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ONE HUNDRED EIGHTH CONGRESS

# Congress of the United States

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July 8, 2003

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The President  
The White House  
Washington, DC 20500

Dear Mr. President:

I am writing regarding information I recently received from the International Atomic Energy Agency that sheds new light on the forged evidence regarding Iraq's efforts to obtain nuclear materials from Niger. This information raises new — and serious — questions about how your Administration handled this matter.

In your January 28, 2003, State of the Union address, you relied on this forged evidence, citing the claim that Iraq had sought to obtain nuclear materials from Africa. Other top Administration officials also made this claim in the months leading up to the war in Iraq. Yet after analyzing evidence provided by the United States regarding this claim, the IAEA announced on March 7, 2003, that the claim was based on crude forgeries, and the United States did not dispute this report.

Since learning of the IAEA's conclusion, I have been seeking an answer to a simple but important question: Why did you and other top Administration officials make a claim that was based on what turned out to be obviously fake evidence? Yesterday, the Administration conceded that "the reference to Iraq's attempt to acquire uranium from Africa should not have been included in the State of the Union speech."<sup>1</sup> This acknowledgment, however, does not explain how the forged evidence got into your State of the Union address.

As part of my investigation into this issue, I wrote Dr. Mohamed ElBaradei, Director General of the IAEA, on June 4, 2003. The IAEA responded on June 20, 2003. Because this letter was transmitted through the State Department, however, I did not receive the response until late last week. This letter provides new details about the forged evidence. More important, it raises new questions about why the Administration withheld the evidence from the IAEA for over six crucial weeks in December and January and — even then — failed to share the conclusions of U.S. intelligence officials that the evidence was bogus.

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<sup>1</sup>*White House Backs Off Claim on Iraqi Buy*, Washington Post (July 8, 2003).

### **The IAEA Account of the Forged Evidence**

The IAEA letter describes the IAEA's efforts to obtain the evidence regarding the Administration's claim that Iraq sought uranium from Niger and the basis on which the IAEA ultimately concluded the evidence was fake. While some elements of this description have been reported in the media, the letter contains new details and is the first authoritative public account by the IAEA.

In its letter, the IAEA explains that it asked the United States for the evidence immediately after the United States first publicly alleged that Iraq sought uranium from Niger in a December 19, 2002, "fact sheet" from the State Department.<sup>2</sup> According to the IAEA, however, the Administration did not provide documentation regarding the claim until early February 2003, over six weeks after the IAEA's request.<sup>3</sup>

The IAEA letter further states that when the United States turned over the documentation to the IAEA, "no specific comments were provided with the documents" and "the information was provided without qualification."<sup>4</sup>

The IAEA then describes the reasons it determined the documents were unreliable and forged. The documents purported to describe "an agreement for the delivery of two lots of 500 tons each of uranium over two years." According to the IAEA, however, this was not a credible claim. The IAEA stated, "After approximately ten days, it became clear that the alleged contract in all likelihood could not have been honoured, as the export of uranium from Niger is fully controlled by international companies."<sup>5</sup>

In addition, according to the IAEA, "open-source information cast serious doubt on the documents" and the documents contained "key anomalies," including:

- "In an alleged letter dated 27 July 2000, the President of Niger refers to the Constitution of 12 May 1965, whereas the constitution in place in 2000 was dated 9 August 1999";

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<sup>2</sup>Letter from Piet de Klerk, Director, Office of External Relation and Policy Coordination, International Atomic Energy Agency, to Rep. Henry A. Waxman (June 20, 2003).

<sup>3</sup>*Id.*

<sup>4</sup>*Id.*

<sup>5</sup>*Id.*

- “A letter, allegedly signed by the Foreign Minister of Niger on 10 October 2000, bears the signature of Mr. Allele Elhadj Habibou, who was Foreign Minister in 1988-89”;
- “The use of obsolete letterhead, including the wrong symbol for the Presidency, and references to temporary state bodies, such as the Supreme Military Council and the Council for National Reconciliation, incompatible with the dates of the alleged correspondence”; and
- “The reference in the agreement to an ‘ordonnance n° 74-13’ of 5 July 2000, while the real ‘ordonnance n° 74-13’ is dated 23 August 1974.”<sup>6</sup>

### **The Apparent U.S. Failure To Cooperate with the IAEA**

The most serious revelation in the IAEA letter is the apparent U.S. failure to cooperate with the IAEA. In the months leading up to the war in Iraq, officials in your Administration repeatedly provided public assurances that the United States would work with the IAEA. For example, on December 5, 2002, White House spokesman Ari Fleischer stated:

[W]e will of course work closely with the inspectors, as we always have and always will, to make certain that they have the best information available so they can do their job. . . . President Bush is the one who wanted them to go into Iraq. And now that they’re in Iraq, we want them to be successful, so we will of course work with them to provide them information, as we have and as we will continue to do.

