

Improving the Humanitarian Situation in Iraq: Establishing a “Cash Component” to Enhance the Provisions of Security Council Resolution 986

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1 Overview

This memorandum outlines some possible mechanisms to facilitate implementation of a “cash component” in the South/Center of Iraq – to enhance the provisions of UN Security Council resolution 986 (14 April 1995), the “Oil-for-Food” Program. A *cash component* refers here to the allocation and use of a pre-determined percentage of Iraqi oil revenues for ‘in-country’ expenses, including local purchasing of goods, installation costs, logistics, training and maintenance costs. The presence of a *cash component* in the three northern governorates of Dahuk, Sulaymaniyah and Erbil is one of the main reasons why the Program is more effective in that area.²

The difficulty in establishing a *cash component* in the South/Center of Iraq, where program implementation is carried out by the Government, centers on the desire of the Security Council to ensure that if the Government regains control of a percentage of the oil revenue, this resource will be used for humanitarian purposes. However, under present arrangements, the regime in Baghdad already has access to substantial cash revenues due to the open and illicit trade with Turkey and Jordan.

The intended recipients of any *cash component* revenues would be the local authorities and, ultimately, the Iraqi civilian population. Due to the geographical dispersion of required funds, any cash resources will require a nationwide distribution mechanism, and the concomitant administrative structure.

This memorandum has three main objectives: (i) to propose seven possible mechanisms for establishing a *cash component*, (ii) to illustrate the role of UN border controls and the possibility of a composite approach, and (iii) to highlight the *potential* role of the Office of the Iraq Program in establishing a *cash component*.

2 ‘Indexed’ Cash component by Sector

A percentage of the revenues from the sale of petroleum, and petroleum products, could be allocated to the various sectors represented in the Distribution Plan, and would subsequently be indexed, or linked, to verifiable implementation and appropriate use of the funds on the ground.

¹ The opinions and policy recommendations outlined in this paper are the sole responsibility of the author, and do not necessarily reflect the views of, or an endorsement of any policy position on the part of, the Massachusetts Institute of Technology.

² In the three northern governorates, the “cash component” in each phase, as a percentage of total revenue allocated for the North, was (approx.): Phase I – 6.7% ; Phase II – 7% ; Phase III – 9% ; Phase IV – 7.4% ; Phase V – 5.7%.

Under this mechanism, if a given sector was seen to be diverting the funds to inappropriate areas, this sector would not receive a *cash component* in subsequent Phases or half-Phases.

United Nations observers in South/Central Iraq would be responsible for verifying, on the basis of information provided by the Government of Iraq and 'physical' verification, that the revenue is indeed being directed to the appropriate target group. Any modifications to the current role of the UN humanitarian observers on the ground is well within the provisions of the Memorandum of Understanding (MoU) between the UN Secretariat and the Government of Iraq, which states:³

"The objective of the United Nations observation process shall be: (a) to confirm whether the equitable distribution of humanitarian supplies to the Iraqi population throughout the country has been ensured; (b) to ensure the effectiveness of the operation and determine the adequacy of the available resources to meet Iraq's humanitarian needs."

Operationally, the cash revenue would be transferred from the UN escrow account at the Banque Nationale de Paris (BNP) to the Central Bank of Iraq, and possibly into separate 'sectoral' accounts within the latter institution, on a regular basis – perhaps every half-Phase (90 days).

3 Cash component from Iraqi Exports other than Oil

In light of deliberations at the Security Council during mid-1999 regarding a suspension of the prohibition against the export of goods from Iraq, such developments may provide some scope for establishing a *cash component*, if existing financial mechanisms remain in place (i.e. the UN escrow account). Since Iraq's revenue generating capability is almost entirely dependent on the export of oil and oil-products, revenue from the export of goods other than oil, if feasible under any new export arrangement, may be sufficient to constitute a small *cash component*, 5-10% of gross export revenues. Income from exports other than oil would pass directly to the institution involved and/or to the Central Bank of Iraq. However, as an interim arrangement, the 661 Committee would have to be notified of these contracts.

Also, in the case of agricultural exports, the above mechanism would direct the resulting revenue to the producers, and would therefore assist in reinvigorating agricultural production locally, which has suffered in some areas due to dependence on imported goods and commodities for the 986 'food basket'.

