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# Iraq: the debate on policy options

This paper examines the ongoing debate about Iraq and the issue of UN weapons inspections. It considers the main events since the invasion of Kuwait in 1990 and examines the range of policy options under discussion in the public domain. It analyses the debate surrounding potential military action and the possible legal basis for such action, before concluding with an overview of international attitudes to the current situation.

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# **I Background**

## **A. Gulf Conflict 1990-91**

### ***a. Iraqi Invasion of Kuwait (August 1990)***

In August 1990 Iraqi forces invaded neighbouring Kuwait, following claims by Iraq that Kuwait had been illegally drilling for oil into Iraqi territory. In Resolution 660 of 2 August 1990 the UN Security Council condemned the invasion and called for an immediate withdrawal. In Resolution 661 of 6 August the Council imposed an embargo on Iraq which constituted the most wide-ranging economic sanctions ever imposed by the United Nations. The measures affected the import and export of most commodities and products, including oil and military equipment, although medical and humanitarian food supplies were exempted. Further Security Council resolutions imposed a maritime blockade and established a system to enable humanitarian food imports into Iraq and Kuwait.

Iraq's refusal to comply with UN demands and concerns over potential future aggression led to the despatch of substantial military forces to the region, with troops and equipment drawn from a broad international coalition and under a unified US command. The main element of the force was supplied by the US, with sizeable contingents drawn from the United Kingdom, France, Egypt, Saudi Arabia and the other Gulf states.

### ***b. Operation Desert Storm (January-February 1991)***

In early January 1991 the UN Security Council issued a deadline to Iraq in Resolution 678, demanding that it withdraw from Kuwait by 15 January and authorising Member States to use 'all necessary means' to bring about the liberation of Kuwait and restore peace and security in the area.

The ensuing military action, known as Operation *Desert Storm*, began on 16 January with a heavy and sustained air campaign against targets across Iraq and against Iraqi forces in Kuwait. Targets included Iraq's extensive air defence system and relatively modern air force, with particular attention devoted to known or suspected nuclear, chemical or biological weapons and ballistic missile facilities. Iraq had long been accused by other states of developing weapons of mass destruction (WMD) and had used chemical weapons during the 1980s, both in the long war that followed its invasion of Iran and against its own Kurdish population. Iraqi 'Scud' ballistic missiles, which had been used repeatedly during the conflict with Iran, were also used against Israel and Saudi Arabia during the Gulf conflict, although, in spite of earlier fears, there were no attacks involving WMD.

Following a short and decisive land offensive by coalition forces in February 1991, Iraqi forces were expelled from Kuwait. Tens of thousands of Iraqi forces surrendered to the Allies and many thousands more were killed in the intense air and ground campaigns. With the fulfilment of the UN's mandate for the liberation of Kuwait, Allied forces halted

their offensive action. Some commentators believe operations should have continued on to Baghdad to overthrow the regime of Saddam Hussein. Others argue that such a move would have exceeded the mandate given by the Security Council and split the international coalition that had been assembled. Furthermore, there were doubts about the ability of Allied forces to secure Iraq, given the impending onset of flooding in southern Iraq caused by the spring snowmelt from northern Iraq and western Iran.

In any event, it was widely anticipated that the comprehensive nature of Iraq's defeat would precipitate widespread internal uprisings and bring about the overthrow of Saddam Hussein. Uprisings did occur in the Kurdish north of the country and among the majority Shi'a population in the south and a number of major towns fell to rebel forces. However, the rebels were to prove too weak in the face of the regime's overwhelming military superiority, and forces loyal to Saddam Hussein rapidly reasserted control over most of the country, killing thousands in the process.

International criticism of Baghdad's actions and concern over the growing humanitarian crisis led to the deployment of Western forces into Kurdish northern Iraq and the imposition of a no-fly zone north of the 36<sup>th</sup> parallel to prevent air attacks by the Iraqi air force. A similar air exclusion zone was established over southern Iraq, south of the 32<sup>nd</sup> parallel, to help protect the Shi'a population.

The no-fly zones were patrolled by US, British and French forces, although there were differences within the Security Council over the international legal basis for this action. The UK and United States claimed that Security Council Resolution 688 of 5 April 1991 provided sufficient basis and that the zones were a necessary humanitarian measure to deter further internal repression by Baghdad. The Resolution demanded an end to Iraqi repression of its population and appealed to all Member States to contribute to humanitarian relief efforts. The zones continue to be enforced by US and British aircraft, and the southern zone has been extended north to the 33<sup>rd</sup> parallel. Clashes between Iraqi air defence units and aircraft patrolling the zone occur on a regular basis. Iraq claims that munitions dropped by US and British aircraft have caused the death of hundreds of civilians, although Washington and London dismiss such claims as propaganda.

*c. UN Security Council Resolution 687 (April 1991)*

In light of Iraq's proven record of internal repression and external aggression and concerns over its programmes to develop WMD, the UN Security Council sought to impose tight controls on Iraq to prevent further aggression in the future. In Resolution 686 of 2 March 1991 and Resolution 687, the so-called 'cease-fire resolution' of 3 April 1991, the Security Council imposed a series of stringent demands on Iraq and voted to keep sanctions in place to ensure compliance.

Resolution 686 set out a number of short-term requirements for Iraq, including a cessation of all hostile action, the release of all prisoners of war and the return of Kuwaiti property seized during the invasion and occupation.



Resolution 687 imposed a series of longer-term demands on Iraq. A central requirement was that Iraq eliminate its weapons of mass destruction and ballistic missile capability. Under the Resolution, the Security Council

8. *Decides* that Iraq shall unconditionally accept the destruction, removal, or rendering harmless, under international supervision, of:
  - (a) all chemical and biological weapons and all stocks of agents and all related subsystems and components and all research, development, support and manufacturing facilities;
  - (b) all ballistic missiles with a range greater than 150 kilometres and related major parts, and repair and production facilities; [...]
  
12. *Decides* that Iraq shall unconditionally agree not to acquire or develop nuclear weapons or nuclear-weapons-usable material or any subsystems or components or any research, development, support or manufacturing facilities related to the above;<sup>1</sup>

The Council also demanded that Iraq recognise the inviolability of the UN-demarcated Iraq-Kuwait boundary, a demand that has since been met.<sup>2</sup> However, other demands, such as the repatriation of Kuwaiti prisoners of war missing since the Gulf War, have yet to be fulfilled.<sup>3</sup>

## **B. UN Weapons Inspections (1991-1998)**

In order to verify Iraq's compliance, the Security Council established a UN Special Commission (UNSCOM) to supervise the destruction, removal or rendering harmless of any weaponry, equipment and facilities relating to Iraq's chemical and biological weapons and ballistic missile programmes. The International Atomic Energy Agency (IAEA) was tasked with ensuring Iraq's unconditional compliance with its existing obligations under the 1968 nuclear Non-Proliferation Treaty not to acquire or develop nuclear weapons or related material and facilities.

It is apparent from the timetable established by the Security Council that a rapid conclusion of the weapons inspections issue was anticipated. Iraq was required to submit declarations on all its WMD programmes to the UN and IAEA within 15 days of the Resolution. UNSCOM and the IAEA Iraq Action Team were to carry out intensive inspections of Iraq's WMD facilities and to ensure their effective destruction or removal within a matter of months. Resolution 687 also called for the establishment of long-term

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<sup>1</sup> The full text of Resolution 687 is reproduced in Appendix 2.

<sup>2</sup> Iraq agreed in 1994 to recognise its border with Kuwait as inviolable.

<sup>3</sup> Around 600 Prisoners of War from Kuwait and other Arab nations are still unaccounted for since hostilities ended in 1991.

procedures for ongoing monitoring and verification (OMV) to ensure Iraq's continued compliance. The International Institute for Strategic Studies (IISS) noted in its *Strategic Dossier* of 9 September 2002 that:

The Security Council envisaged that within some four months of the passage of SCR 687 all Iraq's WMD capabilities would be accounted for and a permanent monitoring system would be in place to verify future compliance.<sup>4</sup>

As stipulated by Resolution 687, Iraq submitted an initial declaration in which it admitted to possessing some chemical weapons and 53 'Scud' and 'al-Hussein' (a modified Scud with a longer range) ballistic missiles. Baghdad denied having any offensive biological weapons programme or any nuclear weapons-grade material and related facilities. The declaration was greeted with scepticism by UNSCOM and the IAEA, and Iraq subsequently submitted a revised declaration, admitting to some nuclear facilities and additional chemical weapons and missile capabilities.

UNSCOM and the IAEA began to suspect that Iraq was concealing elements of its WMD programmes and that Iraqi officials were mounting a systematic campaign to prevent inspectors from gaining a complete picture. The campaign included the concealment and removal of sensitive equipment, forgery of documents, detention, harassment and denial of access for inspectors, and the use of espionage to gather information on UNSCOM's activities and pre-empt inspections.

On 15 August 1991 the Security Council adopted Resolution 707 in which it condemned Iraq's lack of compliance with Resolution 687 as a 'material breach' of its cease-fire obligations. The Council called on Iraq to allow UNSCOM and IAEA inspection teams 'immediate, unconditional and unrestricted access'. In Resolution 715 of 11 October 1991 the Council approved plans for OMV monitoring activities by UNSCOM and IAEA at sites and facilities that had been checked by inspectors. Iraq refused to accept either Resolution, although it did subsequently accept Resolution 715 two years after its adoption.

Further disputes emerged during early 1992 as Iraq claimed it had carried out a programme of unilateral destruction of certain proscribed equipment, including missile launchers, munitions and chemical agents. Such unilateral action constituted a violation of Resolution 687, which stipulated that the destruction of proscribed items should take place under international supervision. The lack of documentation to support Iraq's claims prompted further investigation by UNSCOM. Some of the claims were subsequently found to be true, although doubts remained over the veracity of others, such as the destruction of chemical munitions and agents.

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<sup>4</sup> *Iraq's Weapons of Mass Destruction: A Net Assessment*, IISS Strategic Dossier, 9 September 2002, p.4

Tension increased again in early 1993 after a series of incursions by Iraqi forces into the demilitarised zone between Iraq and Kuwait and there was growing friction within the no-fly zones over southern and northern Iraq. In mid-January US, UK and French aircraft carried out limited air strikes against suspected WMD infrastructure in southern Iraq. Further military action followed in mid-1993 when the US mounted strikes against the headquarters of Iraqi intelligence in Baghdad in response to a failed assassination attempt against former President George Bush.

By November 1993, however, there was renewed progress on weapons inspections as Iraq accepted Resolution 715, allowing the deployment of the ongoing monitoring and verification systems to ensure former weapons sites were not reactivated.

Progress slowed again in late 1994 following Iraqi complaints about the apparently open-ended nature of the inspections process. Both the IAEA and UNSCOM said they were not prepared to close the disarmament files due to doubts over the full extent of Iraq's WMD programmes. Iraq imposed a deadline of 10 October 1994 for the lifting of sanctions and initiated the deployment of forces into southern Iraq, along the border with Kuwait. US forces in the region were rapidly reinforced and the Security Council adopted Resolution 949 calling for an immediate Iraqi withdrawal. Iraqi forces withdrew shortly afterwards.

By 1994 the Security Council had become the centre of growing disagreements between Russia, France, the United States and the UK over the future of policy towards Iraq and the maintenance of the sanctions regime. Concerns over the humanitarian impact of the embargo on the population on Iraq led to the adoption of Resolution 986 on 14 April 1995 and the establishment of the 'oil for food' programme, under which Iraq was permitted to sell up to US\$2 billion of oil to finance the purchase of food and medical supplies. The restriction on the amount of oil was subsequently increased and later removed entirely, although international disquiet remained over the deterioration of living standards within Iraq. The resignation of several leading UN officials involved in administering the humanitarian programme in Iraq added weight to claims that the embargo was a blunt instrument that was failing in its intended purpose of bringing about compliance by the Iraqi government.<sup>5</sup>

During 1995 UNSCOM made a major breakthrough on the inspections front, with the discovery that Iraq had indeed been pursuing an offensive biological weapons programme. Vital information emerged with the defection of Hussein Kamel, the son-in-law of President Saddam Hussein, who had headed Iraq's military industrial complex and been responsible for all of Iraq's weapons programmes. Mr Kamel's revelations forced the Baghdad government to disclose details of previously undisclosed elements of its weapons programmes, including the fact that it had succeeded in weaponising biological

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<sup>5</sup> More detail on the sanctions issue and the humanitarian situation in Iraq can be found in Library Standard Note SN/IA/1431.

agents. Further information and documents were also forthcoming on its missile, chemical weapons and nuclear weapons programmes. The information provided UNSCOM and the IAEA with significant new evidence, although closer examination of the documents was to reveal further inconsistencies and omissions.

