

Issue Brief for Congress

Received through the CRS Web

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

Updated December 24, 2002

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Iraq: Weapons Threat, 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. In the wake of the September 11 attacks, there is heightened U.S. concern about the potential threat posed by Iraq's weapons of mass destruction programs and alleged ties to terrorist groups, and the Bush Administration has said it will confront that potential threat, even if it has to act militarily and without formal U.N. authorization.

The Administration is employing a number of tactics to reduce the threat posed by Iraq, including international sanctions and diplomacy, reported covert action, and preparations for possible military action. Changing Iraq's regime, which the Administration says remains a U.S. goal, is not openly supported by many other governments, particularly if it involves major military action. However, many governments support U.S. action through the United Nations to enforce Security Council resolutions requiring Iraqi disarmament of its mass destruction weapons (WMD) programs, and the Bush Administration appears to be tailoring its policy to that objective.

Part of the debate over U.S. policy centers on whether Iraq's WMD programs can be ended through a reintroduction of U.N. weapons inspectors. During 1991-1998, a

U.N. Special Commission on Iraq (UNSCOM) made considerable progress in dismantling and monitoring Iraq's but was unable to finish verifying Iraq's claim that it has destroyed all its WMD 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 the degree to which 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 detail the fate of more than 600 Kuwaitis still missing from the war and has not returned all 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, operational since December 1996.

Iraq is deemed non-compliant in other areas, especially human rights issues. 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

In a September 12 speech before the United Nations, President Bush implied that U.S. military action would be taken against Iraq if the United Nations did not disarm Iraq. On October 11, Congress completed passage of legislation (H.J.Res.114, P.L. 107-243) authorizing the President to use force against Iraq. On November 8, the Security Council unanimously adopted Resolution 1441, giving U.N. weapons inspectors new authorities. New U.N. inspections began November 27. On December 7, Iraq handed over a 12,000 page required “complete and currently accurate” declaration of all its past WMD programs and WMD useful capabilities, reportedly stating it currently has no banned WMD programs. On December 19, Secretary of State Powell said there were material omissions in Iraq’s declarations that constitute a further material breach of Iraq’s obligations, although other Security Council members declined to consider the declaration a material breach.

BACKGROUND AND ANALYSIS

U.N. Security Council **Resolution 678** (November 29, 1990) authorized the use of force to expel Iraq from Kuwait. After the war (January 16 - February 28, 1991), a ceasefire was declared in Security Council **Resolution 686** (March 2, 1991). The primary ceasefire resolution is Security Council **Resolution 687** (April 3, 1991), requiring Iraq – in return for a graduated easing of sanctions – to end its weapons of mass destruction programs, recognize Kuwait, account for missing Kuwaitis, return Kuwaiti property, and end support for terrorism. Iraq accepted the resolution. Iraq is required by **Resolution 688** (April 5, 1991) to end repression of its people. 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 the comprehensive international sanctions on Iraq’s imports and exports imposed by Security Council Resolution 661 (August 6, 1990). (See 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)

During 1991-1998, a U.N. Special Commission (UNSCOM) 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 of WMD facilities (**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) Iraq’s 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) requiring 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,

which were not resolved by a March 1996 side agreement between UNSCOM and Iraq governing pre-notification of inspections of defense and security sites, 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, and **Resolution 1134** (October 23, 1997) again threatened a travel ban and suspended sanctions reviews until April 1998.

1997-1998 Crises. Six days after that vote, Iraq barred American UNSCOM personnel from conducting inspections, and on November 13, 1997, it expelled the Americans. **Resolution 1137** (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 Hussein.) 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, the travel ban on Iraqi officials was lifted, and sanctions reviews resumed.

