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Iraq: Weapons Programs, U.N. Requirements, and U.S. Policy

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SUMMARY

After asserting that Iraq had failed to comply with U.N. Security Council resolutions that require Iraq to rid itself of weapons of mass destruction (WMD), the Bush Administration began military action against Iraq on March 19, 2003, and the regime of Saddam Hussein fell on April 9. Since then, U.S. teams have been attempting to uncover Iraq's suspected weapons of mass destruction (WMD) stockpiles, but only minor finds of WMD technology have been reported thus far.

Part of the pre-war debate over U.S. policy centered on whether Iraq's WMD programs could be ended through U.N. weapons inspections. During 1991-1998, a U.N. Special Commission on Iraq (UNSCOM) made considerable progress in dismantling and monitoring Iraq's WMD 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 was uninspected during 1998-2002, leaving uncertainty as to the status of Iraq's WMD programs. At the start of military action, many of the questions about those programs remained unresolved. U.N. Security Council resolution 1483, adopted May 22, 2003, lifts sanctions on Iraq and provides for the possibility that U.N. inspectors will return to Iraq, although the United States has said it, not the United Nations, will be responsible for post-war WMD searches.

On November 10, 1994, Iraq accepted a U.N.-designated land border with Kuwait (confirmed by Resolution 833) as well as Kuwaiti sovereignty. Prior to the start of the 2003 war, Iraq did not detail the fate of about 600 Kuwaitis still missing from the first Gulf war and did not return all Kuwaiti property taken. U.S. teams in Iraq are attempting to resolve those issues as well.

Iraq was widely deemed non-compliant in other areas, especially human rights issues. A U.S.-led no-fly zone provided some protection to Kurdish northern Iraq after April 1991. Since August 1992, a no-fly zone was enforced over southern Iraq, where historically repressed Iraqi Shiites are concentrated. The zone was expanded in August 1996, but Iraq nonetheless maintained a substantial ground presence in the south. Iraq openly challenged both no-fly zones after December 1998. These enforcement operations ended after the fall of the regime. Since the fall of the regime, U.S. teams have discovered about 60 mass graves containing primarily Shiites and Kurds that Saddam Hussein had characterized as a threat to the regime.

MOST RECENT DEVELOPMENTS

After several reports by the U.N. weapons inspectors on their work under U.N. Security Council Resolution 1441 (November 8, 2002), the U.N. Security Council did not agree to authorize use of force against Iraq. All inspectors were withdrawn, and the United States, and Britain launched a military offensive against Iraq on March 19, 2003. Saddam Hussein's regime vacated Baghdad on April 9. In July 2003, with virtually no WMD discovered in Iraq since the war, a debate in Congress and in the media intensified over the quality and presentation of pre-war intelligence on Iraq's WMD and the justification for war.

BACKGROUND AND ANALYSIS

In response to Iraq's August 2, 1990 invasion of Kuwait, U.N. Security Council **Resolution 678** (November 29, 1990) authorized the use of force to expel Iraq from Kuwait. After the Persian Gulf war (January 16 - February 28, 1991), a cease-fire was declared in Security Council **Resolution 686** (March 2, 1991). The primary cease-fire resolution was Security Council **Resolution 687** (April 3, 1991), which required 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 was 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). After the breakdown of the original weapons inspections regime in December 1998, two additional major resolutions (**1284** of December 17, 1999 and **1441** of November 8, 2002) were adopted in an effort to resume U.N. disarmament efforts. Including Resolution 1441, a total of 17 U.N. resolutions required Iraq's complete dismantlement of its WMD programs. (See CRS Report RL30472, *Iraq: Oil-for-Food Program, Sanctions, and Illicit Trade*; and CRS Report RL31339, *Iraq: U.S. Efforts to Change the Regime and Post-War Governance.)*

History of Weapons Inspections

From April 1991 until December 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), U.N. weapons inspectors monitored, 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 American inspectors. In response, **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 weapons inspectors and diplomatic observers. **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 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 strikes but prompting President Clinton to openly declare a U.S. policy of regime change.