Mr. Fleischer went on to say that “we will continue to cooperate with the inspectors, to provide them with information and tools they need, so they can get the job done that the president has asked them to go into Iraq to do. We have an interest in working closely with them.”<sup>7</sup>

Despite such assurances regarding cooperation, however, the Administration took over six weeks to respond to the IAEA’s December 2002 request for documentation regarding the claim that Iraq sought uranium from Niger. The delay in responding to the IAEA request came

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<sup>6</sup>*Id.*

<sup>7</sup>*White House Briefing*, Federal News Service (Dec. 5, 2002). *See also White House Briefing*, Federal News Service (Dec. 20, 2002) (in which Mr. Fleischer stated that “It is entirely in the interest of the United States of America for the inspectors to have every tool and resource necessary to help them to be as effective as they can, to do their jobs. And the United States will do that”).

during a critical time in the Administration's efforts to build a case against Iraq. Moreover, it came during a time in which top Administration officials repeatedly cited the forged evidence in public statements. For example, National Security Advisor Condoleezza Rice relied on the forged evidence in her January 23, 2003, *New York Times* op-ed piece entitled "Why We Know Iraq is Lying,"<sup>8</sup> Secretary of Defense Donald Rumsfeld referred to the evidence in public remarks on January 29, 2003,<sup>9</sup> and, most importantly, you cited the evidence in your January 28, 2003, State of the Union address.<sup>10</sup>

Not only did the Administration delay providing the information to the IAEA for weeks, the Administration never communicated the information that intelligence officials at the CIA and the State Department regarded the evidence as unreliable. Numerous press accounts have reported that CIA and State Department analysts knew that the evidence was dubious before Administration officials turned it over to the IAEA. Yet none of this information was provided to the IAEA.

In fact, according to the IAEA letter, the United States provided the forged evidence "without qualification." In other words, under the IAEA's account, the United States withheld from the IAEA all of the information regarding U.S. analysis of flaws with the evidence.

The State Department has disputed the IAEA's assertion that the forged evidence was provided without qualification. In a July 1, 2003, letter to me that forwarded the IAEA's June 20, 2003, letter, the State Department claimed:

when the U.S. Mission to International Organizations in Vienna (UNVIE) on February 4 gave INVO Director Jacques Baute and key INVO staff information on alleged Iraqi interest in uranium from Niger, the information was presented with a caveat. The U.S. Mission allowed Mr. Baute to read the talking points prepared for the presentation, which included the following qualification: "We cannot confirm these reports and have questions regarding some specific claims." Mission discussions with Mr. Baute and INVO staff on at least two other occasions included similar caveats.<sup>11</sup>

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<sup>8</sup>*Why We Know Iraq Is Lying*, *New York Times* (Jan. 23, 2003).

<sup>9</sup>*Press Conference with Donald Rumsfeld, General Richard Myers*, CNN (Jan. 29, 2003).

<sup>10</sup>The President, *State of the Union Address* (Jan. 28, 2003) (online at [www.whitehouse.gov/news/releases/2003/01/20030128-19.html](http://www.whitehouse.gov/news/releases/2003/01/20030128-19.html)).

<sup>11</sup>Letter from Paul V. Kelly, Assistant Secretary, Legislative Affairs, to Rep. Henry A. Waxman (July 1, 2003).

Even assuming that the State Department's version of events is accurate, it is difficult to understand how this "caveat" could be considered a meaningful disclosure of the Administration's doubts, given that the caveat communicated none of the detailed analysis by U.S. intelligence analysts of the evidence.

### **Other Unanswered Questions**

The failure of the Administration to cooperate with the IAEA is not the only unanswered question regarding the forged evidence. To the contrary, the questions raised by the IAEA's letter highlight the gaps that remain in your Administration's public accounting of the way it handled intelligence regarding alleged efforts by Iraq to procure uranium from Niger. To date, your Administration has provided only murky and conflicting explanations regarding the use of forged evidence by you and other top Administration officials.

The first official explanation, as described in the *Washington Post* on March 8, 2003, was "we fell for it."<sup>12</sup>

But we now know that wasn't true. Multiple press accounts have reported that CIA analysts doubted the validity of the evidence long before your State of the Union address and had communicated those doubts to the Administration.<sup>13</sup> Other press accounts have reported that State Department analysts also concluded in 2002 that the evidence was bogus.<sup>14</sup>

National Security Advisor Condoleezza Rice then asserted that "maybe someone knew down in the bowels of the agency, but no one in our circles knew that there were doubts and suspicions that this might be a forgery."<sup>15</sup>

But this also doesn't appear accurate. According to a June 30, 2003, *New Republic* article entitled "The Selling of the Iraq War: The First Casualty," Vice President Cheney's office had received the forged evidence from the British in 2002 and had provided it to the CIA; the CIA in turn had dispatched a former ambassador to Africa to check its validity; the ambassador

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<sup>12</sup>*Some Evidence on Iraq Called Fake; U.N. Nuclear Inspector Says Documents on Purchases Were Forged*, *Washington Post* (Mar. 8, 2003).

