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Iraq: U.N. Inspections for Weapons of Mass Destruction

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Summary

From late November 2002 to March 2003, U.N. inspectors combed Iraq looking for weapons of mass destruction (WMD). Under the threat of war from the United States and a unanimous Security Council resolution (1441), Iraq was granted a final opportunity to disarm. Many had low expectations for successful inspections. After 16 weeks, inspectors turned up some evidence of undeclared activities, but not enough to convince a majority of the Security Council members that military force was necessary. Nonetheless, on March 19, 2003, U.S. and British forces attacked Iraq to forcibly eliminate its WMD. This report, which will be updated as events warrant, analyzes the inspections, their outcome, and possible future tasks.

The U.N. Monitoring, Verification, and Inspection Commission (UNMOVIC) and the International Atomic Energy Agency (IAEA) conducted over 750 inspections at 550 sites. These inspections seemed to benefit from strengthened authorities under the new U.N. resolution, new technologies, a better relationship between UNMOVIC and the IAEA, and pressure from the threat of military strikes. Nonetheless, most observers agree that Iraqi compliance was superficial and oriented to facilitating the process of inspections, rather than on providing cooperation in substantive matters. In addition, new practical, technical, and political challenges arose. There were allegations that not all actionable intelligence was shared with inspectors and that the threat of war increased pressure on inspectors to produce some definitive knowledge and helped politicize their investigations. Many alleged that Iraq might have hidden weapons activities in dual-use facilities over the last four years, thus complicating inspections. Ultimately, judging Iraq's compliance may have relied less on thresholds of evidence, than on assumptions about the effectiveness and utility of inspections at that point in time.

UNMOVIC Executive Chairman Blix and IAEA Director General ElBaradei reported five times to the U.N. Security Council between December 19, 2002 and March 7, 2003. Secretary of State Colin Powell additionally briefed the Security Council on Iraq's efforts to evade disarmament. Security Council members seem to agree that Iraq failed to cooperate fully, particularly in the substance of disarmament, but ultimately they disagreed on whether inspections should continue or whether war was necessary to disarm Iraq. On the eve of war, inspectors withdrew from Iraq.

The future of inspections in Iraq is uncertain. The United States has not sought U.N. assistance to help verify WMD evidence U.S. forces might uncover during the war, despite U.N. Secretary General Kofi Annan expectation that inspectors would return to Iraq after the war. Hans Blix fulfilled his UNMOVIC contract in June 2003 and his deputy, Demetrius Perricos, is acting executive chairman.

Relevant congressional legislation includes resolutions related to the inspections and authorization for war (S.Res. 28, S.Res. 32, H.Res. 55, H.Con.Res. 2, H.J.Res. 20) and S. 205, Iraqi Scientists Immigration Act of 2003, which would provide visas for scientists involved in the WMD program. See also RL31715, *Iraq War: Background and Issues Overview*.

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Introduction

On November 8, 2002, the United Nations Security Council gave Iraq “a final opportunity to comply with disarmament obligations under relevant resolutions of the Council” with the adoption of Resolution 1441. Iraq formally accepted the resolution and inspectors began their work in Iraq on November 27. On December 7, Iraq provided a 12,000-page declaration of its WMD programs and capabilities, which largely recycled old declarations and maintained that Iraq has no weapons of mass destruction (WMD). On December 19th, the International Atomic Energy Agency (IAEA) and the U.N. Monitoring, Verification and Inspection Commission (UNMOVIC),¹ the two organizations charged with inspecting Iraq, reported that the declaration was incomplete. UNMOVIC and the IAEA told the U.N. Security Council that Baghdad “missed an opportunity” to come clean about its arms programs.

Between November 2002 and mid-March 2003, UNMOVIC and IAEA inspectors conducted 750 inspections at 550 sites. They conducted unannounced inspections, interviewed Iraqi personnel, taken samples, and collected documents. Although Iraq initially objected to reconnaissance flights (by U-2, Mirage 4 and Russian Antonov aircraft) and reportedly actively discouraged scientists from being interviewed in private, by mid-February Iraq acquiesced to these rights of the inspectorate. Both UNMOVIC Executive Chairman Hans Blix and IAEA Director General Mohamed ElBaradei generally characterized Iraqi cooperation as good on process and lacking on substance.

U.N. Security Council Resolution 1441 states that “the Council has repeatedly warned Iraq that it will face *serious consequences* as a result of its continued violations of its obligations” (emphasis added). Although four years had lapsed in inspections since 1998, President Bush’s September 12, 2002 speech to the United Nations and Congress’ authorization of the use of force against Iraq (P.L. 107-243) in October 2002 lent urgency to the inspections.² In retrospect, a key question is: What purpose did inspections serve? Were they a trip-wire for military action to disarm Saddam Hussein, or were they part of an ongoing inspection and disarmament process that will continue at some point in the future?

¹ See UNMOVIC’s and IAEA’s web sites:
[<http://www.unmovic.org>] and [<http://www.iaea.org/worldatom/Press/Focus/IaeaIraq/>]

² See [<http://www.whitehouse.gov/news/releases/2002/09/20020912-1.html>] for text of President Bush’s speech.

In March 2002, before war against Iraq seemed imminent, National Security Advisor Condoleeza Rice remarked in an interview that:

We need to be very clear on the purpose of weapons inspections. These are not inspections for inspections' sake. They are instrumental to make sure that ... Iraq is not trying to acquire weapons of mass destruction. In fact they were supposed to be the ability to give testimony that there are no such programs. And so when we focus on weapons inspections in Iraq, we have to focus on weapons inspections that would be effective enough to be sure that this man is not trying to do what we know he has tried to do over the last 20 years. Ultimately, the United States believes that regime change in Iraq is going to be best for the Iraqi people and for the region. But clearly weapons inspections that are tough, weapons inspections that cannot be challenged, weapons inspections in which Saddam Hussein is not trying to soften the edges of them would be a helpful step forward.³

Few doubt the difficulty of establishing confidence that Iraq is free of weapons of mass destruction. On the one hand, inspections in Iraq have the logically impossible task of proving a negative – that Iraq is not trying to acquire WMD. For those who believe that inspections cannot provide such assurances, obstruction of those inspections hints at (or to some, proves) the concealment of some WMD-related activities.⁴ In this view, even cooperation in the process of inspections provides few assurances of the absence of WMD programs, and the failure of inspections to turn up evidence of WMD-related activities would, in this view, not confer innocence, but illustrate the shortcomings of inspections.