During the inspection process, UNSCOM developed a range of countermeasures to minimise Iraqi interference and uncover previously undisclosed areas of WMD activity. Some of the countermeasures were more effective than others. The establishment of a special unit by UNSCOM to counter Iraqi concealment efforts had little impact on the overall effectiveness of the inspections, due to poor co-ordination and a failure to share information among the various UNSCOM teams.

Disputes continued within the Security Council during 1996 and 1997 over the state of Iraqi compliance, with the US and UK insisting that Iraq should comply fully with the Council's demands. There was also growing pressure from the US Congress for a shift in US policy explicitly aimed at the removal of Saddam Hussein, either by covert means or potentially by overt US military intervention in support of an internal uprising by Kurdish and other opposition forces. Earlier US attempts to spark a revolt had failed, with the destruction in 1996 of a CIA operations base in northern Iraq and the capture or execution by Iraq of scores of Kurdish rebels.

This gradual shift in approach by the US in favour of regime change met with opposition from Paris and Moscow. IISS comments that the disputes within the Security Council were often of a technical nature, but that:

the underlying dispute was political. Washington sought the removal of Saddam Hussein, while Moscow and Paris were prepared to accept his regime. As a result, the US had every incentive to demand high standards for resolving disarmament issues, in order to maintain economic sanctions against Baghdad, while Moscow and Paris were inclined to offer incentives and compromise on disarmament issues in order to lift sanctions and resume normal relations with Baghdad.<sup>6</sup>

Some observers believe Iraq's failure to meet UN demands is unsurprising, arguing that the Security Council has not offered Baghdad any concessions on the sanctions issue. They hold that US and UK policy towards Iraq has been all stick and no carrot. David Cortright and George A. Lopez believe the Security Council could have offered Iraq certain small-scale concessions to reward cooperation, arguing that:

Such a step would have been in keeping with cooperation theory, which emphasizes the importance of reciprocating concessions. When the target of coercive pressure complies with the sender's demands, however grudgingly, a reciprocal gesture to ease coercive pressure can help to encourage further

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<sup>6</sup> *Iraq's Weapons of Mass Destruction: A Net Assessment*, IISS Strategic Dossier, 9 September 2002, p.8

cooperation. The United States rejected proposals for easing sanctions pressure, however, showing little interest in applying this principle in Iraq.<sup>7</sup>

During early 1996 Iraq adopted a new approach with regard to weapons inspectors, arguing that certain sites were out of bounds due to national security concerns. In Resolution 1060 of 12 June the Security Council deemed Iraq's actions to be a clear violation of past resolutions and demanded that Iraq grant immediate and unrestricted access to all sites deemed in need of inspection by UNSCOM or the IAEA. Further disputes led to the adoption of a joint statement and joint plan of action between Iraq and UNSCOM which allowed UNSCOM to access sensitive sites, but on condition that Iraq's legitimate security concerns were taken into account.

The denial of access for inspectors and restrictions on their movement met with further condemnation from the Security Council in Resolution 1115 of 21 June 1997, which reiterated the demand for Iraq to allow 'immediate, unconditional and unrestricted access' for inspection teams. The Council also announced a suspension of the periodic review of the sanctions regime in protest at Iraq's non-compliance.

In July 1997 the post of Executive Chairman of UNSCOM was assumed by an Australian diplomat, Richard Butler. Relations between UNSCOM and Iraq continued to deteriorate in the months that followed. In September 1997 Iraq submitted what it claimed to be a 'Full, Final and Complete Declaration' of its biological weapons programmes, the fifth such declaration submitted since 1991. An international panel of experts set up to monitor the work of UNSCOM concluded that the declaration was still incomplete and technically flawed.

Further disputes emerged over access to so-called 'presidential sites', which Iraq insisted were off limits for the inspection teams. UNSCOM believed Iraq would use any sites deemed free from inspection to hide proscribed weapons and equipment. UNSCOM reported further instances of alleged obstructionism and the destruction or removal of documents by Iraqi officials. The Security Council responded on 23 October 1997 by adopting Resolution 1134, which cited Iraq's 'flagrant violation' of previous resolutions and demanded that Iraq cooperate fully with UNSCOM. A travel ban was subsequently imposed on Iraqi officials believed to have been involved in instances of non-cooperation.

In November 1997 Iraq lodged a series of complaints about the presence of US personnel within UNSCOM and the use of US U-2 surveillance planes to support the work of the inspection teams. The teams were withdrawn, but returned to Iraq shortly afterwards following talks between Moscow and Baghdad.

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<sup>7</sup> *Sanctions and the Search for Security, Challenges to UN Action*, David Cortright and George A. Lopez, London, 2002, pp.25-26

*a. February 1998 Crisis over Weapons Inspections*

Tension escalated dramatically during late 1997 and early 1998, as Iraq sought to impose a series of conditions on the inspection teams. Firstly, Iraq imposed a system of categorisation for sites, arguing that sovereign and presidential sites would not be open to inspection. Concerns were again voiced by UNSCOM over the potential for concealment, given that the sites in question covered an area of around 70 square kilometres.

An Iraqi decision to terminate cooperation with UNSCOM prompted a joint British and American threat of military action to bring about the forced disarmament of Iraq. The crisis was defused by the intervention of UN Secretary-General Kofi Annan who secured a Memorandum of Understanding with Iraq to allow inspections to resume. Under the Memorandum, it was agreed that a special group of senior diplomats would be assigned to accompany UNSCOM and IAEA personnel during the inspection of eight disputed ‘presidential’ sites. The Memorandum also noted that the lifting of sanctions was of ‘paramount importance to the people and Government of Iraq’ and the Secretary-General undertook to ‘bring this matter to the full attention of the ... Security Council.’<sup>8</sup>

The Security Council endorsed the Memorandum of Understanding in Resolution 1154 of 2 March 1998 and warned that any violation of the agreement would have the ‘severest consequences for Iraq’. There was also a dispute within the Council over the precise meaning of the phrase. The United States maintained that the Resolution provided the authority to act in the event of further Iraqi non-compliance, whereas Russia insisted that the Resolution was “not an automatic green light to use force”.<sup>9</sup> The UN Secretary-General, Kofi Annan, said that the US should hold “some form of consultations with the other members [of the Security Council]” before any military action was launched.<sup>10</sup>

On 5 March 1998 UNSCOM inspectors returned to Iraq and carried out a number of inspections of sites without hindrance. Richard Butler welcomed the “new degree of co-operation” and was optimistic that:

during this calendar year we will make significant advances towards the end of the disarmament phase in the missile and chemical fields.<sup>11</sup>

However, question marks remained over access to the presidential sites, after the initial inspections found that the buildings had been stripped bare of files, personnel and even furniture.<sup>12</sup> The Iraqi Government claimed it had not agreed to any further inspections of

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<sup>8</sup> The full text of the Memorandum and more detail on the February 1998 crisis can be found in Appendix 2 and Section I of Library Research Paper 99/13 respectively.

<sup>9</sup> *Financial Times*, 4 March 1998

<sup>10</sup> *Financial Times*, 9 March 1998

<sup>11</sup> *Financial Times*, 27 March 1998

<sup>12</sup> *Daily Telegraph*, 18 April 1998

the sites, whereas UNSCOM believed the initial inspections had served to establish the right of access for future visits.

In mid-June 1998 it was announced that agreement had been reached between Baghdad and UNSCOM on a two-month work schedule, laying out the remaining disarmament issues that needed to be addressed before all the files on Iraq's weapons programmes could be declared closed.

***b. Iraq Suspends Co-operation with UNSCOM***

In spite of the declarations of co-operation, relations between UNSCOM and Baghdad began to deteriorate during late June and July 1998, following allegations that Iraq had sought to conceal the extent of its programme to develop and weaponise VX nerve agent. Iraq claimed the allegations had been fabricated by UNSCOM in an attempt to delay the lifting of sanctions and insisted it had provided all the necessary evidence on its weapons programmes.

Talks between Baghdad and UNSCOM on the next stage of the inspection process broke down in early August 1998, despite indications from UNSCOM that work was almost complete on both the missile and chemical weapons files. On 4 August Iraq demanded that UNSCOM report to the Security Council that the disarmament process was complete, but the UNSCOM Chief Executive refused, saying he did not have sufficient evidence to make such a declaration.

The following day Iraq announced it was suspending all cooperation with UNSCOM and the IAEA inspection teams and restricting monitoring activities to existing sites. In contrast to the rhetoric of the February 1998 crisis, the international response to the Iraqi decision was relatively muted. The UN Security Council declared the move to be 'totally unacceptable', but London and Washington sought to play down the crisis, believing Iraq had created the dispute in order to provoke a split in the Security Council.

Later that month a prominent UNSCOM inspector, Scott Ritter, resigned in protest at what he perceived to be a weakening of US and UK policy towards Iraq. In his resignation letter Mr Ritter accused the United States and the United Kingdom of putting pressure on UNSCOM to abandon planned intrusive inspections of controversial sites, so as to avoid a fresh confrontation with Iraq. He declared that Washington and London were pushing UNSCOM "towards something that would produce the illusion of arms control rather than our stated policy of disarming Iraq."<sup>13</sup> The claims were dismissed by US and British officials, although several admitted in private that they were seeking to control the pace of confrontation with Iraq to prevent further splits within the Security Council.

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<sup>13</sup> *Sunday Telegraph*, 27 September 1998

*c. November 1998 Crisis over Weapons Inspections*

Kofi Annan held talks with Iraqi officials during early October 1998, but failed to achieve a breakthrough. On 31 October Iraq's ruling Ba'ath party and Revolutionary Command Council declared an end to all cooperation with UNSCOM and the restriction of the IAEA to monitoring activities only.

In Resolution 1205 of 5 November 1998 the UN Security Council condemned Iraq's decision as a 'flagrant violation' of existing resolutions and demanded that Iraq provide UNSCOM and the IAEA with 'immediate, complete and unconditional co-operation'.<sup>14</sup> The possibility of a comprehensive review of sanctions was kept open to encourage Iraq to comply.

Washington and London threatened that force would be used if Iraq continued to refuse to co-operate. Tension in the region increased further on 11 November 1998 when it was announced that all UNSCOM personnel had been withdrawn on the recommendation of the United States. Mr Annan and Arab leaders urged Iraq to find a diplomatic solution to the crisis, and a joint statement by Arab states warned President Saddam Hussein that he would be "solely responsible" for the consequences of his non-compliance.<sup>15</sup>

On 14 November the US and British Governments authorised air strikes against Iraq as last-ditch efforts continued at the UN to find a diplomatic solution. Action was averted just hours before the first strikes were due, as Iraq indicated its willingness to comply with UN demands. Upon receiving further clarification from Iraq that it agreed to comply unconditionally and to rescind its earlier decisions to halt co-operation, the USA and UK called off the strikes, but warned that their forces remained ready to act. Nonetheless, there were concerns in Washington that air strikes would "mark the end of UNSCOM" and leave the UN with "no oversight, no insight, no involvement in what is going on within Iraq."<sup>16</sup>

Both Governments also expressed their desire to see the removal of President Saddam Hussein. Foreign Secretary Robin Cook said on 16 November:

I don't think there is anybody in the world who would disagree that it would be very helpful if Saddam Hussein had gone and that we had a different regime in Iraq which was rational and with whom we could negotiate sensibly on behalf of the world community.<sup>17</sup>

The Iraqi regime claimed in response that the US and UK were violating the UN Charter by interfering in the affairs of a sovereign state.