Operation Desert Fox and Resolution 1284. 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. In an attempt to persuade Iraq to allow a resumption of inspections, 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). It provided, 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 called for inspectors to determine within 60 days of reentering Iraq what WMD elimination tasks remain and to report to the Council every three months. In January 2000, former IAEA director Hans Blix was named head of

UNMOVIC. In the absence of Iraq's agreement to allow in-country inspections during 1999-2002, UNMOVIC's staff of about 60 — 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 subject to review ("Goods Review List" items) were included.

"Axis of Evil" and U.S. Policy. Amid a debate over whether to expand the post-September 11 "war on terrorism" to Iraq, based partly on fears that Iraq would not hesitate to use WMD or provide WMD to terrorist groups, in early 2002 President Bush began to build a case that the United States must act preemptively to change Iraq's regime and prevent its re-emergence as a threat. In his January 2002 State of the Union speech he described Iraq as part of an "axis of evil," along with Iran and North Korea. One month prior to that 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.

Resolution 1441. After an internal debate, the Administration decided to work through the U.N. Security Council to force Iraq to disarm. 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. Four days later, Iraq pledged to admit UNMOVIC inspectors without conditions, reversing a position taken during several meetings with the United Nations in 2002. 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 that: (1) declared Iraq in material breach of pre-existing resolutions; (2) gave Iraq 7 days to accept the resolution and 30 days (until December 8) to provide a full declaration of all WMD programs; (3) required 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) declared all sites, including presidential sites, subject to unfettered inspections; (5) gave UNMOVIC the right to interview Iraqis in private, including taking them outside Iraq, and to freeze activity at a suspect site; (6) forbade Iraq from taking hostile acts against any country upholding U.N. resolutions, a provision that appeared to cover Iraq's defiance of the "no fly zones;" and (7) gave 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. This was interpreted by France and some other countries as requiring a second resolution to authorize force, although the United States disputed that interpretation.

Iraq accepted the resolution on November 13, 2002, in a defiant letter, and inspections began on November 27, 2002. Blix said the inspectors received full access in their inspections of about 450 sites (over 300 by UNMOVIC and 140 by the IAEA). On December 7, 2002, Iraq submitted its required declaration, but after comparing the Iraqi declaration to U.S. intelligence assessments, the Bush Administration said shortly thereafter that there were material omissions that constituted a further material breach of Iraq's obligations. Blix criticized the declaration as offering "little new information," but he did not call it a material breach. In briefings on the inspections to the Security Council on

January 27, February 14, and March 7, 2003, Blix and IAEA head Mohammad Baradei said that Iraq had not fully complied with Resolution 1441 but that Iraq had been providing more active cooperation since February and that inspections were making progress. They maintained there had been some substantive disarmament (destruction of the Al Samoud II missile).

Maintaining that the inspections process would not lead to Iraq's full disarmament, the United States, Britain, and Spain called for a Security Council vote on a resolution to set a short deadline for Iraq to clearly demonstrate full cooperation and voluntary disarmament or face use of force. After a few weeks of diplomacy, on March 17, 2003, the three countries determined that the Security Council would not vote in favor of the resolution, and they withdrew it. That night, President Bush issued an ultimatum for Saddam Hussein and his sons Uday and Qusay to leave Iraq or face military action. At the same time, Secretary General Annan ordered the U.N. inspectors out of Iraq. Saddam rebuffed the ultimatum, and on March 19, U.S. military action (Operation Iraqi Freedom) began. On April 9, 2003, the Baathist regime vacated Baghdad, signaling the fall of the regime.

Wartime and Post-War WMD Search. With all of Iraq under the control of U.S.-led forces as of early April 2003, U.S. military-led "Mobile Exploitation Teams (MET)" began to search for and catalogue any WMD uncovered. After about a month of operations, the teams announced no confirmed finds of WMD stockpiles, although it did discover chemical weapons protection equipment and two mobile laboratories that a published CIA assessment said were for biological weapons production, although some experts within the intelligence community reportedly dispute that conclusion. In May 2003, the MET turned over its mission to a larger (about 1,500 personnel) "Iraq Survey Group." The group is led by the U.S. military but consists partly of civilian technical experts, including some from other countries, who served in previous U.N. inspection missions in Iraq. In May 2003, the Central Intelligence Agency named former nuclear inspector David Kay as head of the WMD search effort within the Survey Group. The Survey Group is also tasked with uncovering information on the relationship, if any, between Saddam Hussein's regime and Al Qaeda and cataloguing findings of mass graves and other human rights abuses by the Saddam regime.