For some observers who are opposed to inspections, a key assumption is that the task of disarming Iraq is insurmountable without genuine Iraqi cooperation, which requires the leadership in Iraq to give up its WMD aspirations. The Bush Administration in January 2003 cited South Africa, Ukraine, and Kazakhstan as models of cooperative disarmament and contrasted Iraq's actions with those of the three models.⁵ The former deputy executive chairman of UNSCOM (U.N. Special Commission), Charles Duelfer, compared inspections in Iraq with those conducted in Germany between World War I and World War II, which were ultimately

³ Newsmaker Interview with Jim Lehrer, March 11, 2002, [http://www.pbs.org/newshour/bb/white_house/jan-june02/rice_3-11.html]

⁴ In the same interview, Rice said: “We have a country that continues to flaunt its international obligations undertaken in 1991 in the armistice, that continues to try to acquire weapons of mass destruction. After all, there is a reason that Saddam Hussein does not want weapons inspections in Iraq. It's...obviously he's got something to hide.” [http://www.pbs.org/newshour/bb/white_house/jan-june02/rice_3-11.html]

⁵ “What Does Disarmament Look Like?” The White House, January 23, 2003. See [<http://www.whitehouse.gov/infocus/iraq/disarmament/>]. These examples minimize key differences in the situations. For one, Ukraine and Kazakhstan inherited nuclear weapons from the breakup of the Soviet Union and might not ever have had nuclear weapons ambitions, and second, the South African government, according to many, acted to dismantle its nuclear weapons when it became clear that regime change was inevitable.

unsuccessful.⁶ Duelfer argued that this kind of coercive disarmament by an international organization is doomed to failure. CIA Director George Tenet remarked in a hearing before the Senate Select Committee on Intelligence on February 11, 2003, that “unless he [Saddam Hussein] provides the data to build on, provides the access, provides the unfettered access that he’s supposed to, provides us with surveillance capability, there’s little chance you are going to find weapons of mass destruction under the rubric he’s created inside the country.”⁷

Other observers point to the knowledge gained from 1991 to 1998 by inspectors about the extent of Iraq’s WMD programs, even in the face of strong Iraqi resistance and deception, to the uncertainties of waging war against an opponent that may have and be inclined to use WMD, and to the value in an approach that has broad international support. Some questioned the ability of intelligence agencies alone to detect WMD programs, citing reports of the CIA’s lack of knowledge about Iraq’s WMD programs prior to 1991 and the evident surprise about the 1998 Indian and Pakistani nuclear tests.⁸ In the nonproliferation community, most agree that treaties and agreements ultimately cannot stop a country that is determined to acquire WMD, but rather make the process more difficult and costly, thereby buying time for political change. In the case of Iraq, four years without inspections elapsed with relatively little public debate, but the tragedies of September 11, 2001 seem to have convinced many observers that delay in disarming Iraq could increase the threat to international security. A relatively new concern in the debate on Iraq’s disarmament is the alleged support Iraq might provide to terrorists. Some observers say there appears to be little evidence linking Iraq to Al Qaeda, but some posit that Iraq might have incentives to provide WMD materials or weapons to terrorists, which would call for quick disarmament of Iraq.

⁶ “How Baghdad Divided the Conquerors,” *Los Angeles Times*, June 11, 2000.

⁷ Director of Central Intelligence, George Tenet, Hearing on “Threats to U.S. Security” before the Senate Select Intelligence committee, February 11, 2003.

⁸ “The Big Difference Between Intelligence and Evidence,” *Washington Post*, February 2, 2003. “US intelligence did not detect Iraq’s nuclear program until it was uncovered after Desert Storm in 1991. It did not find out about the Iraqi biological weapons program until 1995, with some help from the defection of Hussein Kamel.”

Background⁹

The inspections conducted in Iraq following the 1991 Gulf War verified Iraq's violation of the Nuclear Nonproliferation Treaty, the Biological Weapons Convention, and the 1925 Geneva Protocol prohibiting the use of bacteriological or chemical weapons in warfare. From May 1991 to December 1998, UNSCOM and the IAEA's Action Team on Iraq conducted several thousand inspections at over 1,000 facilities. The extent and scale of Iraq's programs to develop biological weapons, chemical weapons, and nuclear weapons surprised even those knowledgeable in those areas. IAEA inspections uncovered a Manhattan-Project-like nuclear weapons program, which employed thousands of scientists and explored many avenues of producing weapons-grade material. Nonetheless, Iraq had not produced any real weapons-grade material, although it did have a crash program to secretly divert highly enriched uranium under IAEA safeguards for a warhead, as well as a crude weapons design. Inspections also uncovered bulk biological weapons agent production and a rudimentary delivery capability. Much about Iraq's biological weapons program is still unknown. In contrast, Iraq's capabilities in chemical weapons and missiles were relatively well-known. Inspectors destroyed 38,500 munitions, 480,000 liters of chemical agents, and 1.8 million liters of precursor chemicals (but the fate of about 31,600 chemical munitions, 550 mustard gas bombs, 4,000 tons of chemical precursors and Iraq's capabilities to produce VX agent are still unknown). Prior to the Gulf War, Iraq had a robust missile force and some domestic production capability, most of which was destroyed in the war. About 130 Soviet-supplied Scud missiles remained after the war; inspectors accounted for all but two.¹⁰

The history of inspections in Iraq is well-known and well-documented. After the first few years, most of the breakthroughs in knowledge about Iraqi WMD programs either resulted from or benefitted from intelligence tips from governments or from information provided by defectors.¹¹ In particular, the defection of Hussein

⁹ The two official U.N. assessments of unresolved disarmament tasks in Iraq are the so-called Amorim report, U.N. Security Council S/1999/356, March 30, 1999, *Final Report of the Panel on Disarmament and Current and Future Ongoing Monitoring and Verification Issues* and UNSCOM's report S/1999/94 (both available at [<http://www.un.org/Depts/unscom/unscmdoc.htm>]). For a comprehensive, unofficial assessment see "Iraq's Weapons of Mass Destruction: A Net Assessment," (UK: International Institute for Strategic Studies) September 9, 2002 and "Iraq: A Chronology of U.S. Inspections and an Assessment of Their Accomplishments," in *Arms Control Today*, October 2002, Volume 32 Number 8. For unclassified assessments by the US and UK intelligence communities, see "Iraq's Weapons of Mass Destruction Programs," [http://www.cia.gov/cia/reports/iraq_wmd/Iraq_Oct_2002.pdf] and "Iraq's Weapons of Mass Destruction: The Assessment of the British Government," [<http://www.number10.gov.uk/output/Page271.asp>]

¹⁰ See Kenneth Katzman, CRS Issue Brief IB92117, *Iraq: Weapons Threat, Compliance, Sanctions, and U.S. Policy* and Steve Bowman, *Iraqi Chemical and Biological Weapons (CBW) Capabilities*, CRS Report 98-129.

¹¹ See "Understanding the Lessons of Nuclear Inspections and Monitoring in Iraq: A Ten- (continued...)

Kamel, Saddam Hussein's son-in-law, in 1995, provided an intelligence windfall about WMD programs. (Kamel was subsequently lured back to Iraq and killed.)