4 Joint Implementation – UN and the Government of Iraq

The prospect of joint implementation of a *cash component* by the United Nations and the Government of Iraq warrants consideration. While this suggestion has been dismissed by UN agencies as unacceptable to the Government of Iraq, it may be a feasible mechanism if instituted on a local level in the South/Center. Some UN agencies in Iraq (possibly UNICEF & WHO) would be responsible for jointly supervising the allocation of funds to the appropriate projects. Upon the approval of the designated UN personnel, the funds would be released to the local authority, at the level of the 15 governorates, governorate districts (*Qadha*), or sub-districts (*Nahiya*).

The United Nations Development Program (UNDP) could assume a lead role in implementing this joint mechanism. It would be viewed as a 'rehabilitation' program to improve the essential civic infrastructure, which is necessary for any sustained improvement in the humanitarian

³ United Nations Security Council, *Memorandum of Understanding between the Secretariat of the United Nations and the Government of Iraq on the Implementation of Security Council Resolution 986 (1995)*, Document # S/1996/356 (New York: United Nations, May 20, 1996) : Paragraph 35.

situation. UNDP observers, already operating in Iraq, would function as ‘advisors’ to the Government, in areas where the UNDP has the required expertise, particularly in electricity-generation, water & sanitation sectors.⁴

5 Joint Implementation – NGOs and the Government of Iraq

Joint implementation of a *cash component* could also be achieved by working with a combination of local and international NGOs – organizations that would essentially act as a ‘buffer’ between the Office of the Humanitarian Coordinator in Iraq (UN-OHCI) and the local authorities ultimately responsible for disbursing the revenues. The involvement of local NGOs such as the Iraqi Red Crescent may be a more palatable solution for the Government of Iraq.

Operationally, cash revenues would be transferred from the UN escrow account to the foreign (outside Iraq) accounts of international NGOs, who would then be responsible for disbursing local expenses, either to the local authorities, or directly to the end recipients.

6 Joint Implementation – Regional Arrangements

Iraq’s regional trading partners, especially Turkey and Jordan, could be called upon to assist in implementing a *cash component* in the South/Central regions of Iraq. The two countries could be declared *Free Trade Zones*, whereby exports to Iraq from Turkey and Jordan would not be covered by UN sanctions, but would be subject to strict border controls at the relevant export points. In addition, Turkey and Jordan would provide logistical support to Iraq in the form of transport facilities (trucks, forklifts, refrigerated containers etc.), possibly under a lease agreement, whereby the provision of these collateral services would complement trade with the given country.

Of course, any lifting of sanctions on a country-by-country basis would result in the Government of Iraq establishing ‘front’ companies in these countries, to act as staging posts for imports from other states.

7 Cash Component Included in Infrastructure Contracts

In sectors where Iraq is dependent (as before 1990) to some degree on foreign expertise for installation and maintenance – such as the electricity-generating sector and the water/sanitation sectors – there exists the possibility to include the *cash component* in contracts for rehabilitation of the infrastructure in the appropriate sector. That is, contracting companies would employ local workers where required, and would be paid directly from the UN escrow account.

This mechanism would serve to rehabilitate the infrastructure necessary to improve the humanitarian situation, while also providing income directly to the local workers in several distinct geographical regions of Iraq.

8 Expanding the Scope of the MoU and Distribution Plan

The rigidity of the Memorandum of Understanding between the UN Secretariat and the Government of Iraq regarding the implementation of resolution 986 is often cited as an obstacle

⁴ The role of UNDP observers in Iraq is discussed briefly in the Phase VI 90-day report by the Secretary General. United Nations Security Council, *Report of the Secretary General Pursuant to Paragraph Six of Security Council Resolution 1242 (1999)*, Report # S/1999/896 (New York: United Nations, August 19, 1999) : Paragraph 29.

to enhancing existing humanitarian operations in Iraq.⁵ However, Paragraph 15 of the MoU does note, in relation to the Distribution Plan, that:

“After the [Distribution] plan becomes operational, each party to the present Memorandum may suggest to the other for its consideration a modification of the plan if it believes that such adjustment would improve the equitable distribution of humanitarian supplies and their adequacy.”

The Distribution Plan, therefore, may provide a mechanism by which a *cash component* could be incorporated into the current provisions of UNSC 986 in the 15 governorates of the South/Center. In the two-year review of the “Oil-for-Food” Program completed in April 1999, the Secretary-General noted that the Distribution Plan remains central to the workings of the Program. In this report, the Secretary-General suggested that the Distribution Plan could be used to allocate funds for local implementation, that is, the Government of Iraq would present entire processes for approval to the Security Council 661 Committee:

*“In order to met the humanitarian needs of the Iraqi population more effectively, I invite the Government of Iraq, and the United Nations agencies and programmes, to present sectoral requirements in self-contained packages. These would identify the type of inputs required, covering not only imported commodities but also the local implementation costs to be funded under the program...”*⁶

The Distribution Plan is submitted by the Government of Iraq at the beginning of each Phase, and must subsequently be approved by the Secretary General. Recent versions of the Plan have outlined the requirements per sector in great detail. Given this process, the Distribution Plan could be expanded to provide, in essence, a summary budget of anticipated local expenses on a sector-by-sector basis.

