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Iraq: Compliance, Sanctions, and U.S. Policy

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Iraq: Compliance, Sanctions, and U.S. Policy

SUMMARY

In recent years, the United States has been unable to maintain an international consensus for strict enforcement of all applicable U.N. Security Council resolutions on Iraq, but it has largely succeeded in preventing Iraq from reemerging as an immediate strategic threat to the region. There is U.S. concern about the long-term threat posed by Iraq and, in the wake of the September 11 attacks, the Bush Administration has said it will prevent Iraq from re-emerging as a significant threat to U.S. security and will work to change Iraq's regime.

The exact form of that Administration stance has not yet been announced, whether it be through international sanctions and diplomacy, military action, or covert action. The regime change policy is considered risky and difficult and is not openly supported by many other governments, particularly if it involves major military action.

During 1991-1998, a U.N. Special Commission on Iraq (UNSCOM) made considerable progress in dismantling and monitoring Iraq's mass destruction weapons (WMD) programs but was unable to finish verifying Iraq's claim that it has destroyed all its weapons of mass destruction or related equipment. Iraq's refusal of full cooperation with UNSCOM eventually prompted U.S.-British military action in December 1998. All inspectors withdrew and Iraq has been unmonitored since, leaving uncertainty as to whether Iraq has rebuilt its WMD programs.

On November 10, 1994, as required, Iraq accepted the U.N.-designated land border with Kuwait (confirmed by Resolution 833) as well as Kuwaiti sovereignty. Iraq has failed to account for more than 600 Kuwaitis still missing from the war, as well as for Kuwaiti property taken. Iraq initially rejected a 1991 U.N.-sponsored "oil-for-food" program to address humanitarian needs, but it later accepted a revised version of that plan, which has been operational since December 1996.

Iraq's compliance in other areas, especially human rights issues, is still widely deemed unsatisfactory. A U.S.-led no-fly zone has provided some protection to Kurdish northern Iraq since April 1991. Since August 1992, a no-fly zone has been enforced over southern Iraq, where historically repressed Iraqi Shiites are concentrated. The zone was expanded in August 1996, but Iraq nonetheless maintains a substantial ground presence in the south. Iraq has openly challenged both no-fly zones since December 1998.

MOST RECENT DEVELOPMENTS

President Bush's January 29, 2002 State of the Union message called Iraq part of an "axis of evil" along with North Korea and Iran, prompting reports of planning for major U.S. military action against Iraq. Since March 2002, Iraq has held three rounds of talks with the United Nations over the readmission of U.N. weapons inspectors, with no breakthrough. The third round concluded on July 5 in Vienna. In mid-May, the U.N. Security Council adopted Resolution 1409, intended to facilitate the flow of purely civilian goods to Iraq.

BACKGROUND AND ANALYSIS

In forty reviews (at 60-day intervals) of Iraqi compliance from the end of the Gulf war in 1991 until August 20, 1998, the U.N. Security Council maintained comprehensive international sanctions on Iraq's imports and exports. The primary ceasefire resolution is Security Council Resolution 687 (April 3, 1991), requiring Iraq to end its weapons of mass destruction programs, recognize Kuwait, account for missing Kuwaitis, return Kuwaiti property, and end support for international terrorism. Iraq is required by Resolution 688 (April 5, 1991) to end repression of its people. (See also CRS Report RL30472, *Iraq: Oil-for-Food Program*; and CRS Report RL31339, *Iraq: U.S. Efforts to Change the Regime.)*

Weapons of Mass Destruction (WMD)

A U.N. Special Commission (UNSCOM), chaired during July 1, 1997 - June 30, 1999 by Australian disarmament official Richard Butler (succeeding Rolf Ekeus), and the International Atomic Energy Agency (IAEA) attempted to verify that Iraq had ended all its prohibited WMD programs and to establish a long-term monitoring program to ensure that Iraq remains free of WMD (Resolution 715, October 11, 1991). The monitoring program, accepted by Iraq in November 1993, consisted of visitations and technical surveillance of about 300 sites. Under Resolution 1051 (March 27, 1996), UNSCOM inspected (at point of entry and at end-use destination) of Iraqi imports of any dual use items.

Confrontations over access to suspected WMD sites began almost as soon as UNSCOM began operations in April 1991, prompting adoption of Resolution 707 (August 15, 1991). That resolution required unfettered access to all sites and disclosure by Iraq of all its WMD suppliers. During March 1996 - October 1997, Iraq impeded inspectors from entering Iraqi security service and military facilities, and it interfered with some UNSCOM flights. These actions prompted Resolution 1060 (June 12, 1996) and other Council statements (such as on June 13, 1997) demanding Iraqi cooperation. Resolution 1115 (June 21, 1997) threatened travel restrictions against Iraqi officials committing the infractions. Resolution 1134 (October 23, 1997) again threatened a travel ban and suspended sanctions reviews until April 1998. (France, Russia, China, Egypt, and Kenya abstained.)

1997-1998 Crises. Six days after that vote, Iraq barred American UNSCOM personnel from conducting inspections and, on November 13, 1997, expelled the Americans. Resolution 1137 (adopted unanimously November 12, 1997), imposed travel restrictions on Iraqi officials. (On November 13, 1997, the House adopted H.Res. 322, backing unilateral U.S. military action as a last resort. The Senate did not act on a similar resolution, S.Con.Res. 71, because some Senators wanted it to call for the United States to overthrow Saddam Husayn.) In November 1997 and February 1998, Russia and U.N. Secretary General Kofi Annan, respectively, brokered temporary compromises that enabled UNSCOM to resume inspections. The February 23, 1998 U.N.-Iraq agreement provided for access to eight "presidential sites" by UNSCOM inspectors and diplomatic observers. Security Council Resolution 1154 (March 2, 1998) accepted that agreement, threatening "the severest consequences" if Iraq reneged. Iraq allowed presidential site inspections (1,058 buildings) during March 26-April 3, 1998, and the United States agreed to lift the travel ban on Iraqi officials and to resume sanctions reviews.