U.S. officials say the effort to find banned WMD is still in its early stages, with about 200 sites searched of a target grouping of about 600 "suspect sites" (as of early July 2003). However, Administration statements in June suggested that the United States has and will find more indications of WMD "programs," suggesting waning U.S. official confidence that actual weapons of mass destruction would be found. Several U.N. Security Council members want UNMOVIC and the IAEA to return to Iraq to conduct the search, and IAEA Director Baradei has said the IAEA should have a role to play in post-war Iraq. Blix retired on June 30, 2003, and, in a series of interviews in late June 2003, criticized the United States for being impatient about his mission and what he says was an effort by some U.S. officials to undermine him. A U.N. Security Council resolution (1483) adopted May 22, 2003, provides for the possibility that U.N. inspectors might go back, although it does not specifically authorize that. At the same time, the United States and the IAEA conducted a joint mission in Iraq in June 2003 to secure nuclear material at Tuwaitha.

CIA Director George Tenet has said the CIA would compare its pre-war intelligence to actual on-the-ground findings on WMD and other issues to determine the quality of the pre-war assessments. The U.S. intelligence community's assessment of Iraq's pre-war WMD

was outlined in an unclassified version of a National Intelligence Estimate (NIE), released in October 2002. Several congressional committees have announced that they are conducting inquiries and other research into pre-war intelligence on Iraq's WMD. Some of these inquiries will reportedly include research into whether the Administration might have relied too heavily on information from Iraqi exiles who wanted the United States to go to war to oust Saddam Hussein.

The following summarizes outstanding issues on Iraq's WMD, U.S. assessments, and U.S. findings.

Nuclear Program

The United States believes that Iraq retained the expertise (about 7,000 scientists and engineers) and intention to rebuild its nuclear program. The unclassified October 2002 NIE ("the NIE") said that Iraq "if left unchecked, probably will have a nuclear weapon during this decade." The NIE pointed to Iraq's efforts to procure aluminum tubes that could be used in a nuclear weapons program. IAEA chief Mohammad Baradei said March 7 that the IAEA believes the tubes were for use in conventional rocket programs, although their importation was not legal under the international sanctions regime. Another allegation, contained in President Bush's January 2003 State of the Union speech but not in the NIE, said Iraq had tried to buy large quantities of uranium from Africa (Niger), but the IAEA said in a March 2003 report that documents alleging this procurement of uranium from Niger were "not authentic." The inclusion of this allegation has been the subject of a July 2003 White House admission that the allegation should not have been included in the State of the Union speech because of CIA doubts about that information, although British officials maintain that much of that allegation may still be valid. The IAEA said on January 27, 2003, that it had found no evidence Iraq had restarted a nuclear program, repeating that assessment March 7, 2003.

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 nuclear weapons development program, and they found evidence of development of a radiological weapon ("dirty bomb"), which scatters nuclear material without an explosion. 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 Non-Proliferation Treaty.

Post-War Findings. In late June 2003, an Iraqi nuclear scientist approached U.S. personnel in Iraq and presented them with parts of a nuclear centrifuge from Iraq's past nuclear program. The scientist said he was ordered in 1991 to bury the parts in his personal garden and that Iraq had planned to reconstitute its nuclear program if and when international inspections ended.

Chemical Weapons

The October 2002 NIE said Iraq "is expanding its infrastructure, under cover of civilian industries, that it could use to advance its chemical weapons agent production capability," and that the totality of evidence "strongly suggest that Iraq maintains a stockpile of chemical agents, probably VX, sarin, cyclosarin, and mustard." A British assessment, released September 2002, said Iraq had distributed chemical weapons to its field units and could deploy chemical weapons on 45 minutes' notice.

In January 2003, during the pre-war round of inspections, UNMOVIC found 16 chemical artillery munitions, believed empty. Iraq included an Iraqi Air Force document in its December 7, 2002, declaration that indicated that 6,500 chemical bombs were unaccounted for (13,000 bombs the document says were used versus 19,500 bombs Iraq previously said were used). An UNMOVIC workplan, submitted March 7, 2003, said UNMOVIC had found in Iraq previously undeclared cluster munitions that could deliver chemical or biological agents.