9 UN Border Control

The reluctance to institute a *cash component* on the part of the Security Council stems from concerns that the resulting revenue will be diverted to non-humanitarian needs, and specifically, that this hard currency would be used to support the regime or procure weapons.

Any goods entering Iraq should be subject to scrutiny by UN observers on the ground. Under current operating procedures, an independent inspection agency is responsible for verifying arrival of goods ordered under the Program. However, a substantial level of illicit trade exists across the northern and western borders – through Turkey and Jordan, and to a lesser extent, Syria. By providing UN agencies with the authority to search and confiscate items entering Iraq that may have military applications, concerns regarding the use of a *cash component* would be diluted.

10 Composite Approach to Implementing a Cash Component

The preceding sections have identified several possible mechanisms for implementing a *cash component* in the South and Center of Iraq. While some of these suggested mechanisms may be

⁵ United Nations Security Council, *Memorandum of Understanding between the Secretariat of the United Nations and the Government of Iraq on the Implementation of Security Council Resolution 986 (1995)*, Document # S/1996/356 (New York: United Nations, May 20, 1996).

⁶ United Nations Security Council, *Review and Assessment of the Implementation of the Humanitarian Programme Established Pursuant to Security Council Resolution 986 (1995) (December 1996-November 1998)*, Report # S/1999/481 (New York: United Nations, April 28, 1999) : Paragraph 123.

feasible as a 'stand-alone' strategy, the possibility of combining some of these approaches should also be considered.

As an example of this composite approach, consider the possibility of implementing a scheme which would combine the mechanisms described in Sections 3 and 4 above – a *cash component* from Iraqi exports other than oil, and joint implementation of a *cash component*. The reluctance on the part of the Government of Iraq to cooperate with UN agencies to jointly implement a *cash component* may be offset by the prospect of gaining access to revenues from the export of goods other than oil.

11 Role of the Office of the Iraq Program

With an existing, and to a large degree effective, working relationship with the Government of Iraq, the Office of the Iraq Program (OIP) is well positioned to devise and implement possible mechanisms for a *cash component*, working in conjunction with the Permanent Mission of Iraq to the UN. The Security Council should therefore request that the Secretary General (through OIP) present to the Council a set of feasible options for implementing a *cash component*. To achieve this, OIP could form a technical working group to devise suitable strategies.

The Office of the Iraq Program was established by the Secretary General to essentially manage the affairs of the Secretariat in relation to resolutions 661 and 986.⁷ Moreover, under Security Council resolution 986, the Secretary General is authorized to “...enter into any necessary arrangements or agreements” to “...ensure the effective implementation of this resolution [986]”.⁸ This provision, broadly interpreted, would appear to cover a *cash component* in the South/Center of Iraq!

12 Concluding Remarks

Seven distinct mechanisms have been proposed here to implement a *cash component* in the South/Center of Iraq: (1) 'Indexed' *Cash component* by Sector, (2) *Cash component* from Iraqi Exports other than Oil, (3) Joint Implementation – UN and the Government of Iraq, (4) Joint Implementation – NGOs and the Government of Iraq, (5) Joint Implementation – Regional Arrangements, (6) *Cash Component* Included in Infrastructure Contracts, and (7) Expanding the Scope of the MoU and Distribution Plan. A composite approach to establishing a *cash component* has also been suggested.

Instituting tight border controls will aid in reassuring the Security Council that the Government of Iraq is not importing prohibited items. In addition, the Office of the Iraq Program is well positioned to: (a) provide suggestions to the Security Council (via the Secretary General) regarding mechanisms for a *cash component*, and (b) work with the Government of Iraq and UN agencies to identify how a *cash component* could be implemented.

⁷ See: United Nations Security Council, *Report of the Secretary General Pursuant to Paragraph 3 of Resolution 1111 (1997)*, Report # S/1997/935 (New York: United Nations, 1997) : Paragraph 4.

⁸ United Nations Security Council resolution 986 (14 April 1995) : Paragraph 13.