The shortcomings of the inspections between 1991 and 1998 are also well-known. Iraqi officials frequently delayed inspections, spied on inspectors (bugging hotels and offices), harassed inspectors and lied about its capabilities.¹² Major problems included interviewing scientists and engineers with Iraqi "minders" in the room, tip-offs of short-notice inspections, and exclusion from "sensitive sites." Eight presidential sites became a lightning rod for obstruction, with Iraq complaining of violated sovereignty and accusing inspectors of spying.¹³ Former inspectors have also detailed stories of confrontation and intimidation, including shooting over the heads of inspectors, telephone threats, ransacking of hotel rooms, verbal and physical abuse, as well as Iraq's efforts to infiltrate the inspection regime with spies.¹⁴ In addition, Iraqis systematically destroyed or removed evidence to mislead inspectors about the capabilities of certain facilities. Over the 7 years, however, inspectors developed their own techniques for getting around obstacles that the Iraqis placed in their way. They made better use of intelligence resources, developed tactics to mislead the Iraqis about intended destinations, and improved interviewing techniques.

Two other features of the inspections from 1991 to 1998 were political friction between UNSCOM and the IAEA, and increasing dissent among the permanent five members (P-5) of the U.N. Security Council. According to some observers, UNSCOM and the IAEA clashed over several issues, including sharing of information, conduct of inspections, and approach to inspections. There were also reports of friction between Rolf Ekeus, Executive Chairman of UNSCOM and Hans Blix, then-Director General of the IAEA.¹⁵ Most apparent was a difference in how aggressively inspections were conducted. Critics of UNSCOM suggest that an overly aggressive approach is ultimately ineffective because inspectors cannot force Iraq to cooperate; supporters suggest that UNSCOM inspectors were appropriately aggressive in their techniques and approach, unburdened by any past relationship with Iraq (unlike the IAEA).

¹¹ (...continued)

Year Review," Sponsored by the Institute for Science and Security, "Uncovering the Secret Program – Initial Inspections, talk by Demetrius Perricos, Former Deputy Leader of the IAEA Action Team. [www.isis-online.org/publications/iraq/perricos.html] . See also Gary Milhollin, "The Iraqi Bomb," *New Yorker*, February 1, 1993. [<http://www.wisconsinproject.org/pubs/articles/1993/iraqibomb.html>]

¹² See October 8, 2002 briefing by DIA official John Yurechko to Pentagon reporters, at: [<http://www.globalsecurity.org/wmd/library/news/iraq/2002/iraq-021008-dod01.htm>].

¹³ Although inspectors were allowed to visit one of those sites, Iraq's control of access reportedly made the visit worthless.

¹⁴ Jonathan Tucker, "Monitoring and Verification in a Noncooperative Environment: Lessons from the U.N. Experience in Iraq," *Nonproliferation Review*, Spring-Summer 1996, pp. 1-14.

¹⁵ Gary Milhollin, "The Iraqi Bomb," *New Yorker*, February 1, 1993.

On the U.N. Security Council, “sanctions fatigue,” among other things, helped weaken resolve over Iraq, which Iraq exploited. By the mid-1990s, UNSCOM Chairman Ekeus was unable to get the Security Council to agree that Iraq was in material breach of resolutions and in 1996, he compromised for the first time on the modalities of visits. In October 1997, within days of China, France and Russia abstaining on UNSCOM’s determination that Iraq was violating UNSCR 1115, which required immediate, unconditional and unrestricted access to all sites and records, Iraq demanded U.S. personnel be withdrawn from UNSCOM. Iraq’s obstruction intensified in 1998, and UNSCOM inspectors left Iraq in December 1998 on the eve of U.S. and British air strikes (which became known as Operation Desert Fox). Although their work of uncovering, destroying or rendering harmless Iraq’s WMD capabilities was far from complete, they had reached an impasse.¹⁶

A New Inspection Regime: Resolution 1441

When the U.N. Security Council adopted UNSCR 1441, it sought to redress some of the previous problems in inspections. UNSCR 1441 reaffirms the rights and responsibilities of the inspectors and their Iraqi counterparts, but there are a few new details, discussed below. A key issue in drafting the resolution was the question of what would constitute a new material breach of Iraq’s obligations, since a low threshold might make war more likely. UNSCR 1441 states that Iraq is currently in material breach of its obligations and that “false statements or omissions in the declarations and failure by Iraq at any time to comply with, and cooperate fully in the implementation of, this resolution shall constitute a further material breach.”¹⁷ To some, omissions in Iraq’s declaration by themselves would constitute a material breach; to others, evidence of a lack of cooperation would additionally be required. In the end, however, the U.N. Security Council did not vote on another resolution to declare Iraq in material breach.

Protocols for Inspections

UNSCR 1441 attempted to enhance the previous inspection regime with a reiteration of the inspections teams’ rights and responsibilities. It incorporated agreements among Blix, IAEA Director General Mohamed ElBaradei, and General Amir H. Al-Saadi, an advisor on technical issues to President Saddam Hussein, established in meetings on September 30 and October 1, 2002 in Vienna, Austria. Those agreements are contained in an October 8 letter appended to the resolution. In short, these include:

¹⁶ See CRS Issue Brief IB92117, *Iraq: Weapons Threat, Compliance, Sanctions, and U.S. Policy*, by Kenneth Katzman, for a concise summary of inspections. See also SIPRI’s 2000 *Yearbook on Armaments, Disarmament and International Security*, Appendix 9b, “The future of chemical and biological weapon disarmament in Iraq: from UNSCOM to UNMOVIC,” by Maria Wahlberg, Milton Leitenberg, and Jean Pascal Zanders, pp. 560-576.

¹⁷ See website for full text of UNSCR 1441. [<http://www.un.int/usa/sres-iraq.htm>]

- UNMOVIC and the IAEA “will be granted immediate, unconditional and unrestricted access to sites, including what was termed ‘sensitive sites’ in the past.” Notwithstanding the 1998 memorandum of understanding on special procedures for the eight presidential sites, the letter states that these sites may be subject to the same access requirements.
- No restrictions on the size of inspection teams, on people to be interviewed, as well as where and when they are interviewed, and on communications modalities.
- Iraq must ensure that no proscribed material, equipment, records or other relevant items are destroyed except by request of UNMOVIC and/or IAEA inspectors and in their presence (as appropriate).

UNSCR 1441 states that the contents of the annexed letter would be binding upon Iraq and outlined further authorities for UNMOVIC and the IAEA. UNMOVIC and the IAEA have the right to:

- provision of the names of all personnel currently and formerly associated with Iraq’s chemical, biological, nuclear and ballistic missile programs and the associated research, development and production facilities;
- be guarded by U.N. security;
- declare exclusion zones around facilities in order to “freeze” the area so that nothing is changed in or taken out of a site; and
- free import and export of any equipment, materials or documents, without search.

