13 August 1961, the Wall cut off (by land) West Berlin from virtually all of surrounding East Germany and East Berlin until government officials opened it in November 1989. Its demolition officially began on 13 June 1990 and finished in 1992.

attack against Kuwait but miscalculated the “big power shift” in the world which created an unusual international condition. Although history refers to it as the Gulf War, I don’t agree with the terminology, I am not sure if we can label it as a ‘war’ in the first place. The strong reaction of the US smashed the occupying small Iraqi army and destroyed the Iraqi state in just a few days. Ultimately this exercise of force from the US led coalition ended with the UN imposing economic sanctions against Saddam’s regime (Hinnebusch, 2007). The theory of embargo toward Iraq at the time raised many supporters as an effective international tool that could “bring democracy to the Iraqi people”. Although years later it produced quite the opposite desired effect.

Historically the Iraqi embargo was not the first embargo ongoing in the world at the time. Cuba was suffering the US embargo since President Kennedy, which was imposed with the same idea of “bringing democracy to the Cuban people” (Klestadt, Unknown). Besides increasing poverty over the population, the communist regime probably consolidated its authority in the eyes of the people by depicting themselves as “caretakers” and Americans as “trouble makers”.

It is safe to deduce that the Permanent Members of the Security Council knew since the beginning that Cuba’s embargo of 1968 wasn’t effective but still they imposed this type of sanction hoping for a different result (Klestadt, Unknown). From an external point of view, one may deduce that if you starve the population enough, eventually the people will rebel and will overthrow the regime as salvation against their conditions. There is a gap in logic with this reasoning because “the evil” will be perceived toward those who impose such embargo, not those who cause such sanctions.

To overcome this gap, the Oil for Food Programme was envisaged as an international tool to shift the burden of sanctions from the people toward the regime clique, a lesson learned in the failure with Cubans. Probably they realized that with an empty belly, democracy is meaningless. On the other side, it is intrinsic to not personify “the bad guy” but to represent the liberator by shrinking Saddam power and by taking care of the people.

On paper the plan makes sense but two main problems arise: *First, who is going to pay the bill?* Practically it creates me the feeling that a state with no profitable economic resources in face of an embargo, would starve to death. In this case, an ‘embargo’ is not an international tool rather just a cruel weapon in a world power struggle. If economic resources of the state are externally managed, to pay the bills created by the embargo, it creates a backlash effect on the “purity” of the cause and one might see a post-modern way of servitude.

*Secondly, evolving to the role of system defender, you must live by the rules you propel.* To bypass the Iraq embargo and propose humanitarian aid, you should rely upon the consent of the legitimate government protected by the principle of sovereignty. The timeline in which the humanitarian help occurred failed to intervene immediately to aid the population, so in this perspective they lost the ability to become liberators and were left only with the idea of a proxy invader (Anderson, 2016).

I believe the USA idea after the Cold War was that everyone will unify under the American hegemony through the United Nation mechanism. A naïve approach if we keep in mind how history repeats itself.

## Oil-for-Food Programme Background

Why Saddam attacked Kuwait? During the 80s, Iraq fought a war against Iran which dried the economic resources of the country. Saudi Arabia and Kuwait didn't participate physically in the conflict but they supported Iraq military actions. Suffering war circumstances Iraq borrowed 80 billion dollars from Kuwait. A debt, that Saddam crippled economy could not possibly repay.

After the war, Kuwaiti requested all the money back which must have triggered strong emotional responses from Iraqi's fighting the war which Kuwait profited the most. On the other side, Kuwait overproduction of oil lowered the price causing economical loses to the Iraq economy due to the underpricing. In a Cold War setting a hard power intervention to protect the national interest, is technically legitimate to eradicate the debt and control the overproduction of oil.

Saddam regime launched a military operation against Kuwait on 2 August 1990 at 2 A.M local time, within several hours the first Iraqi's troops positions themselves in downtown Kuwait (The New York Times, 1990). "By annexing Kuwait, Iraq gained control of 20% of the world's oil reserves and, for the first time, a substantial coastline on the Persian Gulf" (history.com, 1990). The Security Council, alarmed by the invasion of Kuwait, immediately (the same day) adopted Resolution 660 in which condemned the invasion and demanded<sup>2</sup> from Iraq to withdraw all his military forces (S/RES/660, 1990).