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<sup>14</sup> UNSCR 1205 (1998)

<sup>15</sup> *Financial Times*, 13 November 1998

<sup>16</sup> Comments from President Clinton quoted in the *Financial Times*, 16 November 1998

<sup>17</sup> *Times*, 17 November 1998



UNSCOM inspectors returned to Iraq on 17 November 1998. Richard Butler declared that full Iraqi co-operation would enable the inspectors to complete their work on chemical weapons inside two to three months, before long-term monitoring could be put in place, although he acknowledged that work on biological weapons would take longer. The IAEA indicated that it was close to completing inspection work on nuclear weapons, prior to long-term monitoring.<sup>18</sup>

**d. *The ‘Butler Report’***

On 15 December 1998 the Executive Chairman of UNSCOM wrote to the UN Secretary-General with an update report on the state of Iraqi compliance since the resumption of co-operation in mid-November.<sup>19</sup> The report, which became known as the ‘Butler report’, asserted that Iraq’s claims to have fulfilled its disarmament obligations could not be accepted without further verification. It stated that the Iraqi Government had provided some clarifications sought by the Commission, but that in general Iraq had “not provided the full co-operation it promised on 14 November 1998.” Moreover, the report concluded: “Iraq’s conduct ensured that no progress was able to be made in either the fields of disarmament or accounting for its prohibited weapons programmes.”

**e. *Operation Desert Fox***

UNSCOM and IAEA personnel were withdrawn from the region due to concerns over their security and on 16 December 1998 the US and UK initiated four days of air strikes against suspected WMD infrastructure, Republican Guard units and key command and control centres. The operation ended on 19 December, just prior to the onset of the Islamic holy month of Ramadan.

International reaction to the use of force was mixed. Russia denounced the strikes and recalled its ambassadors to Washington and London in protest. On 21 December 1998 the Iraqi Vice President, Taha Yasin Ramadan, declared Iraq was no longer willing to co-operate with the UN inspectors, saying: “all that has to do with inspection, monitoring, and weapons of mass destruction is now behind us.”<sup>20</sup>

Clashes in the no-fly zones over northern and southern Iraq intensified after Washington and London expanded the rules of engagement to allow aircraft patrolling the zones to respond in self-defence against any part of the air defence system, and not just the missile site that posed the immediate threat.

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<sup>18</sup> *Financial Times*, 16 November 1998

<sup>19</sup> ‘Letter from the Executive Chairman of UNSCOM to the Secretary-General of the United Nations’, 15 December 1998

<sup>20</sup> *BBC Summary of World Broadcasts*, 21 December 1998

*f. Disputes over the role of UNSCOM*

The role of UNSCOM came under scrutiny during late 1998 and early 1999, as allegations emerged of close contact between inspection personnel and Western intelligence agencies. Scott Ritter claimed that Israeli intelligence had played a crucial role in uncovering Iraq's strategy of deception.

Further disclosures in the *Washington Post* in January 1999 claimed that UNSCOM had been used by the United States to obtain sensitive information on the regime of Saddam Hussein.<sup>21</sup> According to the *Washington Post* report, US intelligence had supplied UNSCOM with a sophisticated listening device that was installed in the Commission's headquarters in Baghdad in July 1998. The device eavesdropped on communications between high-ranking Iraqi officials and transferred information by satellite to the US National Security Agency for decoding. It was alleged that, while some details were passed to UNSCOM, other information about the Iraqi security apparatus was retained by the US and UK to assist with targeting for the December air strikes.<sup>22</sup> Indeed, some commentators believe the US realised in early 1998 that UNSCOM was rapidly approaching the end of its useful life and decided to gather as much intelligence as possible about Iraq before the inspectors withdrew.<sup>23</sup>

Richard Butler acknowledged that over 40 states had assisted UNSCOM, but denied that co-operation with the US or other states had compromised the neutrality of the UN mission. British Foreign Office Minister, Derek Fatchett, echoed Richard Butler's comments:

Both the UK and US Governments have made clear that all information exchanges between themselves and UNSCOM have been strictly in pursuit of UNSCOM's mandate to dismantle Iraq's Weapons of Mass Destruction capability.<sup>24</sup>

However, the episode served to highlight the problems encountered by the UN in tackling Iraq's sophisticated concealment programme with only limited resources. By 1998 UNSCOM had evolved into the first intelligence-gathering mission in the history of the UN, and the gradually increasing reliance on national intelligence agencies for assistance sat uneasily with the UN's commitment to neutrality and political independence.

*g. Debate over policy in the Security Council*

In the months that followed, it became apparent that UNSCOM had become increasingly discredited in the eyes of certain Security Council members and discussion began on the

<sup>21</sup> *Washington Post*, 6 January 1999

<sup>22</sup> *Independent*, 8 January 1999

<sup>23</sup> *Independent on Sunday*, 10 January 1999

<sup>24</sup> HC Deb 14 January 1999, c255w

formation of a new disarmament body. Anticipating its own demise, UNSCOM decided in January 1999 to submit an ad-hoc final report on the state of Iraqi disarmament to the Security Council.<sup>25</sup>

In March 1999 the Security Council established three panels to examine the state of Iraqi disarmament, the issue of Kuwaiti prisoners of war believed to be held by Iraq, and the humanitarian situation inside Iraq. The report of the disarmament panel (known as the ‘Amorim report’, after the Chairman, Ambassador Celso Amorim) concluded that the bulk of the disarmament tasks had been completed, but warned that: “the current absence of inspectors has exponentially increased the risk of compromising the level of assurance already achieved”.<sup>26</sup> The panel concluded that an intrusive monitoring system would be required urgently to ensure Iraq was not seeking to reconstitute its weapons programmes.

#### *h. Establishment of UNMOVIC*

On 17 December 1999 the Security Council adopted Resolution 1284, which disbanded UNSCOM and replaced it with a new body, the UN Monitoring, Verification and Inspection Commission (UNMOVIC).<sup>27</sup> UNMOVIC was tasked with continuing UNSCOM’s mandate to secure the disarmament of Iraq’s WMD and ballistic missile programmes and to put in place a long-term monitoring system.

The Resolution also specified the timetable to be adopted by UNMOVIC and the IAEA in the event that Iraq rescinded its earlier decision to halt cooperation on the inspections issue. Both bodies should each draw up a work programme not later than 60 days after the start of their work in Iraq. The programmes, which should include the rapid implementation of ongoing monitoring and verification systems (OMV), would then be subject to approval by the Council.

Furthermore, the Resolution specified that sanctions would be suspended for 120 days once the Council had received confirmation from UNMOVIC and the IAEA that Iraq had complied with the fulfilment of the work programmes for a period of 120 days and permitted the establishment of fully operational OMV systems.

France, Russia and China all abstained in the vote on the adoption of the Resolution.

During 2001 and 2002 UNMOVIC and its head, Dr Hans Blix, began work on the files inherited from UNSCOM with the aim of drawing up a comprehensive list of key remaining disarmament tasks. A training programme was also instituted for new inspection personnel who would be available for deployment to Iraq in the event of a resumption of cooperation.

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<sup>25</sup> The full report is available online at <http://www.un.org/Depts/unscom/s99-94.htm>

<sup>26</sup> The full report is available online at <http://www.un.org/Depts/unmovic/documents/AMORIM.PDF>

<sup>27</sup> Established under Resolution 1284, text available from <http://www.un.org/Docs/scres/1999/sc99.htm>

## II Developments since 11 September 2001

In the aftermath of the terrorist strikes on Washington and New York on 11 September 2001 and the subsequent anthrax attacks, speculation mounted as to possible links between al-Qaeda and the regime of Saddam Hussein. The Bush administration decided in the first instance to tackle the threat posed by al-Qaeda and the Taliban regime in Afghanistan, although some officials were believed to favour a broader offensive that would have encompassed Iraq.

The government in Baghdad strenuously denied any involvement in the attacks of 11 September and the anthrax incidents. Iraqi Deputy Prime Minister Tariq Aziz declared in late October 2001 that the US allegation of Iraqi complicity was “not only baseless, it [was] also ridiculous”,<sup>28</sup> adding that: “If the United States goes ahead with striking Iraq this will be for US considerations, not for punishing Iraq for its acts.”<sup>29</sup>

By December 2001, as large-scale military operations in Afghanistan showed signs of drawing to a close, the debate again turned to the issue of Iraq and possible US military action.

### 1. Iraq and the ‘Axis of Evil’

Speculation over possible US action was heightened by President George Bush’s State of the Union address of 29 January 2002 in which he warned of the threat posed by an ‘axis of evil’ that comprised Iran, Iraq and North Korea. As part of the US campaign against international terrorism, Mr Bush said that his administration had two goals:

First, we will shut down terrorist camps, disrupt terrorist plans, and bring terrorists to justice. And, second, we must prevent the terrorists and regimes who seek chemical, biological or nuclear weapons from threatening the United States and the world.<sup>30</sup>

With regard to the second goal, he went on to say:

Our second goal is to prevent regimes that sponsor terror from threatening America or our friends and allies with weapons of mass destruction. [...]

Iraq continues to flaunt its hostility toward America and to support terror. The Iraqi regime has plotted to develop anthrax, and nerve gas, and nuclear weapons for over a decade. This is a regime that has already used poison gas to murder thousands of its own citizens – leaving the bodies of mothers huddled over their

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<sup>28</sup> *Sunday Telegraph*, 28 October 2001

<sup>29</sup> *Al-Jazeera* TV, from *BBC Monitoring*, 24 October 2001

<sup>30</sup> Text of the President’s State of the Union address, 29 January 2002, from the White House web site at <http://www.whitehouse.gov/news/releases/2002/01/20020129-11.html>

dead children. This is a regime that agreed to international inspections -- then kicked out the inspectors. This is a regime that has something to hide from the civilized world.

States like these, and their terrorist allies, constitute an axis of evil, arming to threaten the peace of the world. By seeking weapons of mass destruction, these regimes pose a grave and growing danger. They could provide these arms to terrorists, giving them the means to match their hatred. They could attack our allies or attempt to blackmail the United States. In any of these cases, the price of indifference would be catastrophic.

His administration indicated that it would continue the policy of pursuing regime change in Iraq which it had inherited from the Clinton administration, and that it would consider the use of force to achieve its objective. US officials acknowledged that there was no evidence linking Iraq to the attacks of 11 September and that there appeared to be little if any linkage between Baghdad and al-Qaeda. However, they argued that the potential for such linkage posed a grave threat to US and international security, insisting that pre-emptive military action and regime change was vital and should not be delayed.

US support for pre-emptive action against Iraq has drawn criticism from some observers. Sir Michael Quinlan wrote in early August 2002 that:

To argue that September 11 shows the need for pre-emption is to draw a false parallel. Mr Hussein's regime is not a shadowy terrorist organisation; it has much to lose – and deterrence can be brought to bear. It is true that prevention of use falls far short of the ideal of Iraqi compliance with Security Council requirements; but decision-makers have to compare the realistic alternatives.<sup>31</sup>

Other commentators supported the US view that pre-emptive action could indeed be necessary, even if the Security Council were unable to act in a unified fashion. *The Economist* warned against acting

...as if the Security Council were the moral conscience of the world. Would that it were. It is instead a collection of powerful states, all pursuing their own interests with what one can only hope is a sense of wider responsibility. There was nothing high-minded, for example, about Russia's refusal to countenance military action to halt Slobodan Milosevic's ethnic cleansing of Kosovo. It backed the butcher of the Balkans to the bitter end. Some still claim that NATO's intervention there was illegal, since it lacked explicit UN endorsement. Yet 19 of the world's strongest democracies were surely right to act where the UN, divided, could not.<sup>32</sup>

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<sup>31</sup> Sir Michael Quinlan, 'War on Iraq: a blunder and a crime', *Financial Times*, 7 August 2002

<sup>32</sup> 'Confronting Iraq', *The Economist*, 14 September 2002, p.9

## **2. Changes to the Sanctions Regime**

Concern over the humanitarian impact of the UN sanctions regime prompted debate in the Security Council during 2001 on possible amendments to the embargo.<sup>33</sup> After months of deadlock, agreement was reached among the permanent members in November 2001 to introduce a revised and streamlined system in six months' time.<sup>34</sup>

The central component of the new system is a 'goods review list' that contains all potentially dangerous goods. Only items on this list require review by the UN Sanctions Committee, whereas other items are automatically cleared for export to Iraq. The drafting of the list, however, caused considerable controversy within the Security Council. The need to restrict military items, such as conventional munitions and equipment, was widely accepted, but there was little agreement on the inclusion of certain 'dual-use' items that could have both a civilian and a military use, potentially in the development of weapons of mass destruction. Earlier proposals to tighten the embargo around Iraq and prevent the flow of contraband oil were dropped due to the concerns of neighbouring countries.