Iraq subsequently refused to implement an UNSCOM plan for completing its work and, in August 1998, barred UNSCOM from inspecting previously inspected 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. The Security Council adopted **Resolution 1194** (September 9, 1998) demanding full unfettered inspections access and 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 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, averting airstrikes 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. 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, subject to a vote of the Security Council, for the suspension of most sanctions if Iraq “fully cooperates” with a new WMD inspection body (UNMOVIC, U.N. Monitoring, Verification and Inspection Commission). The resolution calls for inspectors to determine within 60 days of reentering Iraq what WMD elimination tasks remain. Under Resolution 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

readied UNMOVIC for activities in Iraq. In the absence of Iraq's agreement to allow in-country inspections, UNMOVIC's staff of 63 – all employees of the United Nations and not their individual governments – reviewed documents and imagery, interviewed informants, and reviewed civilian contracts for goods purchased by Iraq to determine whether certain items (“Goods Review List” items) are not included. Such items are subject to review.

“Axis of Evil” and U.S. Policy. Amid a growing debate over whether to expand the post-September 11 “war on terrorism” to Iraq, based partly on fears that Iraq could provide WMD to terrorist groups, on November 26, 2001, and again in his January 29, 2002 State of the Union message, President Bush 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, and he continued to say that U.S. policy is to change Iraq's regime. 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 called Iraq's refusal to readmit U.N. inspectors 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.

The Administration's renewed call for a change of regime was predicated on the assertion that Iraq is rebuilding banned WMD capabilities that, based on Saddam Hussein's record, Iraq might use against the United States directly or against U.S. allies and friends. Defense Secretary Rumsfeld said in late July 2002 that Iraq is rebuilding biological capabilities in mobile vehicles and is building some WMD facilities underground. Similar assertions were made in a British intelligence assessment, released by Prime Minister Blair on September 24, 2002, and a CIA assessment, released in October 2002. These assessments say Iraq has reconstituted its WMD programs, particularly its biological program, although the assessments do not indicate that Iraq has made any major nuclear weapons breakthroughs since inspections ended in 1998. The British dossier said Iraq had tried to buy fissile material from “Africa,” that Iraq could deploy chemical weapons against its internal opponents within 45 minutes of an order to do so, and that it is developing missiles with ranges of up to 1,000 km. There are allegations of illicit Iraqi imports of conventional military equipment, including from Belarus, Ukraine, and the former Yugoslavia, possibly shipped through Syria.

Resolution 1441. After an internal debate, the Administration decided to work through the United Nations Security Council to force Iraq to eliminate its suspected WMD. In a September 12, 2002 speech before the United Nations, President Bush implicitly threatened U.S. military action, unilateral if necessary, if the United Nations did not enforce existing resolutions on Iraq. Iraq, seeing international support for the President's decision to take the Iraq issue to the United Nations, pledged on September 16 to admit UNMOVIC inspectors without conditions, reversing a position taken during several meetings with the United Nations in 2002: March 7, May 1-3, and July 4-5 (in Vienna). On October 1, 2002, Iraq and UNMOVIC reached agreement on practical arrangements for new inspections, but the Bush Administration called the agreement insufficient and insisted on a new Security Council resolution specifying consequences if Iraq does not fully comply and enhancing inspection authorities.

In debate on a new resolution, France and Russia opposed authorizing force without a second vote of the Council. As U.N. negotiations continued, on October 11 Congress

completed work on a resolution (H.J.Res. 114, P.L. 107-243) authorizing the use of U.S. armed forces against Iraq. After several weeks of negotiations, on November 8, 2002 the Security Council unanimously adopted Resolution 1441, with the following key provisions:

- (1) declaring Iraq in material breach of pre-existing resolutions;
- (2) giving Iraq 7 days to accept the resolution and 30 days (until December 8) to provide a full declaration of all WMD programs;
- (3) requiring new inspections to begin within 45 days (December 23) and an interim progress report within 60 days thereafter (no later than February 21, 2003);
- (4) declaring all sites, including presidential sites, subject to unfettered inspections;
- (5) giving UNMOVIC the right to interview Iraqis in private, including taking them outside Iraq, and to freeze activity at a suspect site;
- (6) forbidding Iraq from taking hostile acts against any country upholding U.N. resolutions, a provision that would appear to cover Iraq's defiance of the "no fly zones;" and
- (7) giving UNMOVIC the authority to report Iraqi non-compliance and the Security Council as a whole the opportunity to meet to consider how to respond to Iraqi non-compliance.