During its tenure, 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. In February 1998 UNSCOM discovered that shells taken from Iraq in 1996 contained 97% pure mustard gas, indicating it was freshly produced. However, the fate of about 31,600 chemical shells, 550 mustard gas bombs, and 4,000 tons of chemical precursors remains unknown. UNSCOM's main outstanding chemical weapons questions centered on VX nerve agent, which Iraq did not include in its initial 1991 declarations and of which no stockpile was ever located. Iraq did not prove it destroyed the chemical precursors. 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. In March 2003, Iraq proposed a technical method to prove its assertions that it destroyed its VX in 1991. About 170 chemical sites were under monitoring. Iraq did not sign the Chemical Weapons Convention effective April 29, 1997.

Post-War Findings. U.S. teams have found numerous chemical weapons protection gear and anti-dote vaccinations (atropine), but no chemical weapons have been found.

Biological Weapons

The October 2002 NIE said that "all key aspects — R and D, production, and weaponization — of Iraq's offensive biological weapons program are active and most elements are larger and more advanced than they were before the Gulf war. The NIE added that Iraq was developing unmanned aerial vehicles that probably could be used to deliver biological weapons.

From the perspective of the various U.N. inspections missions, there were more unresolved questions about Iraq's biological weapons than about any other WMD category; Iraq's biological declarations during 1991-1998 were considered neither credible nor verifiable, and very little new was apparently included in Iraq's December 7, 2002, declaration. 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. According to UNSCOM, Iraq imported a total of 34 tons of growth media for producing biological agents during the 1980s, of which 4 tons remained unaccounted for. Iraq did not give UNSCOM information on its development of drop tanks and aerosol generators for biological weapons. UNSCOM had 86 biological sites under long-term monitoring. UNSCOM discovered and dismantled the Al Hakam facility on June 20, 1996. The White House said in late December 2001 that the anthrax used in the October 2001 mailings appeared to be from a domestic source, such as a U.S. military laboratory. During the pre-war round of U.N. inspections, in February 2003, Iraq dug up, under UNMOVIC's supervision, fragments of more than 100 R-400 biological bombs (anthrax, botulinum, and aflatoxin) destroyed in 1991 and declared in August 1995.

Post-War Findings. As noted above, the CIA published an assessment in June 2003 that two vehicles discovered in Iraq in April 2003 were those purported biological labs, although no biological agents were found in them. Press reports say some governmental experts dispute that finding, saying the vehicles were better suited to manufacturing missile fuel. Sacks of castor beans, a component of the toxin ricin, were discovered in Iraq in late June 2003, although the intended use of the beans is not yet known.

Ballistic Missiles

The October 2002 NIE said that Iraq "has developed a ballistic missile capability that exceeds the 150 km range limitation established by U.N. Security Council Resolution 687." That resolution required the destruction of all Iraqi ballistic missiles with a range greater than 150 km. 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. analysts believed Iraq might have been concealing as many as 12 Scud-like missiles and that it was manufacturing propellants for missiles of ranges longer than those allowed. 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'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 included missile program documentation, 300 tons of special propellant, and indigenous production (30 indigenously-made warheads and 7 missiles).

Iraq was developing permitted-range missiles — the Ababil and Samoud programs and, prior to Operation Desert Fox, UNSCOM had been monitoring about 63 missile sites and 159 items of equipment, as well as 2,000 permitted missiles. Iraq's December 7, 2002 declaration said some flight tests of these missiles did exceed the allowed range by about 50 km, and Blix ordered the destruction of the Al Samoud (about 120 missiles) and related production equipment. Iraq began the destruction by the deadline of March 1, 2003, and about half of the missile force was destroyed by the time the war started. Iraq's "Fatah" program was being studied to see if its range exceeded allowed limits. Some of these missiles were fired by Iraq into Kuwait during the war thus far, although there were no confirmed firings of Scud-range missiles, which were banned under Resolution 687. Most Iraqi missiles fired were intercepted by U.S. or Kuwaiti Patriot systems.

Post-War Findings. No findings of missiles or missile programs of prohibited ranges have been announced by U.S. teams.