Iraq failed to comply with Resolution 660, so the Security Council acting under Chapter VII of the UN Charter adopted Resolution 661 on 6 August 1990. Security Council, concerned by the loss of human life and material destruction, determined to restore sovereignty, independence and territorial integrity of Kuwait, decided to impose economic sanctions to secure compliance of Iraq with paragraph 2<sup>3</sup> of the resolution 660 (1990)(S/RES/661, 1990).

Resolution 661 was adopted by 13 votes to none with Yemen and Cuba absenting.(S/RES/661, 1990). Cuba, at the time, was the only temporary member of the Security Council that was under trade sanctions from the USA. While they condemned the military intervention in Kuwait, Cuba expressed the concern that trade embargos have the potential to cause problems of another nature and are not legitimate tools to promote international peace(Bieberly, 2018). Cuba, by suffering the consequences of economical sanction, relying on experience "predicted" the humanitarian crisis that imposed hardships on Iraqis people.

The after effects of the sanctions were assessed by the Ahtisaari inspection mission in Iraq noting: "*It is unmistakable that the Iraqi people may soon face a further imminent catastrophe, which could include epidemic and famine if massive life-supporting needs are not rapidly met. The long summer... is only weeks away. Time is short.*"(Ahtisaari, 1991).

At the 3004<sup>th</sup> meeting, the Security Council on 15 August 1991, adopted Resolution

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<sup>2</sup> In order to prevent an aggravation of the situation, the Security Council may, before making recommendations or deciding upon the measures provided for in Article 39, *call upon the parties concerned to comply with such provisional measures as it deems necessary or desirable. (Article 40, UN Charter)*

<sup>3</sup> *Demands* that Iraq withdraw immediately and unconditionally all its forces to the position in which they were located on 1 August 1990;

706. Taking into consideration, the operation costs of UNSCOM<sup>4</sup>, as well the hardship conditions imposed on the civilian's, brought forward the idea to “conditionally” remove the embargo on Iraqi oil and permit limited petroleum sales to meet the need for food, medicine and humanitarian supplies(S/RES/706, 1991).

Probably, after harsh economic consequences produced by the military defeat imposed on Iraq by US lead coalition, the Security Council assumed Iraq compliance with Resolution 706 but this idea halted for about 4 year due to Saddam refusal to accept internal interference. The Security Council made another attempt with Resolution 712 but faced once again Saddam uphold the principle of noninterference. This long process of offers and refusals should not be diminished because they created the “know-how” necessary to understand Saddam behaviour and how to establish the Oil-for-Food Programme (Zedalis, 2007).

On 14 April 1995 Security Council adopted Resolution 986, which created the framework for the Oil-for-Food Programme by allowing producing a sum not exceeding a total of 1 billion<sup>5</sup> US dollars every 180 days (the revenue was held on an escrow account) for the purpose to meet humanitarian needs of the Iraqi people(S/RES/986, 1995).Once more, Saddam initially rejected the terms of the resolution; compelling the UN to sign a memorandum of understanding on the conditions of the Program on 20 May 1996<sup>6</sup> and after several months of negotiations on details, the first oil was exported in December 1996, while the first shipment of supplies arrived in March 1997 (Katzman, 2003).

Over the life of the Oil-for-Food Programme (*check Table 2*), the Security Council expanded its initial emphasis on food and medicines to include infrastructure rehabilitation (*check Table 5.1 & 5.2*) which justified in a way the removal of the limitations on oil purchases (United Nations, 2019).

The temp that the United Nations eased the purchase volume raised ethical problems in the endeavour of pursuing international peace. There was a proactive role to widen the sectors of intervention to justify the volume of oil purchased, while Iraq lacks the technical capabilities to keep up with the growing demand. Where can we draw the line between exploitation and humanitarian aid?