Iraq accepted the resolution on November 13 in a defiant letter. Blix and an advance team of inspectors landed in Iraq on November 18 to re-establish UNMOVIC facilities, and inspections began on November 27. Press reports say the inspectors have received full access thus far in their visits to about 150 sites, as of late December. On December 7, one day before the deadline of Resolution 1441, Iraq submitted its declaration of its past WMD programs and WMD-useful capabilities. After comparing the Iraqi declaration to U.S. intelligence assessments, Secretary of State Powell said on December 19 that there were material omissions that constitute a further material breach of Iraq's obligations, particularly Iraq's failure to address the outstanding questions from the 1991-1998 inspections, involving fate of WMD and WMD components and precursors. Blix also criticized the declaration as failing to clear up outstanding questions, although neither he nor any other country called the declaration a material breach of Resolution 1441. Iraq is to turn over a list of Iraqi scientists to be interviewed, possibly outside Iraq, by December 31; the United States is pushing for interviews to be held outside Iraq, and for accelerated inspections.

President Bush has said the United States will have "zero tolerance" for Iraqi non-compliance, making U.S. military action against Iraq a possibility. Along with its criticism of Iraq's declaration, President Bush approved deployment of an additional 50,000 U.S. forces to the Persian Gulf, which would, when completed, bring the total personnel to more than 100,000. Press reports have discussed various reported war plans, some outlining a large ground offensive, while others report plans for a targeted attack on Baghdad intended to quickly remove Iraq's leadership. To varying degrees, European and Arab governments, as well as Turkey, have indicated opposition to unilateral U.S. military action, although they indicate they might be supportive if the United Nations authorized force.

The following summarizes outstanding issues on Iraq's WMD.

Nuclear Program

Current Status. The United States believes that Iraq retains the expertise (about 7,000 scientists and engineers) and intention to rebuild its nuclear program. Administration officials have pointed particularly to reputed attempts to purchase materials abroad, including

uranium from Niger and aluminum tubes that could be used in a nuclear weapons program. The CIA assessment, mentioned above, says that Iraq would likely not be able to produce a nuclear weapon until the latter half of the decade, unless it acquires fissile material from abroad. On September 6, 2002, the *New York Times* reported that IAEA/UNMOVIC inspectors have noted from commercial satellite photos construction and other alterations at some Iraqi nuclear-related sites that could suggest banned nuclear activity by Iraq. New inspections have focused heavily on Iraq's nuclear capabilities, including several visits to the reactor site at Tuwaitha.

Unresolved Questions. 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 ("dirty bomb"), which scatters nuclear material without an explosion. No radiological weapon was ever completed, but Iraq might have tested such a device. UNSCOM removed from Iraq all discovered nuclear reactor fuel, fresh and irradiated. Following the defection of Hussein 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 as quickly as possible by diverting fuel from its reactors for a nuclear weapon. The IAEA report of December 1, 1995 said that, if Iraq had proceeded with its crash program, Iraq might have produced a nuclear weapon by December 1992.

In 1997, the IAEA 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). An IAEA report of July 1998 indicated that some questions still remained, and the United States did not agree to close the file. In May 2000, the IAEA destroyed a nuclear centrifuge that Iraq had stored in Jordan in 1991. 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.

Chemical Weapons

UNSCOM destroyed all chemical weapons materiel uncovered — 38,500 munitions, 480,000 liters of chemical agents, 1.8 million liters 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. Iraq did include the document in its December 7 declaration. 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. The October 2002 CIA assessment says Iraq has renewed chemical weapons production and probably stocked a few hundred tons of agent.