Iraq subsequently refused to implement an UNSCOM plan for completing its work and, in August 1998, barred UNSCOM from inspecting new facilities. The Senate and House passed a resolution, S.J.Res. 54 (P.L. 105-235, signed August 14, 1998), declaring Iraq in "material breach" of the ceasefire. On September 9, 1998, the Security Council unanimously adopted Resolution 1194, suspending sanctions reviews. On October 30, 1998, the Security Council offered an easing of sanctions if Iraq fulfilled WMD and other outstanding requirements, but Iraq demanded an immediate end to sanctions and it ceased cooperation with UNSCOM (but not the IAEA). The U.N. Security Council unanimously adopted Resolution 1205 (November 5, 1998), deeming the Iraqi action a "flagrant violation" of the February 1998 U.N.-Iraq agreement. On November 14, 1998, with the United States about to launch airstrikes, Iraq pledged cooperation, narrowly averting U.S. air strikes but prompting President Clinton to openly declare a U.S. policy of regime change.

Operation Desert Fox and Aftermath. After a month of testing Iraq's cooperation, UNSCOM said on December 15, 1998 that Iraq refused to yield known WMD-related documents and that it was obstructing inspections; the IAEA did not issue similar complaints. All inspectors withdrew and a 70-hour U.S. and British bombing campaign followed (Operation Desert Fox, December 16-19, 1998), directed against Iraqi WMD-capable facilities and military and security targets. After almost one year of negotiations, the Security Council adopted Resolution 1284 (December 17, 1999) by a vote of 11- 0 (Russia, France, China, and Malaysia abstained), providing for the suspension of most sanctions if Iraq "fully cooperates" with a new WMD inspection body (UNMOVIC, U.N. Monitoring, Verification and Inspection Commission). Under 1284, Iraq's revenues would be subject to undefined financial controls, exports of dual use items to Iraq would still require U.N. approval, and arms exports would remain banned. In January 2000, the Security Council selected as head of UNMOVIC former IAEA director Hans Blix, who developed an organizational plan and reported that, as of August 2000, UNMOVIC is ready to begin activities in Iraq. In the absence of agreement with Iraq to resume on-the-ground inspections, UNMOVIC reviews documents and imagery and interviews informants.

"Axis of Evil" and U.S. Policy. Amid a growing debate over whether to expand the post-September 11 "war on terrorism" to Iraq and amid fears that Iraq could provide WMD expertise to terrorist groups, on November 26, 2001, and again in his January 29, 2002 State of the Union message, President Bush has threatened unspecified action against Iraq to

prevent its re-emergence as a threat. In the latter speech he described Iraq as part of an "axis of evil" along with Iran and North Korea. One month prior to the State of the Union speech, the House passed H.J.Res. 75 on December 20, 2001, by a vote of 392-12. The resolution said that Iraq's refusal to readmit U.N. inspectors is a material breach of its international obligations and a mounting threat to peace and security. The resolution, not taken up in the Senate, did not explicitly authorize U.S. military action.

Amid the U.S. threats, on March 7, 2002 Iraq held a meeting with U.N. Secretary General Annan and UNMOVIC director Blix on the restart of inspections. (Similar talks were held during February 26-27, 2001, but made little progress.) Another round of talks was held May 1-3, and included Blix and IAEA director Mohammad Baradei, ending without agreement. Another round concluded on July 5 in Vienna and reportedly made progress but did not result in agreement on a resumption of inspections. Comments by Secretary of Defense Rumsfeld on February 24, 2002 suggested that the United States would accept new inspections only if such inspections were unconditional and comprehensive, a standard that some Administration officials believe Iraq will never meet. Arab leaders voiced opposition to an attack on Iraq at the March 27-28 Arab League summit, during which Iraq and Kuwait took some steps to reconcile.

The *Washington Post* reported on May 24, 2002, that top U.S. uniformed military leaders see major risks and difficulties in a large U.S. ground offensive, which could require up to 250,000 U.S. troops, intended to overthrow Saddam and install a new government. President Bush said in May 2002 that he has not decided on whether to authorize a U.S. military offensive against Iraq, and several congressional leaders have indicated skepticism about the wisdom of a major offensive against Iraq at this time. A *Washington Post* report of June 16, 2002 said that in early 2002, President Bush, either as a prelude to or alternative to a ground offensive, authorized stepped up covert action by the CIA and U.S. special forces to destabilize Saddam.

The January 30, 2002 CIA proliferation assessment for Congress, covering January to June 2001, repeats U.S. suspicions of Iraqi rebuilding of and research on WMD but presents little hard evidence of such activity. Britain considered releasing in April 2002 a dossier of Iraqi WMD rebuilding but decided not to, apparently because it concluded that its evidence was not sufficiently convincing. There are allegations of illicit Iraqi imports of conventional military equipment, including from Belarus, Ukraine, and the former Yugoslavia.

The following sums up the status of disarmament efforts in Iraq and outstanding issues.

Nuclear Program

During 1991-1994, despite Iraq's initial declaration that it had no nuclear weapons facilities or unsafeguarded material, UNSCOM/IAEA uncovered and dismantled a previously-undeclared network of about 40 nuclear research facilities, including three clandestine uranium enrichment programs (electromagnetic, centrifuge, and chemical isotope separation) as well as laboratory-scale plutonium separation program. Inspectors found and dismantled (in 1992) Iraq's clandestine nuclear weapons development program, and they found evidence of development of a radiological weapon, which scatters nuclear material without an explosion. No radiological weapon was ever completed, but there is debate over whether Iraq ever tested such a device. UNSCOM removed from Iraq all discovered nuclear

reactor fuel, fresh and irradiated. Following the defection of Husayn Kamil (Saddam's son-in-law and former WMD production czar) in August 1995, Iraq revealed it had launched a crash program in August 1990 to produce a nuclear weapon within one year, and that it had planned to divert fuel from its reactors for a nuclear weapon.

The IAEA, before it ceased work in Iraq, said that Iraq's nuclear program had been ended and that it had a relatively complete picture of Iraq's nuclear suppliers. A May 15, 1998 Security Council statement reflected a U.S.-Russian agreement to close the nuclear file if Iraq cleared up outstanding issues (nuclear design drawings, documents, and the fate of some nuclear equipment), but an IAEA report of July 1998, indicated that some questions still remained. The United States did not agree to close the file. In January 2002, as it has in each of the past 3 years, IAEA inspectors verified that several tons of uranium remained sealed, acting under Iraq's commitments under the 1968 Nuclear Nonproliferation Treaty. However, in May 2000, the IAEA destroyed an Iraqi nuclear centrifuge that Iraq had stored in Jordan in 1991. The IAEA says that the absence of an inspections program creates uncertainty about Iraqi nuclear activities. The United States believes that Iraq retains the expertise (about 7,000 scientists and engineers) and intention to rebuild its nuclear program.