Human Rights/War Crimes Issues

U.S. and U.N. human rights reports since the 1991 Gulf war repeatedly described the Baath regime as a gross violator of human rights. About 60 mass graves, containing numbers of remains varying between single digits and the several hundreds, have been uncovered since the 2003 war began. Some estimates are that there might have been as many as 300,000 victims of the regime. Most are believed to contain the bodies of Shiite Muslims killed in the post-1991 war uprisings against Saddam Hussein. 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 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. 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 (no opponent) on his leadership on October 15, 2002.

War Crimes Trials. U.N. Security Council Resolution 674 (October 29, 1990) called on all states or organizations to provide information on Iraq's 1991 Gulf 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). On July 15, 2003, the newly appointed "Governing Council" of 25 Iraqis that is working with the U.S.-led Coalition Provisional Authority decided to form a war crimes tribunal for former regime members. For analysis of this issue and information on U.S. funding for Iraqi war crimes issues, see CRS Report RL31339, *Iraq: U.S. Efforts to Change the Regime and Post-War Governance.*

Support for International Terrorism

U.N. Security Council Resolution 687 required Iraq to end support for international terrorism, and Iraq made a declaration that it would do so in 1991. Despite that declaration, known terrorists lived in Iraq up until the time of the 2003 war. Palestine Liberation Front leader Abu Abbas, whose organization committed the 1985 hijacking of the cruise ship Achille Lauro, was arrested by U.S. forces in Iraq on April 15, 2003, during the war; his legal status is now being discussed. 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. During 2000 - 2003, Iraq was paying the families of Palestinian suicide bombers $25,000, and Iraq reportedly welcomed a few thousand Arab volunteers to fight against the United States or commit terrorist acts in the course of Operation Iraqi Freedom. The former regime's ties to Al Qaeda have been a subject of debate within the Bush Administration and among outside experts. Little evidence has come to light since major combat ended that links the Baathist regime to Al Qaeda. The northern Iraq enclave of a group called Ansar al-Islam, headed by Abu Musab al-Zarqawi, a pro-Al Qaeda or Al Qaeda-linked activist, was captured during the war. Although Saddam Hussein's regime has been removed, Iraq has not yet been removed from the U.S. list of state sponsors of terrorism. The Bush Administration is expected by experts to remove Iraq from the list at some point. For information on the former regime's alleged ties to Al Qaeda, see CRS Report RL31339, Iraq: U.S. Regime Change Efforts and Post-War Governance, and CRS Report RL31119, *Terrorism: Near Eastern Groups and State Sponsors, 2002*.

Iraq-Kuwait Issues

Resolution 1284 required reports on the issues discussed below but, unlike Resolution 687, did not link the easing of any sanctions to Iraqi compliance on Kuwait-related issues. Resolution 1441 did 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 (abolished after the 2003 war) 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). On December 7, 2002, Saddam Hussein issued an "apology" to Kuwait for the invasion, but Kuwait rejected it as insincere.

Until it ended operations on the eve of the current war, the 32-nation U.N. Iraq-Kuwait Observer Mission (UNIKOM), established by Resolutions 687 and 689 April 9, 1991), monitored border violations. The United States contributed 11 personnel to the 197 observers in UNIKOM, which was 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 supplemented the observer group. Kuwait furnished two-thirds of UNIKOM's $51 million annual budget. The United States contributed 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 were unresolved (ICRC figure as of May 2000) at the beginning of the 2003 war, as were the cases of an additional 17 Saudi nationals. Iraq admitted to having arrested and detained 126 Kuwaitis, but did not provide enough information to resolve their fate. Only three cases were resolved during 1995-2003. A few bodies of the Kuwaiti missing have been uncovered by U.S.-led forces in Iraq, according to Kuwait officials. 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 boycotted the meetings after 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 did not allow him to visit Iraq, and in April, June, and August 2000, as well as in March, April, and June 2001, the Security Council issued statements of concern about the lack of progress. On December 12, 2002, Iraq publicly invited Vorontsov to visit, but no visit occurred. In January 2003, Iraq held a few meetings with Kuwait and Saudi Arabia on the issue, pledging to bring forward new information on the fate of the missing, but no outstanding cases were resolved. Resolution 1483, adopted on May 22, 2003, directs Vorontsov to attempt to clear up the issue of missing Kuwaitis and Kuwait property.