Timeline for Action

Resolution 1441 detailed a time-line of events, similar to earlier U.N. Security Council resolutions.¹⁸ Within 7 days of UNSCR 1441 adoption on November 8, 2002, Iraq had to accept the resolution (*Iraq accepted on November 13*). Within 30 days, Iraq was required to provide a full declaration of all WMD programs (*Iraq provided on December 7*). Within 45 days, inspections were to start (*inspections began on November 27*), and within 60 days, UNMOVIC and the IAEA were required to provide an update to the U.N. Security Council (*provided on January 27, 2003*).

Since November 2002, both UNMOVIC Executive Chairman Blix and IAEA Director General ElBaradei noted on multiple occasions that verification could be a lengthy process and that it could take years to untangle information on what Iraq has done. When inspectors were withdrawn on March 18, Blix expressed his disappointment that they were not given more time to complete their task.¹⁹

¹⁸ UNSCR 687 gave IAEA and UNSCOM 45 days to plan inspections and 45 days to implement inspections.

¹⁹ “US Reaps New Data on Weapons,” *Washington Post*, March 20, 2003.

Challenges of Inspections

For the approximately three months of inspections, inspectors reported that the Iraq was cooperating on access, with a few minor delays. Dr. Blix noted in his March 7 report that cooperation on process was better this time for UNMOVIC than it had been for UNSCOM. It is possible that under the threat of war, Iraq assessed that cooperation on process would help avoid war. It is likely that such cooperation helped delay war but, probably, only full cooperation could have avoided war.

The four-year hiatus in inspections allowed Iraq to rebuild some facilities and possibly relocate programs without U.N. inspectors in the country. Many observers believed that Iraq developed new methods of concealment and obstruction, including the use of tunneling under existing buildings to avoid excavations being detected by satellites.²⁰ As Blix noted in his March 6 working document on disarmament task:

UNMOVIC now faces the same situation in all three disciplines that UNSCOM and the IAEA faced in 1991 regarding biological and nuclear weapons issues. There are no leads, such as stocks of proscribed items, or WMD production facilities for UNMOVIC to inspect. Instead, UNMOVIC must verify the absence of any new activities or proscribed items, new or retained.²¹

Further, Blix noted in four years without inspections, Iraq potentially could have made considerable progress in biological weapons and chemical weapons. Although the chemical weapons program began in the late 1960s, Iraq was able to build most of its Al Muthanna chemical weapons plant and begin large-scale production of CW agents and munitions in just three years. With a biological weapons program that started in 1974, Iraq took just two years to build the Al Hakam BW production plant and produce more than 27,000 liters of concentrated BW agent.²²

Reestablishing inspection support in Baghdad and in Cyprus was accomplished quickly. Helicopter support became available in mid-December²³ and U-2 and Mirage 4 reconnaissance flights began only in late February. Procuring the requisite expertise was also a challenge. Former inspectors have noted that in addition to a requirement for knowledge of specific weapons, which is probably more limited in the biological weapons and chemical weapons areas than in the missile or nuclear areas (or at least more publicly sensitive), inspectors need a good grasp of weapons production processes (particularly at dual-use sites) and a familiarity with Iraq's WMD programs. On the other hand, one former UNSCOM staffer in charge of training for UNMOVIC remarked that: "You don't need to be an expert in chemical

²⁰ Richard Butler, former UNSCOM executive chairman, suggested to the Senate Foreign Relations Committee in its hearings in summer 2002 that Iraq might have attempted to tunnel under buildings to avoid detection from satellite imagery. Senate Foreign Relations Committee hearing on Military Involvement in Iraq, July 31, 2002.

²¹ UNMOVIC Working Document, *Unresolved Disarmament Issues*, p. 11. See [<http://www.unmovic.org>]

²² Ibid.

²³ "State-of-Art Gear Displayed," *Washington Times*, November 27, 2002.

or biological weapons. You just need to be able to spot deviations from the norm.”²⁴ UNMOVIC provided training courses for inspectors. In the past, inspection teams were able to draw on weapons expertise from member countries. Under UNMOVIC, inspectors were required to be U.N. employees under rules adopted by the U.N. in 1999. This approach was adopted to help enhance the objectivity and professionalism of inspectors (perhaps both in reality and in appearance). Critics of these rules suggested the personnel system may not attract the best expertise, since more highly qualified personnel may be unwilling to give up their current job seniority and benefits for a short-term, non-career job at the U.N. as an inspector. Others have suggested that this new, less flexible arrangement may have a negative effect on intelligence sharing.²⁵

On the process of intelligence sharing, there was some speculation that UNMOVIC’s arrangement for information to flow through a top U.N. official from member governments rather than to and from individual inspectors would have a negative effect on intelligence sharing.²⁶ According to critics, this arrangement might actually decrease incentives for member states’ intelligence services to share information, given that relatively less information might flow back to national intelligence agencies. The impetus for establishing rules for intelligence sharing came from Iraqi complaints in the 1990s that U.N. inspectors were gathering intelligence, in some cases, for better targeting by air-strikes.²⁷ Some of these claims were substantiated. In practice, the UNSCOM established an Information Assessment Unit (IAU) several years ago in New York, which, according to one former inspector, became the locus of expertise and information on Iraq’s WMD programs.²⁸ The U.S. intelligence community in the 1990s worked on establishing protocols for sharing sensitive information with international organizations, since it was such a vital component of the inspection regime and a relatively new phenomenon.

One particular criticism of the intelligence-sharing arrangement was that U.N. inspectors would be ill-equipped to handle defector information because of lack of experience in debriefing and inability to resettle defectors. Proponents of the role of inspectors argued, however, that inspectors had the requisite background knowledge to vet which defectors might actually have useful information. During the time inspectors were on the ground from November 2002 to March 2003, however, there were no known defectors from the Iraqi WMD community. Since March 2003, some critics of the Bush Administration have increasingly questioned the accuracy of and role of defector information in U.S. assessments of Iraq’s WMD capabilities.

²⁴ “To Catch a Cheat,” *Time*, November 25, 2002.

²⁵ “U.N. Restricts Inspectors’ Use of Intelligence Reports,” *USA Today*, November 27, 2002. See also “We’re Not Spies, Says Inspection Chief,” *Guardian*, November 11, 2002.

²⁶ Gordon Corera, “Playing the Iraqi Inspection Game,” *Jane’s Intelligence Review*, November 2002, pp. 42-45

²⁷ *Ibid.*

²⁸ Tucker, “Monitoring and Verification in a Noncooperative Environment,” p. 5.