Chemical Weapons

UNSCOM destroyed all chemical weapons materiel uncovered — 38,500 munitions, 690 tons of agents, 3,000 tons of precursor chemicals, and 426 pieces of production equipment items — and the destruction operation formally ended on June 14, 1994. However, the fate of about 31,600 chemical munitions, 550 mustard gas bombs, and 4,000 tons of chemical precursors, remains unknown. Iraq refused to yield an Air Force document, found in July 1998 by UNSCOM, that could explain their fate, although Iraq allowed UNSCOM to take notes from it. In February 1998 UNSCOM discovered that shells taken from Iraq in 1996 contained 97% pure mustard gas, indicating it was freshly produced.

The primary remaining chemical weapons questions center on VX nerve agent, which Iraq did not include in its initial postwar declarations and of which no stockpile was ever located. By 1995 UNSCOM had uncovered enough circumstantial evidence to force Iraq to admit to producing about 4 tons of VX, but UNSCOM believed that Iraq had imported enough precursor — about 600 tons — to produce 200 tons of the agent. In late June 1998, UNSCOM revealed that some unearthed missile warheads, tested in a U.S. Army lab, contained traces of VX, contradicting Iraq's assertions that it had not succeeded in stabilizing the agent. Separate French and Swiss tests did not find conclusive evidence of VX. About 170 chemical sites were under long-term monitoring. Iraq has not signed the Chemical Weapons Convention that took effect April 29, 1997. Recent U.S. government reports to Congress, including the CIA report to Congress on January 30, 2002, have said Iraq has rebuilt some facilities that could be easily converted to chemical weapons production.

Biological Weapons

Iraq did not declare any biological materials, weapons, research, or facilities in its initial declaration to UNSCOM in April 1991, and no biological stockpile was ever uncovered. UNSCOM focused initially on the major research and development site at Salman Pak (gutted and partially buried by Iraq shortly before the first inspection began) and later on the Al Hakam facility south of Baghdad (dismantled by UNSCOM June 20, 1996). In August

1991, Iraq admitted that it had a biological weapons research program. In July 1995, Iraq modified its admission by acknowledging it had an offensive biological weapons program and that it had produced 19,000 liters of botulinum, 8,400 liters of anthrax, and 2,000 liters of aflatoxin and clostridium. In August 1995, Iraq confessed to having produced 191 biological bombs, of which 25 were missile warheads, loaded with anthrax, botulinum, and aflatoxin for use in the Gulf war, but Iraq claims to have destroyed the bombs after the Gulf conflict. UNSCOM monitored 86 biological sites during 1994 -1998.

UNSCOM's position was that Iraq's biological declarations were not credible or verifiable. According to UNSCOM, Iraq imported a total of 34 tons of growth media for producing biological agents during the 1980s, of which 4 tons remain unaccounted for. UNSCOM still lacked information on Iraq's development of drop tanks and aerosol generators for biological dissemination, as well as the fate of the biological munitions. In early April 2001, Iraq wrote to Secretary General Annan that it plans to refurbish the Doura laboratory, destroyed by UNSCOM in 1996 on the grounds it could be used for biological weapons. Iraq says it needs the plant to produce vaccines against foot and mouth disease.

The October 2001 anthrax-related terrorism in the United States has generated suspicions of Iraqi involvement because Iraq developed anthrax as part of its biological program. No evidence linking the anthrax to Iraq has been announced, and White House spokespersons said in late December 2001 that the anthrax used in the attacks appeared to be from a domestic source, such as a U.S. military laboratory.

Ballistic Missiles

U.N. Security Council Resolution 687 requires the destruction of all Iraqi ballistic missiles with a range greater than 150 kilometers. UNSCOM accounted for 817 of 819 Soviet-supplied Scud missiles, 130 of which survived the Gulf war, as well as all 14 declared mobile launchers and 60 fixed launch pads. U.S. and British analysts, contrary to UNSCOM's assessments, believe Iraq might be concealing 10 to 12 Russian-supplied Scud-type missiles. UNSCOM's last regular report (October 1998) said it had been able to account for at least 43 of the 45 chemical and biological (CBW) warheads Iraq said it unilaterally destroyed in 1991. (The warheads were unearthed in mid-1998.) An additional 30 chemical warheads were previously destroyed under UNSCOM supervision. UNSCOM also accounted for all but 50 conventional Scud warheads, and said it had made progress toward establishing a material balance for Scud engine components. Unresolved issues include accounting for missile program documentation, 300 tons of special missile propellant, and indigenous missile production (30 indigenously-made warheads and 7 missiles).

In December 1995, after Jordan reported seizing 115 Russian-made missile guidance components allegedly bound for Iraq, UNSCOM said Iraq had procured some missile components since 1991, a violation of sanctions. (That month, UNSCOM retrieved prohibited missile guidance gyroscopes, suitable for a 2,000 mile range missile, from Iraq's Tigris River, apparently procured from Russia's defense-industrial establishment.) UNSCOM also had evidence that Iraq, after the Gulf war, conducted secret flight tests and conducted research on missiles of prohibited ranges. Iraq is making progress in developing permitted-range missiles – the Ababil and Samoud programs – according to the January 2002 CIA report to Congress and, prior to Desert Fox, UNSCOM had been monitoring about 63 missile sites and 159 items of equipment, as well as 2,000 permitted missiles. In early May

2002, the United States presented to the U.N. Security Council evidence that Iraq is developing missiles of ranges beyond the permitted 150 km.