As of late July 2003, the remains of three of the missing Kuwaitis have been found by U.S.-led forces in Iraq. Additional potential remains are being tested — remains that have been found in some of the mass graves uncovered by U.S.-led forces.

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. Some possible clues on Speicher's fate have been found by U.S.-led forces in Iraq, but no definitive information on his fate has yet come to light.

U.N. Security Council **Resolutions 686** and **687** required 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, in 1994, U.S. officials 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 claimed the materiel was left behind or destroyed when Iraq evacuated Kuwait. In July 2002, an agreement was 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 said key archives were not returned. Iraq returned some additional property in early February 2003. U.S.-led forces have not announced any finds of Kuwaiti property.

Reparations Payments

The U.N. Security Council had 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. That figure was reduced to 5% of Iraq's revenues by Resolution 1483 of May 22, 2003. As of June 2003, the Compensation Commission (UNCC) has approved claims worth about $46 billion, of a total asserted value of $350 billion claims submitted. The latest approved award, on June 26, 2003, was for $1.5 billion to the Kuwait Investment Authority, far below the asserted $86.7 billion asserted value of the claim.

Following a July 2003 payout of about $190 million mostly to Kuwaitis and Jordanians, the UNCC has paid out about $17.78 billion. Payouts 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). 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 $2.4 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. On March 20, 2003, President Bush issued an executive order for the U.S. government to confiscate the approximately $2.4 billion in frozen Iraqi assets and to use most of that amount for reconstruction of Iraq following the current war. The Administration reportedly plans to withhold about $700 million of the assets to pay out to potential claimants for Iraq's assets. (See CRS Report 98-240, *Iraq: Compensation and Assets Issues.*)

Unwinding the Containment Policy

Now that the regime of Saddam Hussein has ended, the United States is in the process of establishing an Iraqi government, moving Iraq to a fully functioning economy that conducts normal international commerce, and restructuring the U.S. military posture that had been in place to contain Saddam Hussein since the 1991 Gulf war.

Reconstruction and Ending the Oil-for-Food Program

During the 1990s, as international concerns for the plight of the Iraqi people grew, the United States had increasing difficulty maintaining support for international sanctions. The oil-for-food program (OFF), established by **Resolution 986** (April 15, 1995) and in operation since December 1996, was progressively modified to improve Iraq's living standards, and the United States had been easing its own sanctions to align them with the program. The program is to be phased out over a six-month period, as mandated by Resolution 1483 of May 22, 2003, which also largely lifts the U.N. sanctions imposed on Iraq for the 1990 Kuwait invasion. The United States is hoping that the easing of sanctions and the gradual restoration of security will create the conditions for a revival of Iraq's economy and the development of an economic engine to fund reconstruction. Iraqi oil experts were expecting Iraq's oil exports, which resumed in mid-June 2003, to reach 1 million barrels per day by mid July and pre-war levels (2.2 million barrels per day) by the end of the year, although Iraq's oil industry revival seems to be behind that schedule. For information on the oil-for-food program and the easing of U.S. and international sanctions post-war, see CRS Report RL30472, *Iraq: Oil-For-Food Program, Sanctions, and Illicit Trade.* For information on post-war humanitarian and reconstruction issues, see CRS Report RL31833, *Iraq: Recent Developments in Humanitarian and Reconstruction Assistance.*

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 OFF 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.

Changing U.S. Military Deployments

Prior to the 2003 war, U.S. deployments had focused on containing Iraq. The United States and Britain enforced 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 invoked 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 were interpreted as allowing military action to enforce these resolutions. Resolution 688 was not written under Chapter VII, nor did that or any other

resolution specifically establish no fly zones. 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 interpreted this as authorizing military action if Iraq enhanced (numbers or quality of armament) its forces below the 32nd parallel. Such enhancements included Iraq's movement of air defense equipment into the zones.

To justify Operation Desert Fox (December 1998), 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. Resolution 687. In instances of strikes on Iraq for no fly zone or other infractions, the Administration also cited congressional action (primarily P.L. 102-1 of January 12, 1991), authorizing military action to expel Iraq from Kuwait.