On the substance of intelligence sharing, UNMOVIC and the IAEA complained early on that the United States had not provided “actionable information” to inspections in Iraq.²⁹ On January 9, 2003, Secretary Powell stated that the United States began sharing significant intelligence information on Iraqi weapons programs a few days before. Powell also said that the United States was withholding sensitive information.³⁰ Blix, in his February 14 report to the U.N. Security Council noted that intelligence sources had provided some assistance that was valuable, particularly in the discovery of uranium enrichment documents in a private home on January 16, 2003, but led nowhere in other cases. In testimony to the Senate Select Committee on Intelligence on February 11, 2003, Central Intelligence Director George Tenet said that “we have given the U.N. inspectors and UNMOVIC every site that we have that is of high or moderate value, where there is proven intelligence to lead to a potential outcome.”³¹ In his March 7 briefing to the U.N. Security Council, Hans Blix noted that he would rather have “twice the amount of high quality information about sites to inspect than twice the number of expert inspectors to send.”³²

A final technical challenge faced by the inspectors was in “proving the negative” – that there were no remaining WMD programs. No one expects that inspections can provide 100% confidence, and this is perhaps the reason for the insistence by many that only a regime change could provide assurance that Iraq had no WMD programs. Executive Chairman Hans Blix noted earlier this year that inspectors were more likely to find “smoke, rather than a smoking gun.” Blix suggested, in describing Iraq’s December 7 declaration, that “the absence of evidence means, of course, that one cannot have confidence that there do not remain weapons of mass destruction.”³³

Another challenge for the Security Council was the wide divergence of views on the threshold for determining non-compliance. Anthony Cordesman raised a question in hearings before the Senate Committee on Foreign Relations about whether the United States would be willing to go to war immediately if it found evidence of a violation on missile testing or the existence of a biological facility.³⁴ In fact, almost all of the discoveries by UNMOVIC from November 2002 to March 2003 – empty chemical weapons shells not previously declared; 2000 pages of undeclared documents on uranium enrichment in a private home; undeclared

²⁹ In late December 2002, the U.S. provided satellite intelligence about chemical and biological weapons. See “U.S. Is To Release Spy Data on Iraq to Aid Inspections,” *New York Times*, December 21, 2002. See also “U.N. Nuclear Agency Gains a Bigger Profile, and Bigger Problems,” *New York Times*, January 6, 2003.

³⁰ “US Is Sharing Iraq Data with Blix,” *Washington Post*, January 9, 2003.

³¹ George Tenet, Hearing on “Threats to U.S. Security” before the Senate Select Intelligence Committee, February 11, 2003.

³² “Oral Introduction of the Twelfth Quarterly Report of UNMOVIC,” available at [<http://www.unmovic.org>]

³³ “Powell Says Iraq Raises Risk of War By Lying On Arms,” *New York Times*, December 20, 2002, p 1.

³⁴ Discussion, July 31, 2002, Senate Committee on Foreign Relations, Hearings on Military Involvement in Iraq.

remotely piloted vehicles with wing spans of 7.5 meters;³⁵ and cluster bombs that could be used with chemical or biological agents – could have been interpreted as evidence of noncompliance. But, by raising the stakes of noncompliance to the conduct of war against Iraq, it seemed that some on the Security Council were unwilling to place the bar so low.

Opportunities of Inspections

One of the key advantages inspections vis-a-vis military action was thought to be the opportunity to conduct interviews. Yet, the interview process had mixed results. Many observers believed it was necessary to pierce the veil of secrecy and threat by either conducting interviews in private or even outside of the country. In general, the IAEA had more success in conducting private interviews than UNMOVIC, but even then, some interviews were conducted with tape recorders in the room. UNMOVIC requested interviews with 38 individuals but interviewed just five privately in February and nine in March. The IAEA conducted more than 9 private interviews in February, mostly with scientists connected to the gas centrifuge uranium enrichment program.

Neither the IAEA nor UNMOVIC took advantage of the rights under UNSCR 1441 to interview scientists outside Iraq. Iraq agreed by the end of December to let weapons scientists leave the country (as a personal decision) and provided a list of 500 experts to UNMOVIC and the IAEA,³⁶ but only in March were Blix and ElBaradei preparing to ask them to leave the country. Blix reported in his March 7 briefing that interviews outside Iraq might provide assurances of the absence of undue pressures and that he planned to request such interviews soon. Some observers believed that only interviews conducted outside of Iraq would be effective because of the threat of retaliation by the Iraqi government.³⁷ Others suggested that conducting interviews outside of Iraq was not enough: only an offer of permanent asylum could overcome fear of the regime's potential future payback.

Hans Blix suggested that the U.N. was not in the business of enticing defectors or abducting people. In addition to practical considerations (for example, lack of experience in assisting defectors), the inspection teams reportedly had little if anything to offer scientists that would outweigh the coercive power of the Iraqi government over its citizens. Charles Duelfer, former deputy executive chairman of UNSCOM, suggested that the U.N. should offer “sanctuary or safe haven to those

³⁵ According to UNMOVIC spokesperson Ewen Buchanan, Iraq claimed that it had declared the RPVs, saying that the information on wing spans was a typographical error – that the 4.4-meter span should have been 7.4-meter span.

³⁶ “US Sees Showdown over Iraqi Scientists,” *Washington Post*, December 13, 2002; “Iraq Gives U.N. a List of 500 Weapons Experts,” *New York Times*, December 29, 2002.

³⁷ See Stephen F. Hayes, “Negotiations, Pentagon Style,” *Weekly Standard*, November 25, 2002, and James Kitfield, “Disclosure, Defectors Key to Inspections,” *National Journal*, November 16, 2002.

who find it a condition for speaking the truth.”³⁸ He further suggested that “if UNSCOM had 100 green cards to distribute during inspections, it could have quickly accounted for the weapons programs.”

Inspectors used new technology, including ground-penetrating radar (to detect hidden or underground equipment or facilities) and ultra-sensitive gamma ray detectors (to detect radioactive materials through shielding).³⁹ Rapid detection techniques for biological agents, such as the Ruggedized Advanced Pathogen Identification Device, or RAPID, were not available 10 years ago, nor were detectors for specialized metal alloys, like ALEX (alloy expert), or toxic industrial materials detectors (TIMs). Inspectors also used enhanced chemical agent monitors (ECAMS) and handheld advanced nucleic acid analyzers (HANAA).⁴⁰ The availability of satellite imagery in digital format as well as digital photography helped facilitate real-time analysis, since it can be sent back to offices to be analyzed immediately.⁴¹

The appointment of Hans Blix, former Director General of the IAEA, as chief UNMOVIC inspector probably helped cooperation between the U.N. agencies, in sharp contrast to the friction of the 1991-1998 inspections. A former UNSCOM inspector noted that the “bureaucratic turf battles between the two agencies ...made their collaboration tense, and, at times, openly hostile.”⁴² The overlap in personnel between the two organizations (for example, Demetrius Perricos, now acting executive chairman of UNMOVIC, performed a similar role for the IAEA in the 1990s) probably helped minimize conflicting inspection styles and maximize information sharing. To observers who felt that Blix was ineffectual at the IAEA and who criticized what they saw as a complaisant approach toward Iraq from 1991 to 1998, however, greater synergy between the two teams might not be viewed as a positive development.⁴³

³⁸ Charles Duelfer, “The Inevitable Failure of Inspections in Iraq,” *Arms Control Today*, September 2002.