### Volcker Commission

Security Council Resolution 1483, adopted on 22 May 2003 lifted trade sanctions against Iraq (except arms embargo) and terminated Oil-for-Food Programme. One may consider it a success story of the United Nations:

<sup>4</sup> The United Nations Special Commission was established by resolution 687 on April 3, 1991. The resolution's specifies the elimination of Iraq's weapons of mass destruction and to supervise the elimination of biological, chemical, and missile weapons and facilities and to cooperate with the IAEA during the process(Zilinkas A. R., 1995).

<sup>5</sup> *Check Table 1* - The ceiling on the total of oil sales was raised during the different phases of the Programme and finally lifted in 1999.

<sup>6</sup> Memorandum of understanding (MoU) between the Secretariat of the United Nations and the Government of Iraq on the implementation of Security Council Resolution 986 (1995). The purpose of the MoU arrange the effective implementation of Resolution 986 and to protect the sovereignty or territorial integrity of Iraq (Boutros-Ghali, 1996).

*“In nearly seven years of operation, the Oil-for-Food Programme has been required to meet an almost impossible series of challenges, using some 46 billion dollars of Iraqi export earnings on behalf of the Iraqi people. During these seven years, the Programme delivered food rations sufficient to feed all 27 million Iraqi residents. As a result, the malnutrition rate among Iraqi children was reduced by 50%”* (Annan, 2003).

On 25 January 2004, a local Iraq newspaper al Mada published a list of people and business that were accused of illegally profited oil sale contracts within the Oil-for-Food Programme (Wikipedia, 2007). The fact that al Mada had 15000 official documents at disposal to support the claim for me has special importance. If we pay attention to the time of events the Programme was officially terminated on 21 November 2003 while the list was brought to light on 25 January 2004. In my perspective, is an immature move from Saddam’s regime, probably an attempt to “punish” the UN when the lucrative Programme ended for him.

The news echoed strongly into the international community and in April 2004 UN-SC decided to establish the Independent Inquiry Commission to investigate allegations of corruption into the Oil-for-Food Programme. The commission was composed by Paul A. Volcker (Chairman), Richard J. Goldstone (Member) and Mark Pieth (Member). On October 27, 2005, the Commission released its final report titled “Manipulation of the Oil-for-Food Programme by the Iraqi Regime”.

Overall the inquiry stated that the Programme was successful to feed the Iraqi people and prevented Saddam from building an arsenal of mass destruction weapons. Although some form of negligence and corrupt practices from the UN permitted Saddam’s regime to profit underground payments.

### **Liability of non-state actors**

250 non-state actors (businesses) purchased oil from the Programme with a total sum of \$64 billion (*Check Table 4*). Non-state actors can be defined as legal entities which are formally created and operate within the sovereignty of a state. Depending on what type of theory we operate we give a different meaning to their role in the international arena. The nature of legal entities challenges formal reasoning when we talk about accountability. Why? I believe that a fragmentary legal world creates loopholes starting with the identity of the members which form the non-state actor and ends with protecting these members from personal liability.

Volcker Commission in their inquiry applied the standard norm that each legal person is linked to a specific state. From this perspective, it resulted that Russia and France dominated the oil purchasers but interestingly after phase V we see an increase in “offshore” countries heavily purchasing oil, like Panama and Cyprus (*check Table 3*). I believe that if the commission investigated a bit further would conclude in a different scenario for the country of origin or the shareholders' country origin. In these scenarios, it would serve better to justice to rigorously “follow the money” in our case the oil. The situation is highly complex and it is difficult to serve a proper solution due to emerging hidden spots.

*Can we “punish” a state for the actions of an independent non-state actor? Can we “punish” an international organization for the actions of a sovereign state? If somehow we say yes, what*

*type of punishment can be imposed upon a state, criminal or administrative?*

One big question emerges, can we solve these extraordinary problems with the common notion of justice? Clearly not, every type of solution is partially given and not fully adequate. One is probably the final solution but two are the ways to achieve it. Either the world, on a revolutionary act, merges in one state to create a unified legal system which creates a megastructure that ensures equal rights and freedom for all, or the world notion of justice globally and gradually changes and merges to the point of unification. In both situations, sovereignty withers away and most probably the notion of the state as we know it today could change.