Human Rights/War Crimes Issues

U.S. and U.N. human rights reports since the Gulf war have repeatedly described Iraq as a gross violator of human rights. In 1994, the Clinton Administration said it might, at some point, present a case against Iraq to the International Court of Justice under the 1948 Genocide Convention. U.N. Rapporteur for Iraq Max Van der Stoel's February 1994 report said that Convention might be violated by Iraq's abuses against the Shiite "Marsh Arabs" in southern Iraq, including drainage of the marshes where they live. In February 2002, Iraq allowed the U.N. human rights rapporteur for Iraq, Andreas Mavromatis of Cyprus, to visit Iraq, the first such visit since 1992. He expects to make a more extended visit later in 2002.

War Crimes Trial. U.N. Security Council Resolution 674 (October 29, 1990) calls on all states or organizations to provide information on Iraqi atrocities to the United Nations. The Foreign Relations Authorization Act for FY1992, (P.L. 102-138, October 28, 1991, section 301) stated the sense of Congress that the President should propose to the U.N. Security Council a war crimes tribunal for Saddam Husayn. In later years, similar legislation was passed by one or both chambers, including H.Con.Res. 137, (passed the House November 13, 1997); S.Con.Res. 78, (passed the Senate March 13, 1998); and a provision of the Iraq Liberation Act (P.L. 105-338, signed October 31, 1998).

In the aftermath of the Persian Gulf war, the U.S. Army conducted research into possible war crimes; the report was released on March 19, 1993, after Clinton took office. Since April 1997, the Administration has supported INDICT, a private organization that publicizes alleged Iraqi war crimes and seeks the arrest of 12 alleged Iraqi war criminals. Although apparently lacking international support, in August 2000 then U.S. Ambassador-At-Large for War Crimes David Scheffer said that the United States wanted to see an Iraq war crimes tribunal established, focusing on "nine major criminal episodes." These include the use of chemical weapons against Kurdish civilians at Halabja (March 16, 1988, killing 5,000 Kurds) and the forced relocation of Kurds in the "Anfal" campaign (February 1988, in which an estimated 50,000 to 182,000 Kurds died); the use of chemical weapons use against Iran; post-war crimes against humanity (the Kurds and the Marsh Arabs); war crimes against Kuwait (oil fires, for example) and coalition forces; and other allegations. In FY2001 and again in FY2002, the State Department contributed $4 million to a U.N. "Iraq War Crimes Commission, " to be spent if a U.N. tribunal for Iraq war crimes is formed. (For more information on U.S. funding for Iraqi war crimes issues, see CRS Report RL31339, *Iraq: U.S. Efforts to Change the Regime.*)

Resettlement of Iraqi Refugees

Desert Storm and postwar rebellions against Saddam created a flood of Iraqi refugees, including 39,000 Iraqis in a camp in Saudi Arabia (Rafha). Of that pool, about 14,000 were ex-soldiers (and their family members) that participated in postwar rebellions or had surrendered to coalition forces. The Bush Administration (1989-1993) agreed to participate

in a multinational resettlement program recommended by UNHCR. The total admitted to the United States under the program were about 29,000 Iraqis, of which about 3,800 were ex-soldiers and their families. About 5,000 Iraqis remain in Saudi Arabia as refugees, and the United States is not accepting any more. The FY1994 defense authorization (P.L. 103-160) stated the sense of the Senate that there be no admissions of Iraqi ex-soldiers unless they are certified to have assisted coalition forces after defecting and have not committed any war crimes; the Clinton Administration said these criteria were met. In the wake of the September 1996 northern Iraq crisis, 5,900 Kurds who worked for U.S. relief operations or U.S.-affiliated NGO's in northern Iraq, as well as 650 opposition activists, were resettled in the United States under the Attorney General's parole authority.

Support for International Terrorism/September 11

Resolution 687 required Iraq to end support for international terrorism, and Iraq made a declaration to that effect to the U.N. Security Council. Bush Administration officials said in early May 2002 that, after an exhaustive FBI and CIA investigation, no direct link has been found between Iraq and any of the September 11 hijackers. However, an article in the March 25, 2002 edition of *The New Yorker* alleged that Al Qaeda members were relocating to northern Iraq and have contact with Iraqi intelligence, and other press reports allege that Al Qaeda activists who fled Afghanistan are taking refuge in or transiting Iraq. Iraq remains on the U.S. list of state sponsors of terrorism, and according to the State Department's reports on international terrorism (most recently the report for 2001, issued May 21, 2002), continues to harbor the Abu Nidal Organization and the Palestine Liberation Front of Abu Abbas. Iraq says it will pay the families of Palestinian suicide bombers $25,000. (See CRS Report RL31119, *Terrorism: Near Eastern Groups and State Sponsors, 2002*.)

Iraq-Kuwait Issues

Resolution 1284 requires reports on the issues discussed below. However, in contrast to Resolution 687, Resolution 1284 does not make the easing of any sanctions contingent upon Iraqi compliance on these Kuwait-related issues.

Border Delineation and Security/Kuwaiti Sovereignty

Resolution 687 required Iraq to annul its annexation of Kuwait, directed the U.N. Secretary-General to demarcate the Iraq-Kuwait border, and established a demilitarized zone 10 kilometers into Iraq and 5 kilometers into Kuwait. Resolution 773 (August 26, 1992) endorsed border decisions taken by the Iraq-Kuwait Boundary Demarcation Commission (established May 2, 1991) that, in November 1992, finished demarcating the Iraq-Kuwait border as described in an October 1963 agreement between Iraq and Kuwait. The border took effect January 15, 1993. The new line deprived Iraq of part of Umm Qasr port and a strip of the Rumaylah oil field, which straddles the border. On March 18, 1993, the Commission determined the sea border, allowing both countries access to the Gulf. Resolution 833 (May 27, 1993) demanded that Iraq and Kuwait accept the final border demarcation. On November 10, 1994, Iraq formally recognized Kuwait in a motion signed by Saddam Husayn, but Iraqi officials routinely make statements that Kuwait interprets as

threatening. At the Arab summit in Beirut (March 27-29, 2002), Iraq reaffirmed its commitment to Kuwait's territorial integrity and pledged to cooperate to determine the fate of missing Kuwaitis (see below), earning Iraq an Arab statement of opposition to a U.S. attack on Iraq and a step toward reconciliation with Kuwait.