³⁹ Romesh Ratnesar and Andrew Purvis, “To Catch a Cheat,” *Time*, November 25, 2002. See also IAEA web site:
[<http://www.iaea.org/worldatom/Press/News/2002/22-11-22170.html>]

⁴⁰ S/2003/232, Twelfth Quarterly Report of UNMOVIC, February 28, 2003, p. 5.

⁴¹ “Iraq Set to Open Sites Previously Off-Limits,” *Washington Post*, November 27, 2002.

⁴² See Jonathan Tucker, “Monitoring and Verification in a Noncooperative Environment: Lessons from the U.N. Experience in Iraq,” p.12.

⁴³ Criticism of the IAEA, and by extension, of Hans Blix, dates back to the IAEA’s failure to detect the nuclear weapons program in Iraq, particularly when some activities took place at sites where IAEA inspections were conducted. Some observers believe that IAEA and Blix are far too diplomatic to be effective in Iraq. See, for example, Gary Milhollin’s 1993 *New Yorker* article previously cited. Current critics have stressed that Blix was clearly not the first choice to head UNMOVIC. See “Hans Blix’s Third Try,” *Wall Street Journal*, November 22, 2002; “Nix Blix,” *Washington Times*, November 27, 2002; “Hans the Timid,” *Wall Street Journal*, November 26, 2002; and Chris Suellentrop, “Hans Blix: Incompetent Bureaucrat or Cowardly Diplomat,” at slate.msn.com, November 26, 2002, for arguments opposing Blix. See also “Can Blix nix Iraq’s tricks?” *Guardian*, November 8, 2002; “Chief

(continued...)

Finally, the ability of the inspections process to gain insight into the connection, if any, between Iraq's WMD programs and support for terrorism was left largely untapped. This is not surprising, since it was not part of UNMOVIC or the IAEA's mandate. However, some maintained that the process of combing through documents and interviewing scientists and engineers could have provided a fuller picture of Iraq's clandestine procurement system, thereby contributing to the world's knowledge base of potential connections for terrorists who want to acquire or develop WMD. On the other hand, some argued that although military strikes might destroy information about capabilities, the capabilities themselves must be destroyed before they fall into the hands of terrorists.

Milestones in the Inspection Process

UNSCR 1441 did not specify the length of the inspection process or create specific phases of inspection, in contrast to the UNSCR 687 and 715, which distinguished between inspections to destroy WMD-related capabilities and the ongoing monitoring inspections.⁴⁴ Some milestones are evident in the 16 weeks of inspections.

Evaluating Iraq's December 7 Declaration

Chairman Blix and Director-General ElBaradei reported preliminarily to the U.N. Security Council on December 19, 2002 about Iraq's December 7 declaration. There was a strong consensus that Iraq had omitted significant information about its weapons programs. In particular, Iraq failed to clear up the outstanding issues that have existed from 1998 and which were detailed in UNSCOM document S/1999/94 and the so-called Amorim Report S/1999/356.⁴⁵ Those issues, in Blix's words, "do not contend that weapons of mass destruction remain in Iraq, but nor do they exclude that possibility. They point to lack of evidence and inconsistencies, which raise question marks, which must be straightened out, if weapons dossiers are to be closed and confidence to arise."⁴⁶ These include documentation of nuclear weapons design and external assistance, the destruction of growth media for biological agents, information about VX weaponization and stockpiles, accounting for special warheads for missiles and for missile propellant production.

The U.S. State Department issued a fact sheet on December 19, 2002 giving illustrative examples of omissions in the declaration. These included:

⁴³ (...continued)

Inspector's Style: Be Thorough, But Fair," *USA Today*, November 15, 2002; and "Daunting Task Awaits U.N. Arms Chief," *Boston Globe*, November 18, 2002, for more balanced assessments.

⁴⁴ The IAEA began ongoing monitoring in 1994, while UNSCOM continued with two-track inspections, both destruction-related and ongoing monitoring.

⁴⁵ See [<http://www.unmovic.org>] for the documents.

⁴⁶ *ibid.* for text of Blix's January 27 report to the U.N. Security Council.

- no verifiable account of growth media for biological agents
- no reasonable explanation for manufacturing rocket fuels for missiles beyond its current limited capabilities
- no account of efforts to procure uranium from Niger
- no information about VX production
- no account of chemical and biological weapons destruction
- no account of empty munitions that could be filled with chemical agents
- no explanation of a connection between unmanned aerial vehicle (UAV) programs and biological agent dispersal.⁴⁷

This fact sheet went beyond the unresolved issues of 1998 to include the range of Iraq's missiles (Al-Samoud-2 and the Al Fatah), alleged reports of uranium procurement, and the ability of UAVs to disperse biological agents. These three issues were among those detailed in the CIA October 2002 document, *Iraq's Weapons of Mass Destruction Programs* and the UK's *Iraq's Weapons of Mass Destruction: The Assessment of the British Government*, both of which presumably draw on intelligence sources.

January 27 Report to U.N.Security Council⁴⁸

On January 27, 2003, Hans Blix and Mohamed ElBaradei reported to the U.N.Security Council on the progress of their inspections. Although both gave ample examples of Iraqi cooperation and non-cooperation, media generally interpreted the reports as presenting evidence of Iraqi noncompliance. Inspections in the interim had uncovered 12 empty chemical munition shells and over 2000 pages of documents on uranium enrichment using lasers in the home of a scientist. In his report, Blix distinguished between cooperation on process and on substance. On the first, Blix said that Iraq has cooperated "rather well," but then detailed areas in which cooperation on substance was lacking. He suggested specifically that Iraq needed to cooperate in finding items and activities (e.g., 122mm chemical warheads), in finding documents, particularly those in private homes, in providing names of personnel and in ensuring that interviews are credible. Director General ElBaradei reported that inspections since November 2002 have identified no prohibited nuclear activities but urged states to continue to provide intelligence information. ElBaradei specifically suggested that the inspection process "should be allowed to run its natural course" and that credible assurances could be provided within the next few months. The White House spokesman said that the "report...clearly shows Iraq is not complying."

⁴⁷ See [<http://www.state.gov/r/pa/prs/ps/2002/16118pf.htm>]

⁴⁸ See [<http://www.iaea.org/worldatom/Press/Focus/IaeaIraq/timeline.shtml>] for ElBaradei's report and [<http://www.unmovic.org>] for Blix's report.