The new system was approved by the Security Council on 14 May 2002 under Resolution 1409.<sup>35</sup> Iraq criticised the revised system, describing it as a "new harassment" of the Iraqi people and claiming the new goods list would "prevent any development of the Iraqi economy".<sup>36</sup> Baghdad also reiterated its call for sanctions to be lifted immediately, insisting that it had complied with UN demands.

## **3. Diplomatic Pressure Builds**

During the summer of 2002 speculation increased in the press over possible US planning for military action. A series of leaks by Pentagon officials concerning possible scenarios appeared to support the view that action was being considered for late 2002 or early 2003.

Diplomatic pressure began to mount on Iraq during August and early September as US officials sought to muster support for a robust international response to Iraq's non-compliance. Washington also came under pressure to engage with the United Nations and to set out its case for possible military action against Iraq.

Tension increased on 5 October after US and UK planes mounted a significant attack on military facilities in western Iraq. The attack was the largest carried out in the no-fly zones since 1998.

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<sup>33</sup> More detail on the sanctions issue and humanitarian conditions in Iraq can be found in Library Standard Note SN/IA/1431.

<sup>34</sup> Under UN Security Council Resolution 1382, available at <http://www.un.org/Docs/scres/2001/res1382e.pdf>

<sup>35</sup> The full text of the resolution is available at <http://www.un.org/Docs/scres/2002/res1409e.pdf>

<sup>36</sup> BBC News web site at <http://news.bbc.co.uk> , 16 May 2002

President Bush addressed the General Assembly on 12 September in what was viewed as an important attempt to secure international support for the US position on Iraq. In his speech, he challenged the UN to respond to Iraq's non-compliance, asking:

Are Security Council resolutions to be honoured and enforced, or cast aside without consequence? Will the United Nations serve the purpose of its founding or will it be irrelevant?<sup>37</sup>

Mr Bush's speech received a broadly positive reaction from the international community and it appeared to reassure some governments that had feared Washington was intent on sidelining the United Nations. US and British officials indicated they were starting work on a new resolution that would reiterate the Security Council's demands on Iraq and specify a deadline and tight timetable for compliance. They also said the resolution should endorse the use of force in the event of Iraqi non-compliance.

The UN Secretary-General also addressed the General Assembly on 12 September, declaring that:

the leadership of Iraq continues to defy mandatory resolutions adopted by the Security Council under Chapter VII of the Charter.

I have engaged Iraq in an in-depth discussion on a range of issues, including the need for arms inspectors to return, in accordance with the relevant Security Council resolutions.

Efforts to obtain Iraq's compliance with the Council's resolutions must continue. I appeal to all those who have influence with Iraq's leaders to impress on them the vital importance of accepting the weapons inspections. This is the indispensable first step towards assuring the world that all Iraq's weapons of mass destruction have indeed been eliminated, and – let me stress – towards the suspension and eventual ending of the sanctions that are causing so many hardships for the Iraqi people.

I urge Iraq to comply with its obligations – for the sake of its own people, and for the sake of world order. If Iraq's defiance continues, the Security Council must face its responsibilities.<sup>38</sup>

In addition, he stressed the role that the UN and the international community could play with regard to the use of force by Member States, declaring that:

When states decide to use force to deal with the broader threats to international peace and security, there is no substitute for the unique legitimacy provided by

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<sup>37</sup> *Financial Times*, 13 September 2002

<sup>38</sup> Text of address by Secretary-General Kofi Annan to the General Assembly, Press Release SG/SM/8378, 12 September 2002, from <http://www.un.org/News/Press/docs/2002/SGSM8378.doc.htm>

the United Nations. [...] On all matters, for any state – large or small – choosing to follow or reject the multilateral path must not be a simple matter of political convenience.<sup>39</sup>

#### **4. Iraqi acceptance of UN weapons inspectors**

On 16 September the Iraqi foreign affairs minister, Naji Sabri, informed the UN Secretary-General of his government's decision to accept an unconditional return of UN weapons inspectors. In his letter Mr Sabri wrote:

I am pleased to inform you of the decision of the Government of the Republic of Iraq to allow the return of United Nations weapons inspectors to Iraq without conditions.

The Government of the Republic of Iraq has responded, by this decision, to your appeal, to the appeal of the Secretary General of the League of Arab States, as well as those of Arab, Islamic and other friendly countries.

The Government of the Republic of Iraq has based its decision concerning the return of inspectors on its desire to complete the implementation of the relevant Security Council resolutions and to remove any doubts that Iraq still possesses weapons of mass destruction.

This decision is also based on your statement to the General Assembly on 12 September 2002 that the decision by the Government of the Republic of Iraq is the indispensable first step towards an assurance that Iraq no longer possesses weapons of mass destruction and, equally importantly, towards a comprehensive solution that includes the lifting of the sanctions imposed on Iraq and the timely implementation of the other provisions of the relevant Security Council resolutions, including Resolution 687 (1991).

To this end, the Government of the Republic of Iraq is ready to discuss the practical arrangements necessary for the immediate resumption of inspections.

In this context, the Government of the Republic of Iraq reiterates the importance of the commitment of all member states of the Security Council and the United Nations to respect the sovereignty, territorial integrity and political independence of Iraq, as stipulated in the relevant Security Council resolutions and Article II of the Charter of the United Nations.<sup>40</sup>

Mr Annan said he would pass the letter on to the Security Council to decide what to do next.

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<sup>39</sup> *Financial Times*, 13 September 2002

<sup>40</sup> 'Text of Iraq's letter to Kofi Annan', from the FT.com web site, 17 September 2002



It appears that Iraq took the decision to readmit UN inspectors following concerted pressure from Arab states and the Arab League. Iraq may also have wished to pre-empt the adoption of a fresh Security Council resolution that seemed likely to impose more stringent demands.

**a. *Reaction to the Iraqi offer***

The offer was welcomed by the international community, although several states expressed caution, insisting that it was only the first step in a long process.

US Defense Secretary Donald Rumsfeld expressed doubts that Iraq would comply with UN demands, insisting that the goal should be to bring about disarmament, not just securing the return of inspectors. In comments to the House Armed Services Committee, he declared:

The purpose of inspections is to prove that Iraq has disarmed, which would require that Iraq would reverse its decade-long policy of pursuing those weapons, and that is certainly something that Iraq is unlikely to do.<sup>41</sup>

The British Foreign Secretary, Jack Straw, said the offer should be viewed “with a high degree of scepticism”. He added that he believed Iraq had acted only because of the application of determined pressure by the international community, and insisted that pressure should be maintained to ensure Iraq did not seek to delay and stall the return of inspectors.<sup>42</sup>

Russia and China both welcomed Iraq’s decision. Russian foreign minister Igor Ivanov declared that: “Thanks to our joint efforts, we managed to avert the threat of a war scenario and go back to political means of solving the Iraqi problem.”<sup>43</sup>

Amr Moussa, the Secretary-General of the Arab League, said he hoped the Iraqi decision “will give a chance for inspections to resume and that it will lead to the results we want.”<sup>44</sup>

**b. *Return of UNMOVIC***

The head of UNMOVIC indicated on 20 September 2002 that an advance party of inspectors would arrive in Iraq on 15 October to visit selected sites and organise equipment. Two 60-day inspection tours would then be conducted, with the whole operation expected to take at least four months.

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<sup>41</sup> *Financial Times*, 19 September 2002

<sup>42</sup> ‘Straw sceptical on Iraq offer’, BBC News web site at <http://news.bbc.co.uk>, 17 September 2002

<sup>43</sup> ‘Iraq offer receives mixed reaction’, BBC News web site at <http://news.bbc.co.uk>, 17 September 2002

<sup>44</sup> *Financial Times*, 17 September 2002

The same day, US Secretary of State Colin Powell said his government would block the return of inspectors unless serious weaknesses in the existing inspection arrangements were resolved by means of a new Security Council resolution. Russia has rejected calls for a new resolution, arguing that Iraq's obligations are set out clearly in existing resolutions. However, the US and UK are reportedly concerned that access for inspectors would not be unconditional and that UNMOVIC would be constrained by previous agreements between UNSCOM and Iraq, such as the 1998 Memorandum of Understanding.<sup>45</sup>

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<sup>45</sup> 'UN weapons chief must win over US and Iraqi sceptics', *Financial Times*, 19 September 2002

### III Assessments of Iraqi Military Capabilities

#### A. Weapons of Mass Destruction Capabilities

It is now almost four years since the withdrawal of weapons inspectors and many observers believe Iraq has used that period to revive and conceal its chemical, biological, nuclear and ballistic missile programmes. These programmes had reached an advanced state by the time of the Gulf conflict and it seems likely that Baghdad has retained much of the technical expertise gained. The International Institute for Strategic Studies (IISS) commented in its Strategic Dossier of 9 September that:

Iraqi scientists still have the necessary knowledge and experience to reconstruct Iraq's WMD and missile programmes, and Iraq possesses dual use equipment and materials that could be converted to support these programmes, especially for chemical and biological weapons. Most important, there is no indication that President Saddam Hussein and the Iraqi leadership have changed their commitment to retain and develop WMD and missiles as a high priority for Iraq's foreign and defence objectives.<sup>46</sup>

What is unclear, however, is the extent to which the UN embargo has prevented Iraq from acquiring the specialized technologies and equipment necessary for the manufacture of WMD. Instances of illegal smuggling into Iraq have been widely reported, although the true scale is difficult to judge. Some prohibited items, such as missile gyroscopes, have been intercepted by forces enforcing the UN embargo and by western intelligence, although other items may have been successfully smuggled into Iraq.

The absence of UN inspectors and the termination of long-term monitoring at documented or suspected sites make it extremely difficult to gain an accurate picture of the current state of Iraq's WMD capability. Most independent assessments, such as that produced by IISS, are based to a certain extent on estimates of and extrapolations from existing UNSCOM findings. The British and US Governments claim to have intelligence that Iraq has indeed used the absence of UN inspectors to resume weapons development and the British Government says it plans to publish a dossier of evidence to back up these claims. The dossier, which is expected to draw on sanitized intelligence gathered by the Secret Intelligence Service, the Security Service, Defence Intelligence and other sources, will be published at 08:00 on 24 September, three hours prior to the debate in the House.

The issue of Iraq's compliance with UN demands on weapons of mass destruction remains the subject of considerable debate and speculation. There is also some debate as to what would constitute compliance. UNSCOM chairman Richard Butler acknowledged in 1998 that it might never be possible to verify 100 per cent that Iraq had indeed disarmed. There are also doubts as to whether the Bush administration would be willing

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<sup>46</sup> *Iraq's Weapons of Mass Destruction: A Net Assessment*, IISS Strategic Dossier, 9 September 2002, p.11

to allow the lifting of sanctions when it has declared its intention to bring about a change of regime in Baghdad.