I believe that the evolution path is less resistant and more effective to achieve the goals. Maybe Marx is right when forecasts the inevitability of change. By filling the missing gaps change is ongoing. The Volcker report, although soft in language, acknowledged some of these loopholes. Despite the damage, the United Nations reforms received a boost.

In September 2005, the UN summit addressed several reforms to ensure better ethical conduct and strengthen accountability. A new policy for "whistleblower" was enacted to create the necessary space to denounce wrongdoing (ST/SGB/2005/22, 2005).

Although the reforms are needed they don't grasp the core problem. The liability and extraterritoriality of non-state actors are still unchecked and relies upon state initiatives. We need to clarify when a non-state actor operates outside the state is he representing the state interests or his own. What about off-shore non-state actors whose interest they present? Relating to our case, outlawing "shell companies" and change the framework for non-state actor's liability.

### **United Nation fight against Corruption**

What is corruption? Corruption is a complex social phenomenon and it can be defined as "the abuse of entrusted power for private gain" (Transparency International, 2019). United Nation established the Ad Hoc Committee for the Negotiation of a Convention against corruption with Resolution A/RES/55/61 on 4 December 2002, they believed that by avoiding the problem of defining corruption as a list of specific acts they could produce wider (future proactive) counter-effective measures. This approach is a bit counterproductive because if you don't know what it is how can you propose a meaningful solution.

Despite everything, this was a huge leap toward world progress which concluded with the United Nations Convention against Corruption (UNCAC) on 31 October 2003 which was adopted by Resolution 58/4. The UNCAC was open for signature from 9 December 2003 and entered to force on 14 December 2005 when 30 states ratified the convention<sup>7</sup>. Interestingly this first process took around 2 years. If we overlap the interim and final reports of Volcker's Commission we see that France ratified the convention on 11 Jul 2005 while Australia on 7 December 2005, both 7 14 December 2005, in accordance with article 68 (1) which reads as follows: "1. This Convention shall enter into force on the ninetieth day after the date of deposit of the thirtieth instrument of ratification, acceptance, approval or accession. For the purpose of this paragraph, any instrument deposited by a regional economic integration organization shall not be counted as additional to those deposited by member States of such organization."

subjects of the inquiry while Russia ratified the convention on 9 May 2006. It creates the impression that corruption was at the time the keyword of the international community but why these emphasize happened after the cold war. One reason might be that during the Cold War such operation like the Oil-for-Food Programme was imaginable nor to think about the consequences of possible manipulation. On the other side, we could state that the international system needs always an antagonist to fuel its existence. In retrospective today we can see the shift from the Cold War toward corruption and from corruption toward terrorism.

The resultants of the Oil-for-Food Programme inquiry exposed widely the illicit acts of many states in Iraq. We can play with words and call it as that the Programme was manipulated by Saddam's regime but this doesn't hide the fact of what happened.

United Nations during the years has developed many useful practices and documents to fight corruption like the Guide for Anti-Corruption Policies, UN Anti-Corruption Toolkit and UN handbook on Practical Anti-Corruption Measures for Prosecutors and Investigators etc.

Although the ratification process is only the first step to show commitment still today 12 states have failed to adopt the convention.

## Conclusions

Most probably Oil-for-Food Programme is not going to be implemented again in similar events. Although it was depicted as a success story at the time I believe that it failed in essence since humanitarian aid was used as a tool to coerce Saddam regime rather than to promote international peace. The corruption that happened remained mostly unpunished because it relied exclusively on state sovereignty to decide if to open an official investigation or not.