<sup>13</sup>*E.g., CIA Questioned Documents Linking Iraq, Uranium Ore*, *Washington Post* (Mar. 22, 2003); *Italy May Have Been Misled by Fake Iraq Arms Papers, U.S. Says*, *Los Angeles Times* (Mar. 15, 2003).

<sup>14</sup>*E.g., Where Are Iraq's WMDs?*, *Newsweek* (June 9, 2003).

<sup>15</sup>*Meet the Press*, NBC (June 8, 2003).

determined the evidence was unreliable; and the CIA communicated this report to the Vice President's office.<sup>16</sup> The former ambassador, Joseph C. Wilson, has recently publicly confirmed much of this account.<sup>17</sup>

Other accounts, such as those by Nicholas Kristof in the *New York Times*,<sup>18</sup> reach the same conclusion. According to a June 13, 2003, Knight Ridder News Service report by Jonathan Landay: "Three senior administration officials said Vice President Dick Cheney and some officials on the National Security Council staff and at the Pentagon ignored the CIA's warning and argued that Bush and others should include the allegation in their case against Hussein."<sup>19</sup>

The White House also has asserted that your State of the Union address was closely vetted by intelligence officials.<sup>20</sup> But if this is so, it is appropriate to disclose what information these officials communicated and how your advisors responded to it. NPR has reported that early drafts of your State of the Union address that contained the forged evidence were reviewed by senior intelligence officials, who objected to the inclusion of the evidence. According to NPR, these objections were ignored. Instead, the White House response was to keep the forged evidence in the speech, but to change the wording so that the evidence was attributed to British sources.<sup>21</sup>

Another question raised by the official White House account is why the White House hasn't taken disciplinary action against the CIA Director and other intelligence officials. If the White House was misled or not informed about something as fundamental as forged nuclear evidence — as Condoleezza Rice maintains — this would be an extraordinarily serious failure by the intelligence community. Under normal circumstances, the officials responsible for this failure would be held accountable and face serious consequences, but there is no indication this has happened.

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<sup>16</sup>*The Selling of the Iraq War: The First Casualty*, New Republic (June 30, 2003).

<sup>17</sup>*E.g., What I Didn't Find in Africa*, New York Times (July 6, 2003).

<sup>18</sup>*E.g., White House in Denial*, New York Times (June 13, 2003).

<sup>19</sup>*CIA Warned Bush Not To Use Iraq Accusation*, Knight Ridder News Service (June 13, 2003).

<sup>20</sup>*E.g., This Week with George Stephanopoulos*, ABC News (June 8, 2003) (in which National Security Advisor Condoleezza Rice explained the vetting process).

<sup>21</sup>*All Things Considered*, NPR (June 19, 2003).

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Finally, there is the question of the December 19 fact sheet by the State Department. This fact sheet — which received front-page coverage in the media — repeated the fake evidence that Iraq sought to import uranium from Africa. When I wrote to you about this, the State Department responded as follows: “The December 19 fact sheet was a product developed jointly by the CIA and the State Department.”<sup>22</sup>

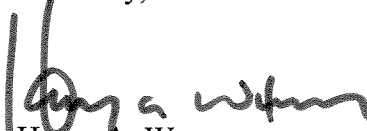
But according to a senior intelligence official quoted in the *Washington Post*, the CIA objected to the inclusion of the fake evidence in the State Department fact sheet but the objection “‘came too late’ to prevent its publication.”<sup>23</sup> Both of these accounts can’t be right.

### Conclusion

In March 17 and June 2, 2003, letters to you, and in a June 10, 2003, letter to National Security Advisor Condoleezza Rice, I asked for a thorough public accounting of how the Administration handled the forged evidence. The new information provided by the IAEA only raises additional questions about this matter. I respectfully ask that you respond to the questions in this letter and the numerous unanswered questions in my previous letters.

Acknowledging that you used incorrect information in the State of the Union address is an important first step. An even more important step is to explain fully how this happened and to hold accountable those officials responsible. Both Congress and the American people deserve a full explanation.

Sincerely,



Henry A. Waxman  
Ranking Minority Member

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<sup>22</sup>Letter from Paul V. Kelly, Assistant Secretary, Legislative Affairs, to Rep. Henry A. Waxman (Apr. 29, 2003).

<sup>23</sup>*CIA Says It Cabled Key Data to White House; But Officials Say Document Lacked Conclusion on Iraqi Uranium Deal*, *Washington Post* (June 13, 2003).