February 5 Powell Briefing to U.N.Security Council⁴⁹

Secretary of State Powell addressed the U.N.Security Council on February 5 with a briefing on Iraq's attempts to evade disarmament and the links to terrorism. The briefing included audiotapes of Iraqi military officers discussing hiding modified vehicles from inspectors and orders to eliminate talk of "nerve agents" in wireless communications. Secretary Powell shared anecdotes of documents in cars driven by Iraqi intelligence officers, removing hard drives from computers, and sanitizing all of the presidential palaces of traces of WMD, derived from human intelligence sources. Secretary Powell also showed satellite photos of bulldozed chemical weapons sites and the removal of telltale vehicles and equipment from chemical weapons bunkers at the Taji facility before the December 22, 2002 inspections. In addition, Secretary Powell cited 4 human intelligence sources about the existence of about 18 mobile biological weapons laboratories. Powell noted that it would be virtually impossible to find these mobile labs without Iraqi cooperation. In the nuclear area, Secretary Powell reported on Iraqi attempts to procure magnets and high speed balancing machines from companies in Romania, India, Russia and Slovenia to support assertions that Iraq is pursuing a centrifuge uranium enrichment program. With respect to missiles, Secretary Powell reported that Iraq had continued to import SA-2 rocket engines as late as December 2002 but did not provide further evidence. Finally, Secretary Powell showed a satellite photograph depicting a racetrack-shaped flight path of an unmanned aerial vehicle (UAV) that was tested for a distance of 500km without refueling. Iraq's December 7th declaration claimed that its UAVs had ranges of just 80kms.

Secretary Powell's briefing highlighted the significant role intelligence can play in determining Iraqi compliance. While most observers agree that the presentation did not include a "smoking gun," the information points to Iraqi practices to evade detection. Was this enough to constitute evidence of noncompliance? Although Blix's report on February 14th noted that "intelligence information has been useful for UNMOVIC," Blix took issue with the satellite photos of the chemical sites, suggesting that the fact that the images were taken several weeks apart meant that the movement of munitions could "just as easily have been a routine activity as a movement of proscribed munitions in anticipation of imminent inspection."⁵⁰ Blix also noted that in some cases, intelligence information led to discovery of documents, whereas in other cases, intelligence led to sites with no proscribed items.

February 14 Report to U.N.Security Council⁵¹

Just prior to the February 14 briefing to the UN Security Council, Iraqi officials handed over documents on anthrax, VX, and missile programs to Blix and ElBaradei in Baghdad, although Blix and ElBaradei subsequently reported that there was little

⁴⁹ See [<http://www.whitehouse.gov/news/releases/2003/02/20030205-1.html>] for text of Powell's presentation.

⁵⁰ See [<http://www.unmovic.org>] for Blix report.

⁵¹ Blix report is found at [<http://www.unmovic.org>] and ElBaradei's report is found at: [<http://www.iaea.org/worldatom/Press/Focus/laeaIraq/timeline.shtml>]

new information in them. On February 6, an Iraqi biologist agreed to be interviewed privately. Of five requests to meet with non-nuclear scientists, however, only three agreed to private interviews. Blix characterized Iraq as beginning to adopt a “more serious attitude” of cooperation, but would not call these developments a breakthrough. On February 10, Iraq notified the U.N. that it would permit overflights of American U-2, French Mirage, and Russian Antonov aircraft. President Bush downplayed the significance of these developments, stating that Iraq was stalling for time and that U-2 flights would not be necessary if Iraq were complying. From the perspective of inspectors, however, imagery from U-2 flights could help mission planning and fill in gaps from noncontinuous satellite monitoring. Thus, U-2 and other aircraft overflights could help detect Iraqi evasion efforts. U-2 overflights were conducted routinely under the previous inspection regime from 1991 to 1998.

In his February 14 report, Blix reiterated many of his conclusions of January 27 about Iraqi cooperation, both good and bad. Of most importance, Blix stated that the group of international missile experts he convened had concluded that the Al-Samoud-2 missile range exceeded 150km and that the missiles should be destroyed. For the same reason, the 380 SA-2 engines should also be destroyed. The missile test stand that US and UK officials maintained was proscribed was not necessarily connected to proscribed activities and thus could remain. Blix did not touch on issues of chemical or biological weapons except to say that experts were not hopeful that Iraq could technically verify the destruction of anthrax or two VX precursors.

ElBaradei’s report to the U.N. Security Council repeated his January 27 conclusions that IAEA inspectors had found no evidence of ongoing prohibited nuclear or nuclear-related activities in Iraq. He stressed the expanding capabilities of the inspection team and the ability of inspectors “to assess the presence or absence of a nuclear weapons program in a state even without the full cooperation of the inspected state.”⁵² ElBaradei covered the specific issues raised by Secretary Powell’s briefing, including Iraq’s purchases of uranium, aluminum tubes reportedly for centrifuge enrichment of uranium, magnets and magnet production facilities. In all cases, ElBaradei said the IAEA was reviewing additional information and had asked Iraq specifically for more information on the high tolerances of the aluminum. In addition, the IAEA was exploring the disappearance of 32 tons of HMX, an explosive material with technical characteristics well-suited for nuclear weapons, which had been under seal until 1998.

March 7 Report to U.N. Security Council

In advance of the March 7 briefing, Chairman Blix provided UNMOVIC’s twelfth quarterly report (S/2003/232) to the Security Council.⁵³ The report highlighted several examples of Iraq’s cooperation on process, including: helicopter and surveillance overflights; the two Iraqi commissions created to help UNMOVIC find documents and proscribed items; provision of lists of personnel to interview; and

⁵² See [<http://www.iaea.org/worldatom/Press/Focus/iaeaIraq/timeline.shtml>] for ElBaradei February 14 report.

⁵³ See [<http://www.unmovic.org>] for text of the Twelfth Quarterly report of UNMOVIC, S/2003/232.

procedures to determine the disposition of anthrax and VX agent. On substance, the document noted that there was little new information in the December 7 declaration, that Iraqis helped excavate the R-400 bombs, that Al-Samoud-2 missiles were being destroyed, and that WMD-related activities had been prohibited by presidential decree. Nonetheless, Blix noted that “Iraq could have made greater efforts to find any remaining proscribed items or provide credible evidence showing the absence of such items. The results in terms of disarmament have been very limited so far.”

In his March 7 briefing to the Security Council, Blix’s remarks focused on the process of investigation, noting that where documentary evidence was not available, it may be possible to obtain evidence through interviews. He noted that “there has been an acceleration of initiatives from the Iraqi side since the end of January,” adding that it is not yet clear how effective they would be in resolving outstanding issues. Blix concluded that those initiatives did not constitute immediate cooperation, nor did they cover all relevant areas, but that even with a “proactive Iraqi attitude,” verification of disarmament would take months.