The 32-nation U.N. Iraq-Kuwait Observer Mission (UNIKOM), established by Resolutions 687 and 689 April 9, 1991), continues to monitor border violations. The United States contributes 11 personnel to the 197 observers in UNIKOM, which is considered a U.N. peacekeeping operation. Under Resolution 806 (February 5, 1993), passed after Iraqi incursions into the demilitarized zone in January 1993 (and other incidents), a 908-member Bengali troop contingent supplements the observer group. Kuwait furnishes two-thirds of UNIKOM's $51 million annual budget. The United States contributes about $4.5 million per year to UNIKOM.

Return of Kuwaiti Missing Persons and Property

Security Council Resolutions 686 and 687 require Iraq to account for Kuwaiti and other nationals detained in Iraq during the Persian Gulf crisis. Of an initial 628 Kuwaiti cases, 608 are unresolved (ICRC figure as of May 2000), as are the cases of an additional 17 Saudi nationals. Iraq has admitted to having arrested and detained 126 Kuwaitis, but did not provide enough information to resolve their fate. Only three cases have been resolved since 1995. Since January 1995, Iraq and Kuwait were meeting every month on the Iraq-Kuwait border, along with U.S., British, French, and Saudi representatives, but Iraq has boycotted the meetings since Operation Desert Fox. In February 2000, retired Russian diplomat Yuli Vorontsov was appointed to a new post (created by Resolution 1284) of U.N. coordinator on the issue of missing Kuwaiti persons and unreturned property. Iraq has not yet allowed him to visit Iraq, and in April, June, and August 2000, as well as in March, April, and June 2001, the Security Council has issued statements of concern about the lack of progress. The U.N. Secretary General's August 15, 2001 report on the issue said Iraq continued to be uncooperative. In April 2002, Iraq offered to receive a U.S. team to discuss the case of missing American serviceman from the Gulf war, Navy pilot Michael Speicher, and Defense Department officials reportedly are considering the offer.

U.N. Security Council Resolutions 686 and 687 require Iraq to return all property seized from Kuwait. In the first few years after the cease-fire, Iraq returned some Kuwaiti civilian and military equipment, including U.S.-made Improved Hawk air defense missiles, and a June 2000 Secretary General report and a June 19, 2000 Security Council statement did note that Iraq had returned "a substantial amount of property." However, since 1994, U.S. officials have accused Iraq of returning to Kuwait some captured Iranian equipment that was never part of Kuwait's arsenal and of using Kuwaiti missiles and armored personnel carriers during Iraq's October 1994 troop move toward the Kuwait border. The United Nations and Kuwait say Iraq has not returned extensive Kuwaiti state archives and museum pieces, as well as military equipment including eight Mirage F-1 aircraft, 245 Russian-made fighting vehicles, 90 M113 armored personnel carriers, one Hawk battery, 3,750 Tow anti-tank missiles, and 675 Russian-made surface-to-air missile batteries. Iraq claims the materiel was left behind or destroyed when Iraq evacuated Kuwait. In the March 7, 2002 talks with U.N. Secretary General Annan, Iraq pledged to return Kuwait's state archives, and Annan said at the conclusion of the July 4-5, 2002 inspections talks that agreement had been reached on a "mechanism" for Iraq to return the archives (six truckloads of documents) to Kuwait.

Reparations Payments

The U.N. Security Council has set up a mechanism for compensating the victims of Iraq's invasion of Kuwait (individuals, governments, and corporations), using 25% (reduced from 305 in December 2000) of the proceeds from Iraqi oil sales. As of June 21, 2002 – following an award of $4.5 billion to Kuwait's government and state-owned oil industry -- the Compensation Commission (UNCC) has approved claims worth about $42.6 billion, of a total asserted value of $320 billion claims submitted. Following an April 2002 payout of about $1 billion, which included $800 million in payments to Kuwait, the UNCC has paid out about $14.8 billion. Awards to U.S. claimants thus far total over $666 million. In September 2000, the UNCC governing council approved an award to Kuwait of $15.9 billion for oil revenues lost because of the Iraqi occupation and the aftermath of the war (burning oil wells), although current payment schedules will provide only a small fraction of that award (about $50 million) until 2003. In June 2001, the UNCC approved $243 million in payments to all of Iraq's immediate neighbors (except Turkey) for studies of Gulf war environmental damage. Of this amount, $5 million was approved for Iraq's legal expenses to counter the expected environmental reparations claims.

Several legislative proposals ("Iraq Claims Act") to distribute Iraq's frozen assets (about $2.2 billion) in the United States (separate from the U.N. compensation process) were not enacted, because of differences over categories of claimants that should receive priority. In the 107th Congress, H.R. 1632 proposes to distribute Iraq's frozen assets primarily to U.S. victims of the Iraqi invasion of Kuwait. Some might argue that this group of claimants is covered under the U.N. process discussed above and that the frozen assets in the United States should be used for those with claims resulting from events prior to the Iraqi invasion. (See CRS Report 98-240, *Iraq: Compensation and Assets Issues.*)

U.S. Policy, Sanctions, and the Oil-for-Food Program

As international concerns for the plight of the Iraqi people have grown, the United States has had increasing difficulty maintaining support for international sanctions. The oil-for-food program, established by Resolution 986 (April 15, 1995) and in operation since December 1996, has been progressively modified to improve Iraq's living standards, and the United States has eased its own sanctions to align them with the program. (For a discussion of the program, see CRS Report RL30472, *Iraq: Oil-For-Food Program*.) Of the Security Council permanent members, the United States has set the highest standards for full Iraqi compliance. The United States rules out direct dialogue with Iraq on the grounds that Iraq's level of compliance does not justify U.S.-Iraq talks.

"Smart Sanctions" Initiative. During a February 2001 trip to the Middle East, Secretary of State Powell presented a U.S. plan to facilitate exports of civilian equipment to Iraq in exchange for measures to ensure that no militarily useful goods reach Iraq. The Administration portrayed its initiative as an effort to rebuild containment by narrowing differences within the Security Council and limiting sanctions erosion. France, Russia, and China have sought to ease sanctions in order to give Iraq incentives to cooperate with the international community.