Biological Weapons

Current Status. Biological weapons is the area with more outstanding and unresolved issues than any other weapons area; Iraq's previous biological declarations were considered neither credible nor verifiable, and very little new was apparently included in Iraq's December 7 declaration. Press reports in 2002 say Iraq has been developing unmanned aerial vehicles that could be used to deliver biological or chemical weapons. The October 2002 CIA assessment said that Iraq had reactivated its biological program and that most elements of the program are larger and more advanced than they were before the Gulf war. No evidence linking the October 2001 anthrax-related terrorism in the United States to Iraq has been announced. The White House 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.

Unresolved Questions. Iraq did not initially (1991) declare any biological materials, weapons, research, or facilities, and no biological weapons stockpile was ever uncovered. UNSCOM focused its investigation initially on the major biological research and development site at Salman Pak, but Iraq partially buried that facility shortly before the first inspections began. 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, clostridium, and ricin. 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 discovered and dismantled the Al Hakam facility on June 20, 1996. 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 lacked information on Iraq's development of drop tanks and aerosol generators for biological dissemination, as well as the fate of the biological munitions.

Ballistic Missiles

Current Status. 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. Iraq's December 7 declaration said some flight tests of

these missiles did exceed the allowed range by about 50 km. U.S. analysts believe Iraq might be concealing as many as 12 Scud-like missiles and that it is manufacturing propellants for missiles of ranges longer than those allowed.

Unresolved Questions. 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. UNSCOM's October 1998 report 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 destroyed under UNSCOM supervision. UNSCOM also accounted for all but 50 conventional Scud warheads and said it made progress 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).

There is evidence of past Iraqi cheating on missile issues. 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 was conducting secret flight tests and research on missiles of prohibited ranges.

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 was considering presenting a case against Iraq to the International Court of Justice under the 1948 Genocide Convention. U.N. Rapporteur for Iraq Max Van der Stoep'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. On October 20, 2002, Saddam Hussein granted an amnesty and released virtually all prisoners in Iraq, calling the move gratitude for his purported "100%" victory in a referendum on his leadership on October 15, 2002.

War Crimes Trial. U.N. Security Council Resolution 674 (October 29, 1990) calls on all states or organizations to provide information on Iraq's war-related 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 Hussein. Similar legislation was later passed, 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).

A U.S. Army report on possible war crimes 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, including Saddam and his two sons. 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 against Iran; post-war crimes against humanity (the Kurds and the Marsh Arabs); war crimes against Kuwait (including oil field fires) 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 the issue and on U.S. funding for Iraqi war crimes issues, see CRS Report RL31339, *Iraq: U.S. Efforts to Change the Regime.*)

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. FBI Director Robert Mueller 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, although some still assert that hijacker Mohammad Atta met with Iraqi intelligence in Prague in April 2001. Senior U.S. officials said in late September 2002 that there is intelligence that some high-ranking Al Qaeda members have had contacts with Baghdad and that Iraq had helped Al Qaeda train with chemical weapons at some point in the past. Others believe that Baghdad has little contact with Al Qaeda because it differs with Iraq’s secular ideology and would hurt Iraq’s efforts to improve relations with Egypt and other moderate Arab states that are threatened by Al Qaeda. The CIA told Congress on October 7, 2002 that Iraq would likely not conduct a terrorist attack using WMD against the United States unless there were a U.S.-Iraq war.

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. In August 2002, Abu Nidal died (committed suicide or was killed) as Iraqi police went to arrest him for alleged contacts with foreign governments opposed to Baghdad. Iraq says it is paying the families of Palestinian suicide bombers \$25,000, and some press reports say Iraq is cultivating Palestinians that might unleash anti-U.S. or anti-Israel terrorism in the event of a U.S.-led war against Iraq. (See CRS Report RL31119, *Terrorism: Near Eastern Groups and State Sponsors, 2002.*)

Iraq-Kuwait Issues

Resolution 1284 requires reports on the issues discussed below but, unlike Resolution 687, does not link the easing of any sanctions to Iraqi compliance on Kuwait-related issues. Resolution 1441 does not impose any new Kuwait-related requirements on Iraq.