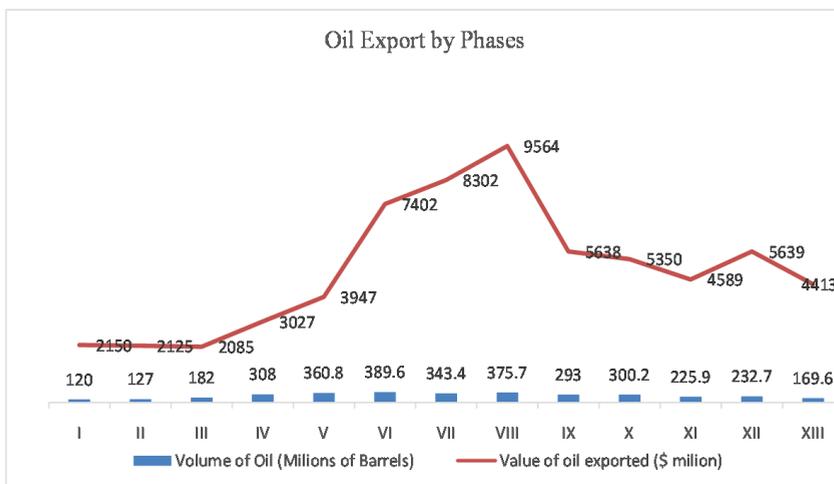
The effects of the Programme helped to boost reforms inside the UN to change the notion of accountability and to create policies to denounce corrupt practices. International pressure pushed states to adopt the Convention against Corruption in an attempt to unify national practices to fight corruptions. The emergence of non-state actors challenged the Cold War system as helpers to push further human rights agendas but in the Oil-for-Food scenario, it proved quite the opposite. Failing to regulate this new relationship among non-state actors imposes a danger to international peace.

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### Appendix



**Table 1 - Oil Export by Phases**

**Table 2 - Phases of the Oil-for-Food Programme(United Nations, 2019)**

Phase	From	To	Security Council Resolution	Adopted
I	10 December 1996	7 June 1997	Resolution 986 (1995)	14 April 1995
II	8 June 1997	4 December 1997	Resolution 1111 (1997)	4 June 1997
III	5 December 1997	29 May 1998	Resolution 1143 (1997)	4 December 1997
IV	30 May 1998	25 November 1998	Resolution 1153 (1998)	20 February 1998
V	26 November 1998	24 May 1999	Resolution 1210 (1998)	24 November 1998
- VI	25 May 1999	20 November 1999	Resolution 1242 (1999)	21 May 1999
	Extendsphase VI until 4 December 1999		Resolution 1275 (1999)	19 November 1999
	Extendsphase VI until 11 December 1999		Resolution 1280 (1999)	3 December 1999
VII	12 December 1999	8 June 2000	Resolution 1281 (1999)	10 December 1999
VIII	9 June 2000	5 December 2000	Resolution 1302 (2000)	8 June 2000
IX	6 December 2000	3 June 2001	Resolution 1330 (2000)	5 December 2000
	Extendsphase IX until 3 July 2001		Resolution 1352 (2001)	1 June 2001
X	4 July 2001	30 November 2001	Resolution 1360 (2001)	3 July 2001

XI	1 December 2001	29 May 2002	Resolution 1382 (2001)	29 November 2001
XII	30 May 2002	25 November 2002	Resolution 1409 (2002)	14 May 2002
	Extendsphase XII until 4 December 2002		Resolution 1443 (2002)	25 November 2002
XIII	5 December 2002	3 June 2003	Resolution 1447 (2002)	4 December 2002

**Table 3 - Top Five Country Oil Purchasers by Programme Phase**

State Oil Buyer	Phases of the Programme												
	1	2	3	4	5	6	7	8	9	10	11	12	13
Russia	Green	Green	Green	Green	Green	Blue	Blue	Orange	Orange	Orange	Orange	Orange	Orange
Turkey	Green	Green	Green	Green	Green	Blue	Blue	Orange	Orange	Orange	Orange	Orange	Orange
France	Green	Green	Green	Green	Green	Blue	Blue	Orange	Orange	Orange	Orange	Orange	Orange
P.R of China						Blue	Blue	Orange	Orange	Orange	Orange	Orange	Orange
Aruba	Green	Green											
Switzerland					Green	Blue	Blue	Orange	Orange	Orange	Orange	Orange	Orange
United Kingdom	Green	Green	Green	Green	Green	Blue	Blue	Orange	Orange	Orange	Orange	Orange	Orange
Liechtenstein								Orange	Orange	Orange	Orange	Orange	Orange
Malaysia								Orange	Orange	Orange	Orange	Orange	Orange
United States		Green	Green	Green	Green	Green	Green						
Italy				Green	Green	Green	Green	Green	Green	Green	Green	Green	Green
Syria								Orange	Orange	Orange	Orange	Orange	Orange
Spain			Green	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green
Jordan											Orange	Orange	Orange
Cyprus											Orange	Orange	Orange
Bulgaria				Green	Green	Green	Green	Green	Green	Green	Green	Green	Green
United Arab States												Orange	Orange
Panama													Orange