With phase nine of the oil-for-food program about to expire, the Security Council debated the U.S. plan but failed to reach agreement, and the Council extended phase nine by one month with no changes (Resolution 1352, June 1, 2001). Russian opposition prevented Security Council adoption of the U.S. plan by the July 3, 2001 deadline, leading to a Council decision to authorize a 5-month phase ten of the program, with no alterations (U.N. Security Council Resolution 1360). Not wanting to jeopardize Russian or moderate Arab cooperation with the war against the Taliban and bin Laden, the United States and Russia, along with the other Security Council members, agreed (Resolution 1382, November 29, 2001) to authorize a phase eleven with no changes. There was consensus to work, by the time of the next rollover (May 30, 2002), to agree on a list of goods that would still require review for export to Iraq (Goods Review List, GRL); a draft listed was attached to Resolution 1382. On May 14, 2002, the Security Council adopted Resolution 1409, providing for goods to be exported to Iraq without scrutiny, with the exception of military items (banned outright) and GRL items (subject to export after review by UNMOVIC). According to a *Washington Post* story of January 16, 2002, in December 2001 the United States released holds on $200 million worth of proposed Russian exports to Iraq in order to enlist Russian support for the new sanctions regime.

Another issue is that of international flights to Iraq. Since August 2000, France, Russia, and several of Iraq's neighbors have challenged the U.S. interpretation that U.N. Resolution 670 (September 25, 1990) bans passenger flights to and from Iraq; and there has been a revival of significant air traffic into and from Iraq. (The resolution bans flights carrying "cargo," except humanitarian cargo, subject to Sanctions Committee approval.) In early November 2000, Iraq restarted passenger flights within Iraq; the United States has not objected to the internal flights but continues to oppose the international flights.

France, Russia, and China have also sought to permit new investment in Iraq's energy sector. Such investment is provided for by Resolution 1284 only after Iraq fully complies on outstanding WMD issues. Chinese, Russian, and French firms already have agreed to specific energy investment projects in Iraq, to be implemented when the investment ban is lifted. As a possible sign of some easing, in February 2001 the Sanctions Committee approved plans by two Russian companies (Zarubezhneft and Tatneft) to drill about 100 wells in existing fields in Iraq. The Sanctions Committee also approved a contract between Iraq and Turkey (December 2001), for a Turkish energy firm to drill 20 wells near Kirkuk.

Previous negotiations on Iraq sanctions sought to prevent Iraq from skirting oil-for-food guidelines in the course of exporting oil. There are continued reports that oil trading companies are paying Iraq surcharges of 20 to 70 cents per barrel of oil, and, in April 2001, the U.S. government warned U.S. firms against buying Iraqi oil from traders that are paying the surcharge. In early 2002, the United States and Britain persuaded the Sanctions Committee to institute a new oil pricing mechanism (retroactive pricing) that would keep Iraq's price closer to the world price and cut down the margin for surcharging. The U.N. official in charge of the oil-for-food program said the new mechanism was affecting the oil contracting process to the point that Iraq's oil exports had fallen about 25%, from about 2.1 million barrels per day (mbd) to about 1.5 mbd. In early March 2002, in an effort to stress the risks of easing sanctions, the United States showed satellite photos to the other Security Council members indicating Iraq had converted some trucks imported under the oil for food program for military purposes.

Formally, comprehensive U.S. trade sanctions against Iraq have been in place since Iraq's 1990 invasion (Executive Order 12722 of August 2, 1990, Executive Order 12724 of August 6, 1990, and the Iraq Sanctions Act of 1990, Section 586 of P.L. 101-513). Since then, U.S. trade regulations have been amended to align them with the oil-for-food program. A summary of the regulations governing transactions with Iraq is provided in CRS Report RL30472, *Iraq: Oil-for-Food Program*. U.S. imports of Iraqi oil have soared since 1999 and reached a high of about 970,000 barrels per day in May 2001 — nearly half of Iraq's oil exports. That figure has since fallen to about 500,000 barrels per day in June 2002. In the 107th Congress, S. 1170, introduced July 12, 2001, would bar U.S. imports of Iraqi oil. The measure was adopted by the Senate on April 18, 2002, as an amendment to an energy bill (H.R. 4), but it is opposed by the Bush Administration on the grounds that the imports are part of a U.N.-supervised program. A measure introduced in the 107th Congress (H.R. 742), seeks to ease civilian sanctions while preserving military sanctions and would have eased the licensing procedures for U.S. sales of goods to Iraq under oil-for-food.

Prior to the oil-for-food program, funds for civilian goods and the implementation of U.N. resolutions on Iraq were drawn from frozen Iraqi assets transferred — or direct contributions — to a U.N. escrow account pursuant to Resolution 778 (October 1992). Total U.S. transfers to the escrow account, which matched contributions from other countries, reached $200 million, the maximum required under Resolution 778. These transfers were being repaid to the United States from proceeds of the oil-for-food program. Resolutions 1284 and 1302 (June 8, 2000) suspended reimbursements until the end of 2000; about $173 million was due back to the United States. Repayments resumed in 2001.

Iraq's Illicit Trade with Its Neighbors

As regional fears of Iraq have eased and sympathy for the Iraqi people has grown, the United States has had difficulty persuading regional governments to enforce the sanctions regime. A General Accounting Office report issued in May 2002 estimated that Iraq earned about $2.2 billion in illicit revenues in 2001 – $1.5 billion in illicit exports and $700 million in surcharges. Improving sanctions enforcement by Iraq's neighbors was dropped from the U.S. targeted-sanctions proposals adopted in Resolution 1409 because of significant regional resistance. See CRS Report RL30472, *Iraq: Oil-for-Food Program.*

Jordan. Since 1992, despite Jordan's economic linkages with Iraq and its advocacy of easing sanctions, the United States has considered Jordan's compliance with the U.N. sanctions regime on Iraq satisfactory. In October 2000, Jordan dismissed Lloyd's International from its role as inspector of goods bound for Iraq and arriving in Jordan at the port of Aqaba, a role enshrined in an agreement between Jordan and the United States in 1993. Recognizing Jordan's economic need, the Sanctions Committee "takes note of" Jordan's purchases of discounted Iraqi oil and oil products, which is exchanged for Jordanian goods (approved under the oil-for-food program) and write-downs in Iraqi debt to Jordan. This relationship was renewed in November 2001 at a level of about $500 million for the year, which translates into about 100,000 barrels per day of Iraqi oil exports to Jordan.