IAEA Director General ElBaradei’s March 7 report was notable for its refutations of some of the U.S. and U.K. allegations of clandestine nuclear activities by Iraq. ElBaradei reported that documents on the alleged procurement of uranium from Niger were deemed forgeries. While continuing its scrutiny of the high-strength aluminum tubes, which the United States and UK believe were intended for use in uranium enrichment, the IAEA concluded that the tubes were not likely to have been related to centrifuge manufacture and that it was highly unlikely that Iraq could have redesigned the tubes for such purposes. Likewise, the IAEA concluded that Iraq’s attempts to procure magnets and magnet production capabilities were not related to a clandestine enrichment program, although Iraq is “likely” to possess the expertise to manufacture such magnets on its own. Therefore, the IAEA would continue to monitor and inspect such equipment. In addition, ElBaradei began his briefing by reporting an overall deterioration in industrial capacity, which he suggested would affect Iraq’s capability to resume a nuclear weapons program, while not explicitly stating it would have a negative impact.

“Clusters Document” & Key Disarmament Tasks

On March 6, Hans Blix presented Security Council members with a draft document, dubbed the “clusters document.”⁵⁴ The clusters document identifies unresolved disarmament issues (grouped in clusters of issues). The 173-page report builds on the 1999 documents prepared by the U.N. on the status of verification in Iraq and adds new data. Two items in this document were not highlighted in Blix’s March 7 briefing: the discovery of undeclared remotely piloted vehicles (RPVs or drones) and cluster bombs that could be used with chemical or biological agents.⁵⁵ Blix mentioned on March 7 that UNMOVIC was investigating RPVs; a U.S. Air Force Assessment later in 2003 confirmed suspicions that they were designed for reconnaissance. With respect to the cluster bombs, the document reports that in

⁵⁴ *Unresolved Disarmament Issues: Iraq’s Proscribed Weapons Programs* at [<http://www.unmovic.org>].

⁵⁵ “Blix Left Out Data from U.N. Testimony,” *Washington Times*, March 11, 2003.

February 2003 (February 2 and 5), inspection teams found a component of a 122mm CBW cluster submunition at Al Nouman. When questioned during the visit, Iraqi officials denied any knowledge of a connection between the cluster bombs and the CBW program, although there is earlier evidence of Iraqi interest in developing cluster munitions with CBW agents.⁵⁶

U.S. Assistance to Inspections

UNSCR 1441, paragraph 10, requests all member states to “fully support inspections, including by providing any information related to prohibited programmes or other aspects of their mandates, including on Iraqi attempts since 1998 to acquire prohibited items, and by recommending sites to be inspected, persons to be interviewed, conditions of such interviews, and data to be collected.” In the past, the United States provided significant assistance to inspections in Iraq, including equipment, personnel, training, analysis, funds, and providing U-2 overflight imagery. However, the U.N. now has more funds from its Oil for Food Program and is contracting out many services that in the past may have been provided by the United States, thus giving it a greater degree of independence. For this round of inspections, the United States provided equipment and training, intelligence, and U-2 overflights. The FY2003 Defense Department authorization bill contained \$15 million for assistance to inspections, but the real cost of assistance was probably higher. In addition to logistical support, the United States also provided U.S. inspectors.

Congressional Role⁵⁷

The most significant action of the 107th Congress with respect to Iraq was the authorization for the use of force against Iraq, which President Bush signed into law (P.L. 107-243) on October 16, 2002.⁵⁸ Under this law, the President must determine whether the use of force is necessary and appropriate to: (1) defend the national security of the United States against the continuing threat posed by Iraq; and (2) enforce all relevant United Nations Security Council resolutions. While there are other U.N. Security Council resolutions with which Iraq has not complied, clearly the most important of those relate to Iraq’s WMD programs.⁵⁹ The law requires that President Bush report to the Speaker of the House and the President pro tempore of

⁵⁶ An UNMOVIC spokesman described the cluster bombs as “just old junk.”

⁵⁷ For a full history of legislation related to Iraq, see CRS Report RS21324 by Jeremy Sharp, *Congressional Action on Iraq 1990-2002: A Compilation of Legislation*.

⁵⁸ CRS Report RL31596, *Iraq: Authorization of Use of U.S. Armed Forces Against - Side-By-Side Comparison of Public Law 107-243 and Selected Legislative Proposals*, by Dianne Rennack.

⁵⁹ At least two other draft resolutions (Biden-Lugar and Levin) sought to narrow the language to focus specifically on WMD violations. The Administration maintains Iraq is in violation of 17 UNSC resolutions, including 1441. See, for example, “A Decade of Deception and Defiance” (available at [<http://www.whitehouse.gov>]).

the Senate, within 48 hours of the exercise of his authority to use force, that U.S. reliance on further diplomatic and other peaceful means is not adequate to protect the national security of the United States against the continuing threat posed by Iraq, or is not likely to lead to enforcement of U.N. resolutions.

With the authorization for war undertaken by the 107th Congress, the weeks leading up to the war witnessed little prolonged debate in the 108th Congress. Nonetheless, Senator Byrd introduced S.Res 28 in January, which expressed the sense of the Senate that inspections should be given sufficient time for a thorough assessment of Iraq's compliance and that the United States should seek an additional U.N.resolution authorizing force against Iraq. S.Res 28 was referred to the Senate Committee on Foreign Relations on January 29, 2003. Senator Kennedy introduced S.Res 32, which expressed the sense of the Senate that the United States should fully support the work of U.N.weapons inspectors and obtain approval by Congress of new legislation authorizing the use of all necessary means, including military force, to disarm Iraq. S.Res 32 was also referred to the Senate Committee on Foreign Relations on January 29, 2003.

In the House, Rep. Alcee Hastings introduced H.Res. 55, which had provisions similar to S.Res. 28 for more time for inspections and a second U.N.resolution. Rep. Sheila Jackson-Lee introduced H.Con.Res. 2 on January 7, 2003, which expressed the sense of Congress that the P.L. 107-243 should be repealed, and Rep. DeFazio introduced H.J.Res. 20 which also calls for the repeal of the authorization for the use of force. H.J.Res. 20 has 30 cosponsors; H.Con.Res. 2 has 11 cosponsors. All these resolutions were referred to the House International Relations Committee.

Of particular interest to the inspections is S. 205, the "Iraqi Scientists Immigration Act of 2003," introduced by Senator Biden on January 23, 2003. S. 205 passed the Senate by unanimous consent on March 20 and was referred to the House Committee on the Judiciary on March 24. This bill would provide up to 500 visas for workers in WMD programs and their families that are willing to and capable of providing information to the United States or the UN. Originally conceived of before the war, Senator Biden has suggested that the bill's authority could offer positive inducements to scientists, if they are needed, to locate Iraqi WMD and to "keep Iraqi weapons experts from selling their materials or knowledge to rogue states or terrorist groups."⁶⁰ Senator Biden introduced a similar bill (S. 3079, the "Iraqi Scientists Immigration Act of 2002") in the 107th Congress, which passed the Senate unanimously with an amendment and was referred to the House Committee on the Judiciary.

⁶⁰ "Weapons Scientists a Lingering Security Question for Postwar Iraq," *Inside Defense*, March 27, 2003 (http://www.insidedefense.com/secure/specials2/Gulf_Scientists.asp)