The following section summarises the current state of information in the public domain about the extent of Iraq's WMD capabilities:

## 1. Chemical Weapons Programme

By 1998 UNSCOM had reported considerable progress in verifying the extent of Iraq's programme to develop chemical weapons, although several issues were deemed to be in need of clarification, particularly regarding mustard gas artillery shells, aerial bombs and VX nerve agent. According to the October 1998 UNSCOM report, the Commission was unable to verify Iraq's claims to have unilaterally destroyed all mustard gas munitions. The Commission was also unable to account fully for the five hundred R-400 aerial bombs that Iraq claimed it had destroyed.<sup>47</sup>

In March 2001 UNMOVIC presented a classified report to a panel of experts set up by the Security Council to guide its work. The following extract from the *Financial Times* summarises the main findings of the document relating to chemical weapons:

Iraq could still have mustard gas, as well as the shells capable of delivering it. As many as 500-700 155mm shells remain unaccounted for, the report states, citing Unscm documentation. Iraq says it melted 15,000 special 122mm rocket warheads, which are also used in chemical warfare (CW), but Unmovic believes remaining ingots do not verify that fact.

Iraq also researched other means of delivering chemical weapons, such as using aerial spray/drop tanks.

Unscm had found documents that verified that "spray/drop tanks for the dissemination of CW agents had been successfully tested with mustard agent and that the necessary stocks of bulk CW agents had been reserved for their filling", leading Unmovic to list the programme as an "unresolved disarmament issue", the report states.

Remaining volumes of imported phosphorus trichloride (PCl<sub>3</sub>), a precursor of chemical warfare agents such as mustard gas, are also unresolved. Whether Iraq has or had weaponised VX nerve agent - the most toxic of all known chemical warfare agents - remains unclear.<sup>48</sup>

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<sup>47</sup> 'Report of the Executive Chairman on the activities of the Special Commission established by the Secretary-General pursuant to paragraph 9 (b) of resolution 687 (1991)', *S/1998/920 (1998)*, 6 October 1998

<sup>48</sup> 'Missiles and viruses still troubling UN', *Financial Times*, 2 March 2001

IISS concludes in its Strategic Dossier that Iraq has probably retained a few hundred tonnes of mustard gas and precursors for a few hundred tonnes of sarin/cyclosarin and perhaps a similar amount of VX from pre-1991 stocks. It also concludes that Iraq may be capable of delivering chemical agents in a variety of impact-fuse tactical munitions, such as artillery shells, rockets and aerial bombs, of which it could have as many as a few thousand.<sup>49</sup>

## 2. Biological Weapons Programme

UNSCOM believed the main question mark over Iraq's WMD remaining capability related to biological weapons. Iraq admitted only in 1995 that it had developed an offensive biological weapons programme, and subsequent disclosures were deemed to be incomplete and inconsistent. According to the *Financial Times*, the March 2001 UNMOVIC classified report to the panel of experts contained the following on biological weapons:

Regarding the biological file, Unmovic found that "the production of Agent B (anthrax spores) could be much greater than stated and, had such production taken place, the remaining quantities would still retain significant activity given the stability of this agent".

Unscm believed Iraq produced tens of thousands of litres of Agent B and that more than the 50 R400 aerial bombs and five Al-Hussein warheads Iraq admitted to could have been made into useable weapons.

Iraq's research into viruses – including polio, influenza, foot and mouth disease, the camelpox virus, infectious haemorrhagic conjunctivitis virus and rotavirus – was also worrying.

"In the absence of further documentary evidence and explanation, the rationale and the scope of the virus research undertaken remains unclear, in particular the basis for selection of the viruses," Unmovic states.<sup>50</sup>

IISS concludes that Iraq has probably retained substantial growth media and BW agent (perhaps thousands of litres of anthrax) from pre-1991 stocks. It also believes Iraq would be capable of resuming BW agent production within weeks using existing civilian facilities, and suggests it could have produced thousands of litres of anthrax, botulinum toxin and other agents since 1998. However, the actual extent of Iraq's stocks is unknown, as is its possession of viral agents and smallpox. Iraq has a capability to deliver BW agent using a simple airborne wet spray device, but it is not known if it has developed more advanced wet spray devices or acquired the ability to use dry agent.<sup>51</sup>

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<sup>49</sup> *Iraq's Weapons of Mass Destruction: A Net Assessment*, IISS Strategic Dossier, 9 September 2002, p.74

<sup>50</sup> 'Missiles and viruses still troubling UN', *Financial Times*, 2 March 2001

<sup>51</sup> *Iraq's Weapons of Mass Destruction: A Net Assessment*, IISS Strategic Dossier, 9 September 2002, p.74

### **3. Ballistic Missile Programme**

Under Resolution 687 Iraq is prohibited from developing or acquiring ballistic missiles with a range greater than 150 kilometres. UNSCOM believed it had accounted for 817 of the 819 Soviet-origin Scud missiles declared by Iraq, although Iraq's indigenous production capability has raised doubts as to whether Iraq has been able to conceal a small number of domestically built missiles.<sup>52</sup> With regard to missile propulsion and guidance, the Commission considered that additional verification work would be necessary.

The UNMOVIC report of March 2001, as reported by the *Financial Times*, included the following extracts on Iraq's ballistic missile capability:

On the missile file, Unmovic believes Iraq could still harbour two imported long-range Scud B missiles as well as possibly indigenous Scud B type missiles.

The document also states Iraq could have launchers as well as fuel for the missiles. Baghdad may have reassembled Scud launchers by stripping hydraulic, electric and electronic components from mobile Scud launchers it was forced to destroy, it states.<sup>53</sup>

IISS concludes that Iraq has probably retained a small force of al-Hussein missiles (with a range of 650 km), which could number around 12. It believes Iraq does not have the capability to produce long-range missiles, although it may have produced some al-Samoud missiles with a range of up to 200 km. Iraq is also believed to be capable of converting civilian vehicles to serve as mobile launchers for its remaining missile force.<sup>54</sup>

### **4. Nuclear Weapons Programme**

Under Resolution 687, the IAEA was tasked with uncovering and dismantling Iraq's clandestine nuclear programme and monitoring Iraqi facilities to ensure the programme could not be reconstituted. An IAEA Iraq Action Team was established to carry out these tasks.

Between 1991 and the withdrawal of its inspection teams in 1998, the IAEA made considerable progress in verifying and destroying large parts of Iraq's nuclear weapons programme.

As a result, the six-monthly report submitted by the IAEA to the Security Council in October 1998 was able to declare that the agency had found:

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<sup>52</sup> HC Deb 3 February 1999, c677w

<sup>53</sup> 'Missiles and viruses still troubling UN', *Financial Times*, 2 March 2001

<sup>54</sup> *Iraq's Weapons of Mass Destruction: A Net Assessment*, IISS Strategic Dossier, 9 September 2002, p.74

no indication of Iraq having achieved its programme goal of producing nuclear weapons, or of Iraq having retained a physical capability for the production of weapon-useable nuclear material or having clandestinely obtained such material.<sup>55</sup>

However, the report warned:

At the same time, the IAEA points out the limitations inherent in a countrywide verification process and consequently its inability to guarantee that all readily concealable items have been found. This situation is not helped by Iraq's lack of full transparency with respect to the provision of certain information regarding the extent of external assistance to Iraq's clandestine programme; the timing and modalities of the abandonment of that programme; and certain documentation on weaponisation achievements.

Furthermore, the IAEA declared that Iraq's suspension of co-operation during 1998 meant the level of assurance it could give that prohibited activities were not taking place in Iraq was "significantly reduced".

The IAEA Director General commented in the October 2001 report that:

For nearly three years, the Agency has not been in a position to implement its mandate in Iraq under Security Council resolution 687 (1991) and related resolutions. As a consequence, it is not able at present to provide any assurance that Iraq is in compliance with its obligations under these resolutions. Clearly, the longer the suspension of resolution related inspections lasts, the more difficult it will be and the more time will be required for the Agency to re-establish a level of knowledge comparable with that achieved at the end of 1998.<sup>56</sup>

In the April 2002 report the Director General went on to say that:

the Agency remains prepared to resume at short notice its verification activities in Iraq under the relevant Security Council resolutions, with the assistance and cooperation of UNMOVIC. If it were to resume these verification activities, and provided that it could satisfy itself that Iraq's nuclear activities and nuclear assets have not changed since December 1998, the Agency would be in a position to move to the full implementation of its ongoing monitoring and verification plan. This plan would also enable the Agency to investigate the few remaining questions that relate to Iraq's past clandestine nuclear programme, along with any other aspect of this programme that may come to its knowledge.<sup>57</sup>

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<sup>55</sup> S/1997/927, 7 October 1998, from [http://www.iaea.or.at/worldatom/Programmes/ActionTeam/reports/s\\_1998\\_927.pdf](http://www.iaea.or.at/worldatom/Programmes/ActionTeam/reports/s_1998_927.pdf)

<sup>56</sup> S/2001/945, 5 October 2001, from [http://www.iaea.org/worldatom/Programmes/ActionTeam/reports/s\\_2001\\_945.pdf](http://www.iaea.org/worldatom/Programmes/ActionTeam/reports/s_2001_945.pdf)

<sup>57</sup> S/2002/367, 16 April 2002, from [http://www.iaea.org/worldatom/Programmes/ActionTeam/reports/s\\_2002\\_367.pdf](http://www.iaea.org/worldatom/Programmes/ActionTeam/reports/s_2002_367.pdf)

Iraq has permitted some ‘limited’ IAEA safeguard inspections, in line with its obligations as a non-nuclear weapons state under the nuclear Non-Proliferation Treaty (NPT). The most recent limited inspection, lasting four days, took place on 26 January 2002. The IAEA team visited the Tuwaitha former nuclear research centre to the north of Baghdad where around 1.8 tons of low-enriched uranium are being stored. However, the IAEA Director General cautioned in his April 2002 report to the Security Council that:

such inspections do not serve as a substitute for the verification activities required by the relevant resolutions of the Security Council, nor do they provide the assurances that Iraq is in compliance with its obligations under these resolutions.<sup>58</sup>

IISS concludes that Iraq does not have the facilities to produce fissile material in the quantities required for a nuclear weapon. The lack of fissile material is the main obstacle for Iraq, which could probably assemble the other components required for a weapon. There is uncertainty over the possible development by Iraq of a crude radiological weapon, which uses conventional explosives to spread radiological material and contamination over a wide area.

## **B. Conventional Capabilities**

Iraqi conventional forces have declined since the 1991 Gulf War, having suffered heavy losses in both manpower and equipment during the conflict. The subsequent imposition of the strict UN sanctions regime has also limited Baghdad’s ability to acquire new weaponry and spare parts and to modernise its military.

It is widely accepted that current Iraqi assets reflect less than half of their military capabilities prior to 1991.<sup>59</sup> What is in doubt, however, is the effectiveness of those remaining assets. Two general schools of thought have emerged. One, which is supported by the BBC Defence Correspondent Jonathan Marcus in his article “Saddam’s Rusting Arsenal”, considers the conventional threat from Iraq to be weak and disparate, with the armed forces suffering from poor morale, ageing equipment and a lack of training. The armed forces’ loyalty to the regime may be questionable, particularly if faced with a concerted US, and possibly coalition, offensive. Marcus argues:

On paper Iraq still retains what seems like an impressive military arsenal...But this is, in many ways, a wasting and increasingly obsolete arsenal. Iraq has not been able to modernise its armed forces or to obtain sufficient spare parts to keep

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<sup>58</sup> S/2002/367, 16 April 2002, from [http://www.iaea.org/worldatom/Programmes/ActionTeam/reports/s\\_2002\\_367.pdf](http://www.iaea.org/worldatom/Programmes/ActionTeam/reports/s_2002_367.pdf)

<sup>59</sup> ‘Military Options towards Iraq’ *IISS Strategic Comments*, 3 April 2002



all its equipment in service...the morale of the Iraqi forces must also be in question.<sup>60</sup>

This position is supported by Professor Phebe Marr, a specialist on Iraq and formerly at the US National Defense University. In a radio interview on 28 August 2002 she stated:

[Saddam Hussein has] got a large army– 350,000, or something of that sort– but most of those are regular army soldiers whose supplies are poor to non-existent and whose morale is very, very poor. In fact, General Zinni, who used to head CENTCOM forces in charge of this area, said his biggest problem if he had to do this would be POWs he'd have in his hand because of desertions.<sup>61</sup>

A second school of thought cautions against underestimating the capabilities and motivation of Iraqi conventional forces, and particularly that of the Republican Guard. Anthony Cordesman of the Centre for Strategic and International Studies states:

As weak as many aspects of Iraq's forces may be, it is a major military power by regional standards and has at least some chemical and biological weapons. Iraq must be taken seriously both in regional terms and in any military effort to overthrow the regime of Saddam Hussein.<sup>62</sup>

An analysis of “Axis of Evil Capabilities” by BBC News Online also argues:

Iraqi forces are likely to be more resilient than in the Gulf war if the US objective is the removal of President Saddam Hussein.<sup>63</sup>

#### **a. *Iraqi Army and Republican Guard***

Current estimates from the International Institute of Strategic Studies place the deployment strength of the Iraqi Army at approximately 375,000 personnel. Of those, 70,000 belong to the Republican Guard and a further 30,000 to the Special Republican Guard. As a whole these forces are organised into 17 regular army divisions (11 infantry, three armoured and three mechanised divisions), six Republican Guard divisions (three armoured, one mechanised and two infantry divisions), four Special Republican Guard brigades, five commando brigades and two Special Forces brigades. With the exception of the Republican Guard and the Special Republican Guard, the assessment of all other divisions is that they are capable of operating at only 50 per cent combat effectiveness.<sup>64</sup>

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<sup>60</sup> J. Marcus “Saddam’s Rusting Arsenal” BBC News website at <http://news.bbc.co.uk> 11 March 2002

<sup>61</sup> Professor Phebe Marr in an interview for NPR News 28 August 2002

<sup>62</sup> A. Cordesman “Iraq’s Military Capabilities in 2002: A Dynamic Net Assessment” *Centre for Strategic and International Studies*, September 2002

<sup>63</sup> BBC News Online “Axis of Evil Capabilities” 13 February 2002. Available at: <http://news.bbc.co.uk>

<sup>64</sup> International Institute for Strategic Studies *The Military Balance 2001-2002*, p.134

Significant undermanning is in part alleviated by a heavy reliance upon conscripts. Throughout the armed forces around 650,000 reserves are considered to be capable of some degree of mobilisation. The use of conscripted forces is particularly prevalent within the infantry, where there is a high concentration of Shi'ite, Kurdish and Turkoman conscripts. However, their effectiveness and loyalty in conflict is in doubt. In the Gulf War tens of thousands of Iraqis deserted when coalition air strikes began.<sup>65</sup>

A separate assessment by the US Central Command (USCENTCOM), which is outlined in Anthony Cordesman's latest analysis of Iraq's military capabilities, suggests that the total strength of Iraq's land forces is 700,000 personnel, including reserves.<sup>66</sup>

The equipment capabilities of the Iraqi Army are equally mixed. The Army's inventory of assets is a combination of dated, obsolescent equipment and some relatively modern pieces of kit, although almost all was delivered before 1991. Specifically, Iraq has some 2,200 tanks, the most modern being the T-72 of which it has 700; 900 BMP-series armoured fighting vehicles; 400 reconnaissance vehicles; 150 self-propelled artillery weapons; 200 multiple rocket launchers; over 50 surface-to-surface missiles including a small but unspecified number of Scuds; 100 attack helicopters; 275 transport helicopters and extensive numbers of Milan and HOT (High-subsonic Optically Teleguided) anti-tank guided weapons. However, 50 per cent of all equipment is believed to lack spares, which limits the shelf life of the assets significantly.<sup>67</sup> Logistics support and communications between army divisions are also poor, which undermines the ability to co-ordinate ground forces at a national and even regional level.

As in 1991 the main conventional threat comes from the Republican Guard and the Special Republican Guard, which are considered to be the best equipped and trained units within the Iraqi Army. They have the ability to deploy rapidly, are well trained in the tactics of urban warfare and their loyalty is also less in question. They are considered capable of offering stiff resistance, particularly if Allied forces have to engage them within the confines of Baghdad rather than in the open desert, where the advantage would be with the Allies.

#### ***b. Air Defence Command (ADC)***

Air Defence has been given a higher priority by the Iraqi command since the Gulf War with the imposition of the northern and southern no-fly zones. The ADC is organised into four regional air defence centres at Kirkuk in the north, Kut al Hayy in the east, Al Basra in the south and Ramadia in the west of the country, and consists of some 17,000 personnel. Major command facilities are underground and there have been several reports in recent years that Iraq has developed a highly survivable optical fibre command net and

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<sup>65</sup> "Report puts Iraqi dead at 1,500" *Jane's Defence Weekly*, 13 March 1993

<sup>66</sup> A. Cordesman "Iraq's Military Capabilities 2002: A Dynamic Net Assessment" *Centre for Strategic and International Studies*, September 2002 p.1

<sup>67</sup> International Institute for Strategic Studies *The Military Balance 2001-2002*, p.134

carried out several other major upgrades of the ADC system through the illicit import of technology.<sup>68</sup>

The system itself is a mixture of around 6,000 anti-aircraft guns and a number of ground-launched short-range and medium-range missiles. The IISS places the estimate of surface-to-air missile launchers that make up part of the ADC system at 1,500.

In the event of conflict some analysts believe it is possible that the extensive ADC network would be used to compensate partially for the lack of an effective Iraqi air force.

### *c. Iraqi Air Force*

There are 30,000 personnel in the Iraqi Air Force. In common with the rest of the armed forces, the assets that the Iraqi air force has in its possession are a mixture of ageing and relatively modern equipment, which by Western standards is considered technologically inferior.

The exact number of aircraft available to the air force is unclear. Anthony Cordesman states that “it [Iraq] still has some 316 combat aircraft, although only about 50% to 60% are serviceable”.<sup>69</sup> This estimate includes six ageing H-6D and Tu-22 bombers, two tanker aircraft and large numbers of Antonov transport aircraft. However, of that force, only one third are relatively modern high-performance aircraft, including the ground-attack Mirage F-1EQ, Su-24 and Su-25, the air-defence MiG-25 and MiG-29 and the MiG-25 reconnaissance aircraft. Even then, these aircraft are pre-1991 models with no major upgrades of avionics, munitions or electronic warfare capabilities. They carry a range of air-to-air missiles including the R-530 and R-550 and the AA-2 all of which are short-range missiles. The aircraft therefore have very little operational capability further than visual range. They also carry a number of air-to-surface missiles, including the Exocet AM-39, AS-11 and AS-12. The Exocet is an anti-ship missile, whereas the AS-11 and AS-12 can be used either for land attack or as an anti-ship missile capability.

The air force also has an extensive fleet of 157 training aircraft, although their utility has been limited since the imposition of no-fly zones in the north and south of the country. According to the IISS *Military Balance 2001-2002*, senior pilots fly between 90 and 120 hours a year, whereas junior pilots fly only 20 hours.

*Jane's* provides a slightly different assessment of the Iraqi air force's assets, suggesting it has somewhere between 220 and 300 combat aircraft, all at varying degrees of serviceability, although seldom above 50 per cent.<sup>70</sup>

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<sup>68</sup> A. Cordesman “Iraq's Military Capabilities 2002: A Dynamic Net Assessment” *Centre for Strategic and International Studies*, September 2002 p.7

<sup>69</sup> *ibid.* p.6

<sup>70</sup> *Jane's Sentinel Security Assessments* “Iraqi Air Force” 7 May 2002

In the past decade, the air force has suffered heavily from the imposition of sanctions and the inability to upgrade. Aside from its ageing fleet, it has no modern airborne C4ISTAR (Command, control, communications, computers, intelligence, surveillance, target acquisition and reconnaissance) capabilities other than a few Unmanned Aerial Vehicles (UAVs) and five MiG-25 reconnaissance aircraft. Its airborne early warning system is also outdated. However, as Cordesman highlights, Iraq has rebuilt much of its ground based command, control and communications system since the Gulf War. Its effectiveness is yet to be proven.

In order to overcome some of the problems that sanctions have imposed, Iraq has been experimenting in the past few years with its conventional air force. Amongst those experiments has been the apparently successful attempt to convert training aircraft and drones into UAVs and Unmanned Combat Aerial Vehicles (UCAVs). *The Washington Post* reported that during Operation *Desert Fox* in 1998:

Photos of the ruined base [at Talil] revealed rows of the new drones, which Iraq had hidden inside a hangar at the remote base. The aircraft were identified as Czech-made L-29's, a light trainer jet Iraq had purchased years ago and converted to unmanned flight.<sup>71</sup>

A refurbished L-29 trainer aircraft could, in theory, operate as a UCAV with a range of over 600km.<sup>72</sup> Although not overly significant in terms of boosting the conventional capabilities of the Iraqi air force, a development such as this does have implications for Iraq's ability to deliver chemical and biological weapons.

On the whole, the lack of technological modernisation within the air force indicates that the Iraqis have only a marginal capability for projecting air power and protecting their airspace. Their ground based communications infrastructure has improved and they have rebuilt many of the bases destroyed in the 1991 conflict. Yet their air force infrastructure remains fragile and coalition air strikes and the early retention of air supremacy by the Allies would lessen what is even now a limited capability.

#### **d. Iraqi Navy**

With approximately 58km of coastline to defend, Iraq's navy has never been a substantial means of projecting force and influence in the Gulf region. Prior to the Gulf War the navy retained minimal capability, which was essentially more defensive than it was offensive. Since 1991 those naval capabilities that survived the conflict have remained limited and grown increasingly outdated.

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<sup>71</sup> "Uncertain Ability to Deliver a Blow: Iraq cobbles Together Weapons Systems with Mixed Results" *The Washington Post*, 5 September 2002

<sup>72</sup> "Iraq's Weapons of Mass Destruction: A Net Assessment" *IISS Strategic Dossier*, 9 September 2002

There are 2,000 personnel in the Iraqi Navy with only one guided missile patrol craft, five inshore patrol craft and three Soviet-era minesweepers. However, Iraq is believed to have retained all of the ground-launched Silkworm and other anti-ship missiles it possessed in 1991 and an extensive stock of mines. It is these that would present the largest threat to any allied naval force.<sup>73</sup>

*e. Internal Security and Paramilitary Forces*

The Iraqi regime places great emphasis upon its internal security and paramilitary forces and to some extent has given highest priority to ensuring their effectiveness. These forces are extensive and deployed throughout the territory under the regime's control. The Republican Guard and Special Republican Guard are trained for internal security purposes as well as conventional warfare and the entire police and law enforcement system in Iraq performs internal security functions. There are also three paramilitary forces operating in Iraq. According to the IISS *Military Balance 2001-2002* the Security Troops consist of 15,000 personnel, while there are 9,000 border guards and Saddam Hussein's *Fedayeen* (an internal militia force regarded to be politically reliable) who number between 18,000 and 20,000.<sup>74</sup>

An analysis by Amatzia Baram in the *Journal of Conflict, Security and Development* in 2001 suggests that the scale of the forces protecting the regime far exceeds the IISS assessment, with the total number of men involved in the various internal security and intelligence organisations in Iraq numbering between 100,000 and 150,000, excluding the Republican Guard.<sup>75</sup>

If the objective of any coalition force were to be regime change, these internal security and paramilitary forces could take on greater significance. Like the Republican Guards, the Security Troops have been trained for urban warfare, although their main focus has been on suppressing internal challenges to the regime.

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<sup>73</sup> International Institute for Strategic Studies *The Military Balance 2001-2002*, p.134

<sup>74</sup> *ibid* p.135

<sup>75</sup> Amatzia Baram "The Iraqi Armed Forces and Security Apparatus" *Journal of Conflict, Security and Development*, 2001 p.113-123

## IV Debate over Diplomatic and Military Policy Options

Military action appears to have been averted in the short-term by Iraq's decision to re-admit United Nations weapons inspectors, although analysts believe the use of force may still emerge as the favoured option, if Iraq fails to comply unconditionally with UN demands.

A number of potential policy options, some of which involve military action, have been discussed in the media and elsewhere during 2002.