Border Issues/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 Hussein. 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 an Arab statement of opposition to a U.S. attack on Iraq and a step toward reconciliation with Kuwait. On December 7, 2002, Saddam Hussein issued an "apology" to Kuwait for the invasion, but Kuwait rejected it as insincere.

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.

Kuwaiti Detainees 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. However, on December 12, 2002, Iraq publicly invited Vorontsov to visit. In April 2002, Iraq offered to receive a U.S. team to discuss the case of missing Gulf war Navy pilot Michael Speicher, but Defense Department officials declined on doubts of the benefits of a visit. Iraq says that non-Iraqis were included

in its blanket prisoner amnesty of October 20, 2002, and that Kuwait can send representatives to search its prisons, which Iraq claims are virtually empty now.

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. U.N. Secretary General 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 Kuwait’s state archives (six truckloads of documents) to Kuwait. Iraq began the return of tons of documents on October 20, 2002, although Kuwait says preliminary assessments suggest some key archives were not returned.

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 30% 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 \$43.6 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. Kuwait was awarded \$700 million in October 2002 to cover the cost of removing Iraqi mines laid in the Gulf war.

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. Of the Security Council permanent members, the United States has set the highest standards for full Iraqi compliance that would trigger a lifting of sanctions. The United States rules out direct dialogue with Iraq on the grounds that Iraq's level of compliance does not justify talks. (See CRS Report RL30472, *Iraq: Oil-For-Food Program, Sanctions, and Illicit Trade*.)

“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 generally sought to ease sanctions in order to give Iraq incentives to cooperate with the international community. After a year of debate within the Council on the U.S. plan, on May 14, 2002, the Security Council adopted Resolution 1409, providing for goods to be exported to Iraq without Sanctions Committee scrutiny. This largely removes the opportunity for Sanctions Committee members to place contracts for Iraq on “hold.” Military items remain banned outright and GRL items are subject to export after review by UNMOVIC. The new export procedures were placed into effect in late July 2002. In late November 2002, the United States insisted on additions to the GRL to prevent imports that Iraq could use to counter a U.S. offensive; the U.S. objections led to a brief six-day rollover of the oil-for-food program (Resolution 1442 of November 25). Amid criticism within the Security Council, the United States dropped its GRL modification insistence and agreed to a regular six-month rollover of the program (Resolution 1447, December 4), which contained a pledge to consider a GRL modification within 30 days. On December 10, the United States circulated a list of 36 items it wants added to the GRL.

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 increased 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 fallen to about 500,000 barrels per day since August 2002 as Iraq's export volumes have declined to about 1.2 - 1.5 million barrels per day. 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.

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 2, 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. Improving sanctions enforcement by Iraq's neighbors was dropped from the U.S. targeted-sanctions proposals adopted in Resolution 1409 because of regional resistance. See CRS Report RL30472, *Iraq: Oil-for-Food Program, Sanctions, and Illicit Trade*.

Jordan. Since 1992, despite Jordan's economic linkages with Iraq and its vocal stand against a U.S. attack on Iraq, the United States has considered Jordan's compliance with the U.N. sanctions regime on Iraq satisfactory. 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, P.L. 106-429, and P.L. 107-115), 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. 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. (See CRS Issue Brief IB93085, *Jordan: U.S. Relations and Bilateral Issues*).