Note\*

Phases I to V (*before the official introduction of the regime's kickback policies*);  
 Phases VI to VII (*with the introduction of illicit inland transportation fees*);  
 Phases VIII to XIII (*with the broadening of the kickback scheme*)

**Table 4 - Top 20 Country Oil Purchasers of the Programme**

No.	Oil Buyer Country of Registration	Total % of Revenue	Number of Businesses
1.	Russia	30.5%	35
2.	France	6.84%	8
3.	Switzerland	5.32%	18

4.	United Kingdom	5.28%	7
5.	Turkey	5.22%	6
6.	Italy	4.24%	11
7.	People Republic of China	4.10%	7
8.	Liechtenstein	3.85%	2
9.	Spain	2.55%	8
10.	Malaysia	2.38%	5
11.	Vietnam	2.19%	6
12.	United Arab Emirates	2.13%	12
13.	Syria	1.76%	6
14.	Algeria	1.73%	2
15.	Cyprus	1.64%	10
16.	India	1.36%	2
17.	Morocco	1.16%	2
18.	Jordan	1.15%	6
19.	Aruba	1.11%	1
20.	Panama	1.06%	3
21.	45 Other States	14.43%	93
65 States			100% = \$ 64,178.326
			250

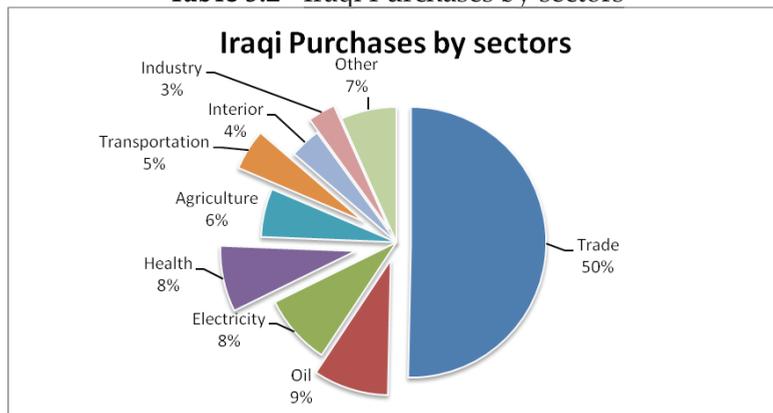
**Table 5.1 - Iraqi Purchases by Top Ten Submitting Missions by Phases**

Country	Phases I – V	Phases VI – VII	Phases VIII – XIII	Total
Russia	\$968	\$736	\$2,128	\$3,833
Egypt	\$439	\$648	\$1,962	\$3,049
France	\$1,218	\$972	\$772	\$2,961
Jordan	\$522	\$582	\$1,467	\$2,571
Australia	\$597	\$298	\$1,430	\$2,325
United Arab Emirates	\$124	\$451	\$1,624	\$2,200
Vietnam	\$372	\$387	\$1,185	\$1,945
P.R. Of China	\$473	\$608	\$632	\$1,713
Turkey	\$295	\$387	\$1,006	\$1,688
Syria	\$139	\$146	\$1,228	\$1,512
Other	\$2,339	\$2,942	\$5,382	\$10,663

**Note\***

Phases I to V (*before the official introduction of the regime's kickback policies*);  
 Phases VI to VII (*with the introduction of illicit inland transportation fees*);  
 Phases VIII to XIII (*with the broadening of the kickback scheme*)

**Table 5.2 - Iraqi Purchases by sectors**



Trade	Oil	Electricity	Health	Agriculture	Transportation	Interior	Industry	Other	Total
\$17.4	\$3.1	\$2.9	\$2.7	\$2.0	\$1.7	\$1.3	\$1.1	\$2.3	34.5 Billion