### 1. Continued Containment

One option would be to continue with the existing policy of containment, which includes various elements to constrain Iraq and prevent it from posing a renewed threat to regional security. Some believe that the tight embargo and the control exerted by the UN on Iraq's oil revenue are sufficient to ensure Iraq cannot rearm. It is argued that the no-fly zones inhibit Baghdad's freedom to operate against internal opponents and that the presence of sizeable Western forces in the region would limit Iraq's ability to mount external aggression against its neighbours. Iraq's attempts to reconstitute its WMD capabilities could be constrained by further limited military action like Operation *Desert Fox*.

Containment would also avoid the need for a major military operation, which could prove extremely costly, not only in terms of lives, but also financially.<sup>76</sup> In particular, there are concerns that Saddam Hussein could resort to using WMD if he believed the survival of his regime was at stake. Sir Michael Quinlan, writing on 7 August 2002 asked:

Why should the international containment that has held for over a decade be now thought likely to break down? It might if [Saddam's] survival were threatened, but to pre-empt the use of biological or chemical weapons by adopting the one course of action most apt to provoke it seems bizarre.<sup>77</sup>

It was reported during mid-2002 that elements in the US military were in favour of continued containment, believing the alternatives to be too risky.<sup>78</sup> However, leading officials in the Bush administration believe the 'wait and see' approach of open-ended containment also involves considerable risks, not least because it could allow Iraq to reconstitute its WMD programmes and leave the international community facing a graver threat in years to come. IISS concludes that: "Either course of action carries risks. Wait and the threat will grow. Strike and the threat may be used."<sup>79</sup>

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<sup>76</sup> The head of the White House' National Economic Council has estimated that a war with Iraq could cost between US\$100 and \$200 billion, or 1-2 per cent of GDP. *Wall Street Journal*, 16 September 2002

<sup>77</sup> Sir Michael Quinlan, 'War on Iraq: a blunder and a crime', *Financial Times*, 7 August 2002

<sup>78</sup> 'Some top military brass favor status quo in Iraq', *Washington Post*, 28 July 2002

<sup>79</sup> *Iraq's Weapons of Mass Destruction: A Net Assessment*, IISS Strategic Dossier, 9 September 2002, p.73

## 2. Coercive Weapons Inspections

The difficulties experienced by UNSCOM in countering Iraq's obstructionism have led to suggestions that future inspections by unarmed UNMOVIC and IAEA personnel should be backed up by a UN-mandated armed rapid-response unit, or 'inspections implementation force'. A report by the Foreign Policy Centre and the Carnegie Endowment for International Peace proposes that such a force could be on standby to intervene at short notice and enforce inspectors' right of access to suspected weapons sites:

This would avoid the games of cat and mouse that have characterized inspections over the last 10 years. No terms would be negotiated regarding the dates or practicalities of inspection. An inspections implementation force would impose "no-fly" and "no-drive" zones near to inspected sites. The threat will be made clear to Saddam that if he persistently thwarts inspection teams, regime change will follow.<sup>80</sup>

Advocates believe such a force could be established under a new UN Security Council resolution, with troops drawn from member states.

A key factor would be the question of decision-making authority over when the force would be deployed. It is argued that allowing for Security Council consideration of each instance of Iraqi non-compliance would result in unacceptably long delays. Even if authority for intervention were devolved to the inspectors in Iraq, critics believe the time required for the force to arrive would allow Iraq ample opportunity to redeploy sensitive material and equipment and thereby prevent inspectors from achieving their mandated task.

Critics also point to existing Security Council resolutions that demand Iraq's full and unconditional compliance with the inspectors, arguing that the introduction of coercive inspections would muddy the waters and encourage Iraq to delay and stymie the inspection process.

## 3. Limited Air Campaign

The projection of air power has been a central feature in nearly every campaign fought by the US and its allies since the Gulf War in 1991 and an air campaign seems likely to form a key component in any military planning over the next few months. However, the precise nature of any air campaign remains uncertain.

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<sup>80</sup> 'Support grows for idea of 'coercive' inspections in Iraq', *Financial Times*, 19 September 2002

*a. Desert Fox II?*

If Iraq is deemed to be failing to comply with UN demands, it has been suggested that a limited air campaign along the lines of Operation *Desert Fox* may be considered. It is suggested that limited air strikes could be used as a punitive measure, possibly with UN approval, in order to coerce Iraq into compliance. Air strikes could also be used to target WMD facilities and thereby slow any Iraqi attempts to reconstitute its weapons programmes. In the absence of significant allied support and the option of basing aircraft and personnel around the Gulf region, limited air strikes do have an extra appeal. Unlike a large-scale air offensive, limited strikes could be launched, in the short term, from aircraft carriers based in the Gulf.

*Desert Fox* involved strikes against around 100 sites, including command and control facilities, sites involved in the production of WMD capabilities, Republican Guard bases, air defence systems and a number of airfields. An oil installation at Basra that was allegedly involved in the illegal export of oil was also targeted.<sup>81</sup>

According to the Ministry of Defence's Battle Damage Assessment (BDA) and US Department of Defense statements, Operation *Desert Fox* did successfully achieve its military objectives. In a letter to all Members of Parliament, George Robertson stated that:

...we now know that of the 100 targets engaged 87% were either damaged or destroyed - a slight increase on our earlier assessment of 85%. We can be even more confident as a result of this new information that Saddam's ability to pursue his Weapons of Mass Destruction (WMD) programmes or otherwise threaten his neighbours and international order has been set back significantly.<sup>82</sup>

The assessment indicated that the effect of Operation *Desert Fox* on Iraq's military programmes had been to set back the ballistic missile programme by between one and two years, that the WMD related work of the Iraqi Ministry of Industry and Military Industrialisation Headquarters in Baghdad had been disrupted for "several months at least", and that the bombing had "badly damaged, possibly destroyed outright," the L-29 unmanned aerial vehicle (UAV) programme. The rebuilding of the Republican Guard infrastructure was estimated to take up to a year.<sup>83</sup>

Critics pointed to the apparent failure of the Operation to damage significantly Iraq's WMD production capability: only around ten percent of the targets were associated with the production of WMD. Moreover, according to Department of Defense data, of ten WMD production facilities that were hit, none was destroyed, only one was severely

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<sup>81</sup> A full list of targets is contained in Appendix 1 of the Library Research Paper 99/13, *Iraq: "Desert Fox" and Policy Developments*, 10 February 1999.

<sup>82</sup> Dep 99/169, 18 January 1999

<sup>83</sup> Dep 99/169, 18 January 1999



damaged, five suffered moderate damage and four received light damage.<sup>84</sup> At a Pentagon briefing on 7 January 1999, US Central Command (Centcom) commander, General Anthony Zinni, acknowledged the difficulty in eliminating or significantly degrading such capabilities due to the ease with which chemical and biological agents can be manufactured in dual-use facilities such as chemical or pharmaceutical plants.<sup>85</sup>

#### 4. Extensive Air Campaign

Some commentators believe a more prolonged air campaign would be required to reduce the threat posed by Iraq and its WMD programmes.

As a military option, an extensive air campaign could bring about the destruction of front line defences, including the Iraqi air defence system, command and control and communications infrastructures and any forward deployed Iraqi units, and inhibit large-scale mobilisation by the Iraqi armed forces. It may also prove effective in the destruction of sites identified in the production of weapons of mass destruction, although effectiveness in this regard during the Gulf conflict was considerably less than anticipated.

However, if the US objective is to secure regime change in Iraq, then an air campaign alone may prove to be of limited utility. Targeting is often difficult without troops in support. The absence of a ground threat would allow Iraqi forces to disperse and conceal heavy equipment, which would be difficult to identify from the air. The NATO campaign in Kosovo demonstrated the difficulty in using air power against a dispersed and well-concealed enemy. Gordon, Indyk and O'Hanlon believe that:

Iraqi forces are unlikely to deploy their armour in the open desert (like Iraq had to do after attacking Kuwait) or to fire from static positions and become sitting ducks for airpower [...] [T]hey are more likely to hunker down in the major cities, especially Baghdad, where Saddam will probably hole up. Many of their weapons will be placed near apartment buildings, schools and mosques as Iraq has learned to do during a decade of constant bombardment by the US and UK in the southern and northern no-fly zones<sup>86</sup>

They also highlight in their article that:

Trends in military technology development and recent American battlefield victories suggest (to some) that the United States' high technology edge will make the deployment of a large invasion force unnecessary...but two other conflicts in recent American military history also need to be kept in mind: the

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<sup>84</sup> *Jane's Defence Weekly*, 6 January 1999

<sup>85</sup> For more information on Operation *Desert Fox*, see Library Research Paper 99/13, *Iraq: "Desert Fox" and Policy Developments*, 10 February 1999.

<sup>86</sup> P. Gordon, M. Indyk and M. O'Hanlon, "Getting Serious About Iraq" *Survival*, Vol 44, No. 3 Autumn 2002 p.15

1992-1993 campaign in Somalia and the 1999 war against Serbia in Kosovo. In both cases difficult battlefield terrain and conditions...limited enormously what high technology could do.<sup>87</sup>

David Clarke, once special adviser to the former Foreign Secretary, Robin Cook, concurs with this view. In an interview with the British media he states:

Saddam will retreat into the cities and force the Americans to come and get him, hoping to raise casualty levels so high that international opinion and the American public will force Bush to agree to a truce.<sup>88</sup>

Anthony Cordesman specifically warns against relying upon limited air strikes:

There are dangers in using limited amounts of US air and missile power...the US has shown again and again that it has outstanding military forces and can make effective use of modern technology, but skill and technology are not a substitute for sufficient force and effective tactics. Over reliance upon air power, particularly limited amounts of air power can have serious consequences.<sup>89</sup>

## 5. The 'Afghan' option

Some commentators view the US-led campaign against the Taliban and al-Qaeda in Afghanistan as a model that could be applied to Iraq. It is argued that the overthrow of the Baghdad government could be achieved through the deployment of US and Allied air power to support opposition forces in the north and the south of the country. Such an option would avoid the need for heavy US or Allied troop deployments on the ground.

A similar debate took place during the latter part of the 1990s, with suggestions from some commentators, such as Richard Perle, that the US should provide air and logistical support for the establishment of 'liberated' enclaves in Iraq. The 'liberated' enclaves would then be declared free of sanctions in an attempt to induce defections from the Iraqi armed forces.<sup>90</sup> Others, such as François Heisbourg, argued such a plan would risk a repetition of the Bay of Pigs incident, when lightly armed Cuban irregulars, backed by the United States, attempted to incite an uprising against the regime of Fidel Castro. Without US military assistance during the landing, the irregulars were swiftly defeated, but there was much debate subsequently as to whether US air power would have tipped the balance.<sup>91</sup>

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<sup>87</sup> P. Gordon, M. Indyk and M. O'Hanlon, "Getting Serious About Iraq" *Survival*, Vol 44, No. 3 Autumn 2002 p.15

<sup>88</sup> 'Analysis of the options open to Bush and Blair for Iraqi conflict', *The Express*, 8 September 2002

<sup>89</sup> A. Cordesman, "Iraq's Military Capabilities in 2002: A Dynamic Net Assessment" September 2002

<sup>90</sup> "International Institute for Strategic Studies/John Train Strategic Debate", 3 February 1999.

<sup>91</sup> *ibid.*

The current debate has focused on how the campaign in Afghanistan could be replicated in Iraq. Critics of such an approach have highlighted what they believe to be important differences between the Afghan and Iraqi situations. They argue that the disparity between the military power of the Iraqi opposition and the government is too great. In Afghanistan, the disparity was much smaller. Both the Northern Alliance and the Taliban had similar forces in terms of training and equipment, although the Taliban had a numerical advantage. As a result, the use of US airpower in close coordination with the Northern Alliance was able to tip the balance of power away from the Taliban. In Iraq, most opposition forces are lightly armed guerrillas who possess little heavy weaponry and are poorly trained. Past confrontations with Iraqi army forces have been generally one-sided.

The campaign in Afghanistan also coincided with rising war weariness among Afghans and a growing distaste for the Taliban. Furthermore, the coalition was able to rely on bases and support from several front-line states, including Pakistan and the states of Central Asia. Critics believe Turkey and the Gulf states may be unwilling to grant the use of their bases, forcing the US and its allies to rely on aircraft carriers in the Gulf and bases in Central Asia and Diego Garcia.