Every year since FY1994, foreign aid appropriations laws (P.L. 103-87, P.L. 103-306, P.L. 104-107, P.L. 104-208, P.L. 105-118, P.L. 105-277, P.L. 106-113, and P.L. 106-429), have denied U.S. aid to any country that does not comply with the sanctions against Iraq, though these laws do not mention Jordan specifically. The Administration has routinely

waived sanctions in order to provide aid to Jordan, which is a key U.S. ally in the Middle East peace process; Congress has not objected to that waiver. (See CRS Issue Brief IB93085, *Jordan: U.S. Relations and Bilateral Issues).* In December 2001, Jordan approved a project to build an oil pipeline from Iraq to Jordan, to be operational by 2005.

Turkey. Turkey estimates that it has lost $35 billion as a result of the sanctions. The Turkish government now regulates and taxes the illicit importation of about $400 million per year in Iraqi energy products by Turkish truck drivers returning from Iraq. That truck traffic resumed in January 2002 at a low level after a 4-month shut down by Iraq - an Iraqi effort to punish the Kurds who earn customs revenue from the trade. U.S. sanctions against Turkey for this trade have been waived each year. In April 2000, Iraq and Turkey agreed to increase bilateral trade to about $2.5 billion per year, roughly pre-war levels. Turkey returned an Ambassador to Iraq in January 2001.

Iran/Persian Gulf States. In enforcing the embargo, two U.S. ships lead a Multinational Interdiction Force (MIF) that conducts maritime searches in the Persian Gulf to prevent the smuggling of oil and other high-value exports. The United States has asserted that Iran's Revolutionary Guard has been helping Iraq smuggle out the oil exports in exchange for "protection fees," although Iran did stop some illicit shipments in mid-2000, earning some U.S. praise. From its high of about $600 million in 2000, smuggling through this route has fallen substantially since early 2001, indicating that Iraq may be increasingly using the pipeline to Syria (see below). In June 2002, U.S. military officials attributed the drop-off in part to more robust enforcement techniques by the MIF. It should be noted that Iraq receives only half the export value after paying the Revolutionary Guard and smugglers.

Iranian-Iraqi relations have improved since 1995. The two exchanged 6,000 prisoners from the Iran-Iraq war in April 1998 and smaller batches of prisoners and remains since. In early October 2000, the two agreed to abide by the 1975 Algiers Accords that delineated their border, and Iran's Foreign Minister visited later in the month, a sign of accelerating rapprochement. Iraq's Foreign Minister visited Iran in January 2002, and Iran released over 600 Iraqi prisoners still held. Regarding Iraq's relations with the Gulf monarchy states, in April 2000, the UAE and Bahrain reopened embassies in Baghdad, leaving Kuwait and Saudi Arabia as the only two Gulf monarchies without diplomatic relations with Iraq. As noted above, Kuwait and Iraq, in conjunction with Saudi Arabia, took steps to reconcile at the Arab League summit in Jordan (March 27-28, 2002). In June 2002, Saudi Arabia opened a border crossing with Iraq for goods to reach Iraq under the "oil-for-food" program.

Syria/Lebanon/Egypt. Syria and Iraq began a warming trend in relations by reopening their border in 1997; this trend has continued since the July 2000 accession of Bashar Assad to the presidency of Syria. Since late 1998, the two countries have benefitted from the reopening of the Iraq-Syria oil pipeline, closed since 1982, and Iraq has been sending about 150,000 - 180,000 barrels per day of oil through the line, under a "swap" arrangement in which Syria uses the oil domestically and exports an equivalent extra amount of its own oil. Because of discounts offered to Syria, Iraq earns about $800 million per year from this illicit exportation. Resolution 1284 (paragraph 16) lays the groundwork for the opening of this route, but Syria and Iraq are resisting controls on this trade. Syria has not implemented its pledge to Secretary of State Powell, made during his February 2001 visit to Damascus, that Syria would place the pipeline under oil-for-food guidelines, and press reports say the Bush Administration has not pressed Syria to uphold this commitment in

order to earn Syrian cooperation in the war on terrorism. In May 2001, Iraq and Syria reopened diplomatic missions in each others' capitals.

Lebanon, which is under the heavy influence of Syria, restored diplomatic relations with Iraq October 23, 1998, after a 4-year break. As a sign of warming Iraqi-Egyptian relations, Iraqi-Egyptian trade under the oil for food program and other trade has now reached $1.7 billion annually. On January 18, 2001, the two countries signed a "free trade agreement," although under the condition that it goes into effect when sanctions are lifted. In November 2000, Iraq and Egypt upgraded their interest sections to embassies.

Protecting/Supporting Iraq's Opposition

The post-September 11 debate on Iraq encompasses the question of whether the United States will increase support for the Iraqi opposition. However, the opposition is highly divided, and officials in the Bush Administration have varying opinions on which groups are the most viable. The Administration is attempting to broaden its contacts with opposition groups rather than confine its dealings largely to the Iraqi National Congress (INC). In June 2002, there were reports that the Administration might reestablish the position of U.S. coordinator for the Iraqi opposition. A U.S.-funded conference of opposition groups, which was to be held in May 2002, is in doubt over divisions within the Administration on how to structure it, and some groups said they would meet in July 2002 on their own initiative. For a discussion of the arguments for and against the regime change policy and the various strategies for accomplishing that objective, as well as information on U.S. assistance to the Iraqi opposition, see CRS Report RL31339, *Iraq: U.S. Efforts to Change the Regime*.

As of February 2002, the Iraqi opposition has received $24 million in ESF since 1998, with $19 million still to be obligated out of $43 million appropriated. The FY2002 foreign aid bill (H.R. 2506, conference report H.Rept. 107-345) contains a provision authorizing the expenditure of Economic Support Funds (ESF) in FY2002 to change the Iraqi regime, although no dollar amount is specified. The conference report also contains language expressing congressional concern about the results of a State Department audit of the INC's use of U.S.-provided funds and suggesting that the U.S. consider funding other opposition groups in addition to the INC. The INC ceased its Liberty TV broadcasts in late April 2002 because some of its funding is still being negotiated with the State Department. In June 2002, the State Department offered the INC $8 million to fund operations through the end of the year.