Turkey. Turkey, concerned about the unanticipated consequences of a U.S. attack on Iraq, estimates that it has lost \$35 billion as a result of the sanctions. The Turkish government regulates and taxes the illicit importation of about \$400 million per year in Iraqi energy products by Turkish truck drivers. U.S. sanctions against Turkey for this trade have been waived each year. Turkey returned its 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. 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, but which might also reflect Iran's cooperation with sanctions enforcement. Iran's cooperation with the sanctions comes despite the substantial improvement in Iranian-Iraqi relations since 1995, and Iran publicly opposes a unilateral U.S. attack on Iraq. 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.

Nonetheless, press reports in November 2002 say Iran will likely tacitly cooperate with a U.S. military offensive against Iraq, in part to gain greater participation in a post-Saddam regime for Iranian-backed Shiite Islamist groups.

The Gulf states, despite the threat they have faced from Iraq, publicly oppose a unilateral U.S. attack, although it is widely believed they could change their positions if the United States moved forward. (For further information on Gulf state attitudes toward Iraq, see CRS Report RL31533, *The Persian Gulf: Issues for U.S. Policy, 2003*.)

Syria. Syria and Iraq began a warming trend in relations by reopening their border in 1997; this trend has accelerated 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 180,000 - 250,000 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. In May 2001, Iraq and Syria reopened diplomatic missions in each others’ capitals. Nonetheless, Syria voted in favor of Resolution 1441.

Protecting/Supporting Iraq’s Opposition

The current debate on Iraq policy includes the question of the role, if any, for the Iraqi opposition in a U.S. military action against Iraq and in a post-Saddam Iraq. 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. During August 9 and 10, 2002, senior members of six major Iraqi opposition groups visited Washington for meetings with senior U.S. officials. These groups sponsored a major meeting in London (December 13 - 17, 2002) that established a 65-member “follow-up committee,” in which Iranian-backed Shiite Islamists are heavily represented. There is substantial debate among opposition groups and within the Bush Administration about whether it would be productive to declare a provisional government in advance of Saddam’s overthrow.

Despite strains within the opposition, on December 9, 2002, President Bush announced he had authorized the draw down of \$92 million (the remainder of the \$97 million total authorized) of defense articles and services authorized under the Iraq Liberation Act (ILA, P.L. 105-338, October 31, 1998) for the opposition. He also named six new groups as eligible to receive such aid. The drawdown would reportedly include articles and services that would help about 5,000 oppositionists support any U.S. military action against Iraq, and would constitute lethal military aid, even though the proposed drawdown does not apparently include actual weaponry. Some Iraqis might receive combat training. More extensive coverage is included in CRS Report RL31339, *Iraq: U.S. Efforts to Change the Regime*.

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 RL31533, *Persian Gulf: Issues for U.S. Policy*, 2002.) 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. The Administration asserts that hostile acts by Iraq against coalition aircraft enforcing the zones (two such episodes since its adoption, as of November 19, 2002) is a violation of the provision of Resolution 1441 requiring Iraq not to undertake hostile acts against countries upholding U.N. resolutions on Iraq, although the United Nations and most other countries appear to differ with this U.S. interpretation.

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). Reconciliation efforts showed substantial progress in 2002; on October 4, 2002, the two Kurdish factions jointly reconvened the Kurdish regional parliament for the first time since their 1994 clashes. 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). Both parties are represented in the opposition umbrella Iraqi National Congress, and both also maintain a dialogue with Baghdad.

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. Such enhancements include Iraq's movement of air defense equipment into the zones.

During March 2000-March 2001, Iraqi air defenses fired at or near fixed radar or allied aircraft enforcing both 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. As of late December 2002, during 2002 Iraqi air defenses and related infrastructure have been bombed about 60 times in response to about 200 provocations, and U.S. strikes on Iraqi facilities have become somewhat more intense in late 2002 in conjunction with U.S. preparations for possible military action against Iraq. On December 23, Iraq shot down a U.S. "Predator" drone.

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 FY2001, the Defense Department has incurred about \$9 billion in costs to contain Iraq and provide humanitarian aid to the Kurds. About \$1.2 billion was spent in 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*.)