The several years prior to the U.S.-led war in 2003 were characterized by occasional U.S. strikes on Iraqi military emplacements. 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. During 2002, Iraqi air defenses and related infrastructure were bombed about 60 times in response to about 200 provocations, and U.S. strikes on Iraqi facilities have become more frequent since late 2002 in conjunction with U.S. preparations for possible military action against Iraq. During the U.S. buildup to Operation Iraqi Freedom, the target list was expanded to include those systems, such as surface-to-surface missiles, that could be used against U.S. ground forces.

With Saddam Hussein's regime overthrown, U.S. officials said in mid-April 2003 that the no fly zones are no longer enforced and that many of the U.S. aircraft involved in those operations have now been redeployed. The Defense Department also announced that the United States will draw down force in Saudi Arabia, estimated at about 6,000 before the war, to the few hundred that were there prior to the 1990 invasion of Kuwait. Those forces had been a source of some strain in light of the resentment of Saudi citizens to the presence of non-Muslim forces in the Kingdom. Some of those forces will be redeployed to a new U.S. air command center in Qatar. It is likely that the United States will, over the long term, sharply reduce the approximately 25,000 U.S. personnel that were kept in the Gulf during the 1990s. There has been some public discussion that the United States might seek permanent basing arrangements in Iraq, but the Defense Department has said no decision to seek such an agreement has been made. For more information on the U.S. military posture in the Gulf, see CRS Report RL31533, *Persian Gulf: Issues for U.S. Policy, 2003.*

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 start of the war, the Defense Department incurred about $11.5 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*.)

Establishing a New Government

The fall of the Saddam Hussein regime created a power vacuum in Iraq. Among the contenders for power are groups that had been part of the ten-year U.S. effort to destabilize Saddam, as well as new elements that were in Iraq but were repressed during Saddam's rule. The following is a brief discussion of some of the ethnic and religious communities repressed under Saddam Hussein's rule and the steps the United States took to protect these communities during the 1991-2002 containment policy period. For more information on the contenders for power and post-war governance issues, see CRS Report RL31339, *Iraq: U.S. Regime Change Efforts and Post-War Governance.*

Kurds/Operation Northern Watch (ONW). The United States has committed itself to maintaining Iraq's territorial integrity, meaning that the Kurdish north should stay as a part of Iraq rather than seek independence. During the U.S. containment policy, the United States protected the Kurds by enforcing a northern no fly zone, set up in April 1991 (Operation Northern Watch). The zone extended 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. Every six months during the 1990s, 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 feared that ONW protected the anti-Turkish Kurdistan Workers' Party (PKK), which takes refuge in parts of northern Iraq, and Turkey made repeated attacks against the PKK after May 1997.

In the aftermath of the 1991 Gulf war, the two leading Iraqi Kurdish parties, the KDP led by Masud 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 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. Both parties have been represented in the umbrella Iraqi National Congress, but both also maintained a dialogue with Saddam Hussein's regime. The Kurds had threatened to fight

against any Turkish forces that might deploy inside northern Iraq as part of a U.S.-led war, but Turkey did not deploy in large numbers during Operation Iraqi Freedom because U.S.-led forces largely kept Kurdish forces minimal in areas of Iraq that are of concern to Turkey, such as Kirkuk. The two main Kurdish leaders are on the Governing Council, but it is likely the Kurds will push to administer their northern areas with minimal interference from Baghdad rather than seek a major role in the Baghdad-based post-Saddam regime.

Shiite Muslims/Operation Southern Watch. Shiites constitute a majority in Iraq but historically have been repressed; they are now major contenders for power in post-war Iraq. Fearing that Iraq's Shiites are loyal to Iran, the United States did not support the post-1991 war uprisings by the Shiites, and many Shiites still resent the United States for standing aside as Saddam Hussein crushed the uprisings and executed many of those involved. 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). The overflights were primarily part of the U.S. containment strategy rather than a concerted effort to help Shiite Muslims in Iraq, according to most observers. The United States and the United Kingdom (but not France) expanded the southern no fly zone up to the 33rd parallel on September 4, 1996, after Saddam Hussein's move into northern Iraq. France ended its participation entirely after Desert Fox. Several Shiite Islamist organizations, some of which are closely tied to Iran, have asserted themselves in post-Saddam Iraq, and two of them — the Supreme Council of the Islamic Revolution in Iraq and the Da'wa (Islamic Call) Party — are on the Governing Council.