Military Action and Long-Term Containment

The current U.S. military posture in the Persian Gulf is focused on containing Iraq. Currently, the United States and Britain enforce two "no fly zones" to provide a measure of protection for Iraq's Kurdish minority and other objects of regime repression and to contain Iraq militarily. To enforce the no-fly zones, the two allies invoke U.N. Resolution 678 (November 29, 1990, authorizing use of force to expel Iraq from Kuwait), 687 (the main ceasefire resolution), 688 (human rights), and the Safwan Accords (the March 3, 1991 cease-fire agreements between Iraq and the coalition forces that banned Iraqi interference with allied air operations). Resolutions 678 and 687 were written under Chapter VII of the U.N. Charter, dealing with peace and security, and are interpreted as allowing military action

to enforce these resolutions. Resolution 688 (human rights) was not written under Chapter VII, nor does that or any other resolution establish no fly zones.

To justify Operation Desert Fox, the Administration cited additional justification from Resolution 1154 (see above), which warned of "the severest consequences" for non-compliance. Section 1095 of P.L. 102-190, the Defense Authorization Act for FY1992, signed December 5, 1991, expressed Congress' support for "all necessary means" to achieve the goals of U.N. Security Council Resolution 687. (For information on the U.S. military posture in the Gulf, see CRS Report RL30728, *Persian Gulf: Issues for U.S. Policy, 2000.*) In instances of strikes on Iraq for no fly zone or other infractions, the Administration also has cited congressional action (primarily P.L. 102-1 of January 12, 1991, authorizing military action to expel Iraq from Kuwait).

Kurds/Operation Northern Watch (ONW). The northern no fly zone was set up in April 1991, to protect the Kurds in northern Iraq. The zone extends north of the 36th parallel. After the September 1996 Iraqi incursion into northern Iraq, humanitarian aspects of ONW were ended and France ended its ONW participation. On June 18, 2002, Turkey renewed for six months basing rights at Incirlik Air Base for the 24 American aircraft and about 1,300 U.S. forces (plus allied forces). However, Turkey fears that ONW protects the anti-Turkish Kurdistan Workers' Party (PKK), which takes refuge in parts of northern Iraq, and Turkey has made repeated attacks against the PKK there since May 1997.

The two leading Iraqi Kurdish parties, the KDP led by Mas'ud Barzani and the Patriotic Union of Kurdistan (PUK) led by Jalal Talabani, agreed in May 1992 to share power after parliamentary and executive elections. In May 1994, tensions between them flared into clashes, and the KDP turned to Baghdad for backing. In August 1996, Iraqi forces helped the KDP capture Irbil, seat of the Kurdish regional government. With U.S. mediation, the Kurdish parties agreed on October 23, 1996, to a cease-fire and the establishment of a 400-man peace monitoring force composed mainly of Turkomens (75% of the force). The United States funded the force with FY1997 funds of $3 million for peacekeeping (Section 451 of the Foreign Assistance Act), plus about $4 million in DoD drawdowns for vehicles and communications gear (Section 552 of the FAA).

Also set up was a peace supervisory group consisting of the United States, Britain, Turkey, the PUK, the KDP, and Iraqi Turkomens. A tenuous cease-fire has held since November 1997 and the KDP and PUK leaders signed an agreement in Washington in September 1998 to work toward resolving the main outstanding issues (sharing of revenues and control over the Kurdish regional government). None of these issues has been fully resolved, but reconciliation efforts have shown substantial progress thus far in 2001. Both parties are represented in the opposition umbrella Iraqi National Congress, but both also maintain ties to Baghdad. In June 2002, the United States gave the Kurds $3.1 million in new assistance to help continue the reconciliation process, amid press reports of U.S. proposals for U.S. special forces teams to begin working with the Kurds as part of an overthrow effort against Saddam (*New York Times*, July 5, 2002).

Shiite Muslims/Operation Southern Watch. Shiites constitute a majority in Iraq but historically have been repressed. The U.S.-led coalition declared a no-fly zone over southern Iraq (south of the 32nd parallel) to protect the Shiites on August 26, 1992 (Operation Southern Watch), although the overflights are primarily part of the U.S.

containment strategy. The United States and the United Kingdom (but not France) expanded the zone up to the 33rd parallel on September 4, 1996; France ended its participation entirely after Desert Fox. In response to Iraq's movement of troops toward Kuwait in October 1994, Security Council Resolution 949 (October 15, 1994) demanded Iraq not deploy forces to threaten its neighbors. The United States and Britain interpret this as authorizing military action if Iraq enhances (numbers or quality of armament) its forces below the 32nd parallel.

During March 2000-March 2001, Iraqi air defenses fired at or near fixed radar or allied aircraft enforcing the zones on 500 occasions, in many cases provoking U.S. strikes on the activated missile batteries. On February 16, 2001, the United States and Britain struck elements of that network north of the southern no fly zone, in response to Iraq's increasing ability to target U.S. aircraft. U.S. aircraft did not go beyond the zone. The U.S. strike activity has continued to be relatively low since September 11, despite the post-September 11 debate over stepped-up U.S. action against Iraq. However, in late April 2002, the Defense Department said Iraq had moved anti-aircraft systems into the no fly zones, and in June 2002 allied defense officials said Iraq was increasing its efforts to down an allied aircraft, leading to an increased frequency in coalition strikes on Iraqi anti-aircraft targets.

Costs of Containment. Saudi Arabia, Kuwait, and the United Arab Emirates contributed a total of $37 billion to the $61.1 billion in incremental costs of Desert Storm, all of which has been paid. From the end of the Gulf war until the end of FY2000, the Defense Department has incurred about $8 billion in costs to contain Iraq and provide humanitarian aid to the Kurds. Of that, about $1.14 billion was spent in FY2000, and just under $100 million was spent for Operation Desert Fox. About $1.2 billion was spent in FY2001, and a similar amount is estimated for all of FY2002. The Department of Defense, under the Weapons of Mass Destruction Control Act of 1992 (22 U.S.C. 5859a), assisted UNSCOM by providing U-2 surveillance flights (suspended since the December 15, 1998 UNSCOM pullout), intelligence, personnel, equipment, and logistical support, at a cost of about $15 million per year. (See CRS Issue Brief IB94040, *Peacekeeping: Issues of U.S. Military Involvement*.)