## **6. Air campaign and limited ground intervention.**

A 'coalition light' strategy or 'inside out' strategy, as it has been referred to by several commentators, envisages offensive action by a force of 40,000-90,000 personnel, light armour and attack and assault helicopters, against the core of the Iraqi regime in areas such as Baghdad and Tikrit. This could include targeting both the command and control systems and the regime itself.

In support, extensive air power would target and paralyse the movement of Iraqi forces deployed elsewhere. The need to establish air supremacy at the outset would be vital and a massive air campaign on all strategic targets essential in order to suppress the further movement and build-up of Iraqi forces, whilst destroying their communications and re-supply lines.

With this option, the build up of military force could be achieved in a few months. The use of Saudi and other bases in the Gulf would ease the problem of supporting large numbers of fighter aircraft, attack and assault helicopters, refuelling aircraft, airborne intelligence, surveillance and reconnaissance aircraft and the related logistics support. An aircraft carrier group based in the Gulf would struggle to sustain the high level of activity and numbers of aircraft required for such an operation.

US Defense Secretary Donald Rumsfeld is reported to be an advocate of this approach along with several other leading Pentagon officials. Of this option Anthony Cordesman observes:

The regime may not be fragile enough to produce uprisings and mass defections, but few are likely to rush in to rescue it. If the US thrusts directly toward

Baghdad, or any other central refuge for the regime, it might well be able to largely ignore the rest of Iraq. While the US cannot count on the collapse of the Iraqi armed forces, Saddam cannot count on their aggressive loyalty and willingness to counterattack.<sup>92</sup>

However, some commentators believe this strategy to be flawed. John Keegan, Defence Editor at the *Daily Telegraph*, argues:

The awful danger of a “light” or “intermediate” war is that either might be defeated. Weak and ineffective though Saddam’s army is, it could possibly find the strength and competence to fight decisively against an intervention force that it outnumbered.<sup>93</sup>

## **7. Air campaign and large-scale ground intervention (*Desert Storm II*)**

Many analysts believe that the declared US objective of regime change in Iraq would require a large-scale ground intervention comparable to Operation *Desert Storm*. Some 250,000 troops are envisaged, supported by heavy armour and artillery and an extensive air presence. Similar to the Gulf War, large-scale intervention on the ground would need to be preceded, and then subsequently supported, by an extensive air campaign aimed at destroying Iraqi military infrastructure and air defence system and any Iraqi forces deployed in the field.

Gordon, Indyk and O’Hanlon state:

If Saddam’s regime is to be removed militarily, the action must be quick and decisive and order must be subsequently maintained for as long as it takes to generate a stable and unthreatening replacement government. These requirements mean that the United States must be prepared to deploy a large invasion force – perhaps 200,000 troops, backed by some 1,000 aircraft– and to keep many of them in the region for some time.<sup>94</sup>

The International Institute for Strategic Studies supports this view:

The US would have to plan an invasion resembling Operation *Desert Storm*. While 500,000 troops might not be needed again, half that number could be [...] Saddam’s removal would have to involve decisive force.<sup>95</sup>

However, US and any coalition forces involved in pursuing this “all-out” option would be reliant upon a number of military and political factors. The issue of basing would be the

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<sup>92</sup> Testimony by Anthony Cordesman to the Senate Foreign Relations Committee, 31 July 2002

<sup>93</sup> “Heavy Invasion is Best Option” *The Daily Telegraph*, 6 August 2002

<sup>94</sup> P. Gordon, M. Indyk and M. O’Hanlon “Getting Serious About Iraq” *Survival*, Vol 44, No. 3 Autumn 2002 p.14

<sup>95</sup> “Military options Towards Iraq” *IISS Strategic Comments*, Vol.8, Issue 3, April 2002

most important strategically and potentially the most time consuming. For a ground intervention and all out air campaign at this level, the US and other coalition forces would require a substantial number of bases throughout the entire region. The position adopted by Saudi Arabia would be significant in terms of the bases which could be made available but also in terms of the political message it would give to other Gulf states. The role of Turkey would also be important if a two-pronged strategy were pursued whereby ground intervention came from both the north and south of the country, with the initial intention of taking both the northern and southern no-fly zones and with Baghdad as its final destination.

Many analysts anticipate that the majority of the Iraqi army would desert in the face of an advancing coalition force. During the Gulf conflict hundreds of thousands of Iraqi soldiers surrendered quickly in the face of the Allied assault, although it is possible that defending Iraq, rather than Kuwaiti territory captured by conquest, would bolster the willingness of the ordinary Iraqi conscript to fight. A credible threat of invasion and the prospect of regime change may rapidly undermine the government in Baghdad and precipitate a collapse of its authority. However, it would be unwise to assume that such a collapse is inevitable.

The expectation is that the Republican Guard would offer stiffer opposition, perhaps retreating to the cities and employing tactics of urban warfare. In this scenario, some would expect casualties to be significantly higher:

US casualties might be several times higher than the 400 sustained in 1990-1991 [...] recent experience in urban combat points to the likelihood of one US loss for every 5-20 opposition losses. If Iraq were prepared to endure 20,000 casualties, the US could also suffer thousands (with roughly 20% fatalities).<sup>96</sup>

The deployment of large-scale ground forces to the Gulf region could take several months, within which time Iraqi Republican Guard and Internal Security forces would be able to make intense preparations for urban warfare. Vice President Dick Cheney stated in an interview with CNN on 9 September 2002:

Most believe if there is a military confrontation— and many in this White House believe that it is inevitable— that it will come early next year.<sup>97</sup>

However the resumption of weapons inspections could alter this timetable. US officials fear that Iraq will attempt to spin out the inspections for months, which could shrink the potential window for military action. Many analysts believe such a window exists during the cooler period in the Gulf that will fall between the Congressional elections in November and the snow-melt flooding that affects southern Iraq from April. The onset of

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<sup>96</sup> “Military Options towards Iraq” *IISS Strategic Comments*, Vol.8, Issue 3, April 2002

<sup>97</sup> CNN interview with Vice President Dick Cheney 9 September 2002

the summer heat may thereafter constrain the potential for military action until the following autumn when attention in the United States may be turning to the presidential elections due in November 2004.

Potential UK deployment to a ground intervention force had been estimated to be in the region of 12,000-14,000 troops. However, reports on the meeting between the Secretary of State for Defence, Geoff Hoon, and his US counterpart Donald Rumsfeld in mid-September suggested that Britain's involvement could be less substantial, with the main emphasis on rapid deployment capabilities, logistics, aviation, maritime and Special Forces, rather than ground troops.<sup>98</sup>

Speculation on the cost of deploying British troops to the Gulf has varied. Military analyst Francis Tusa estimates UK involvement could cost around £2bn if intervention on the scale of Operation *Desert Storm* is undertaken, whereas other media reports have placed the figure at £1bn per month.<sup>99</sup>

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<sup>98</sup> "US seeks a tough UN motion on Iraq" *The Financial Times*, 14 September 2002

<sup>99</sup> "Taxpayers left to pick up the tab as troops get ready to go into action" *The Sunday Express*, 21 July 2002

## V Military and Diplomatic Factors

### 1. Potential use of Weapons of Mass Destruction

The question arises as to why Iraq has attempted to retain a WMD capability and violate its cease-fire obligations? Within a regional context, Baghdad may see WMD as a vital tool to counterbalance the strength of potentially hostile neighbouring states. To the east, Pakistan and India have a declared and tested nuclear capability, whereas Iran is believed by many observers to be pursuing a covert nuclear weapons programme and an overt ballistic missile programme. To the north, Turkey has a strong conventional capability and is backed up by NATO security guarantees, which include a nuclear capability. To the west, Syria is accused by some observers of having chemical and biological weapons programmes, whereas Israel is generally accepted to have a sizeable nuclear arsenal, despite official ambiguity on the issue.

It is possible that Saddam Hussein views WMD as his ultimate deterrence and insurance against mortal attack. The regime may believe it owes its continued survival to its WMD capability, perhaps believing these weapons helped avoid defeat during the Iran-Iraq war and deterred Allied forces from invading Iraq in 1991 and overthrowing the regime. Iraqi Deputy Prime Minister Tariq Aziz told the then head of UNSCOM, Rolf Ekeus, that Iraq was determined to maintain a WMD capability in case Iran one day sought revenge for the Iraqi invasion of 1979 and the subsequent war.<sup>100</sup>

Unlike the earlier use of chemical weapons in the conflict with Iran and the suppression of Kurdish resistance during the 1980s, Iraq did not use its WMD capability during the 1991 conflict and has not done so since. A number of reasons have been suggested for this. Firstly, the US reportedly issued veiled threats to Iraq that it would face massive retaliation in the event of WMD use. Secondly, once it became apparent that the Allies were intent only on the liberation of Kuwait, the regime may have calculated that conventional means were sufficient to suppress the internal challenge to its rule from the Shi'as and Kurds.

Significant attention has focused on the question of whether the Iraqi regime would use WMD if its survival were under threat from US-led military action. Unconventional forces have probably assumed a greater significance in Iraq's defence planning following the heavy losses suffered by its conventional armed forces during the 1991 Gulf conflict.

Analysts believe Iraq's current chemical and biological weapons capability could be countered by US and Allied forces using chemical and biological warfare protection equipment, although such equipment is bulky and the procedures involved are time-consuming. By contrast, the use of chemical weapons against an unprotected civilian population, as occurred during the Anfal campaign against the Kurds in the late 1980s,

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<sup>100</sup> Cited by Sir Michael Quinlan, 'War on Iraq: a blunder and a crime', *Financial Times*, 7 August 2002

would probably result in much higher casualties. The use of radiological ‘dirty bombs’ (conventional explosive charges that are used to disperse nuclear material over a wide area, resulting in radioactive contamination) may also inhibit Allied forces and require an extensive clean-up operation. Gordon, Indyk and O’Hanlon argue that:

To reduce the likelihood of WMD use, and to limit the damage if such agents were used, certain measures would need to be taken. The US would need to deploy anti-ballistic missile systems to Iraq’s neighbours, and issue protective suits and gas masks to soldiers and possibly some civilian populations in the region. Washington would also have to make clear that it would hold personally accountable any individual associated with such WMD use – Saddam’s regional commanders might not want to run the risk of going down with him; however, the success of such a tactic could not be assumed.<sup>101</sup>

## 2. Potential casualties

Dramatic improvements in warfighting capabilities, particularly over the past decade, have vastly improved the ability of US and Allied forces to deliver weapons in a targeted fashion designed to minimise civilian casualties or so-called ‘collateral damage’. Nonetheless, recent campaigns in Afghanistan and Kosovo and the first Gulf conflict also demonstrate that smart munitions are prone to malfunctions and that mistaken or poor targeting can lead to civilian areas being hit inadvertently. Figures for civilian casualties during the Afghan campaign have not been accurately documented, although most estimates place the figure in the thousands.

The Kosovo campaign also demonstrated the difficulties involved in hitting military units and equipment that has been dispersed, sometimes close to civilian areas. Iraq is alleged to have redeployed some of its remaining WMD infrastructure to civilian factories or close to highly emotive targets such as schools and hospitals. Were Iraqi units to fall back to heavily populated urban areas such as Basra and Baghdad, Allied forces may find it extremely difficult to target them accurately without inflicting heavy civilian casualties and causing significant damage to property. Further casualties could be expected in the event of urban warfare and street-fighting.

Gordon, Indyk and O’Hanlon suggest that:

Iraqi civilian casualties would probably be comparable in number to Iraqi military casualties, based on recent experiences in Panama, Kosovo, Afghanistan and, as far as we know, the first Gulf war. If elite Iraqi armed forces fight, then, Iraq could suffer 10,000 or more military deaths and a similar number of civilian deaths, while US troops might lose anywhere from many hundreds to several thousand soldiers in action. Widespread use of poison gas by Iraqi forces, or

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<sup>101</sup> Philip H Gordon, Martin Indyk and Michael E O’Hanlon, ‘Getting serious about Iraq’, *Survival*, Vol.44, No.3, Autumn 2002, p.17



deliberate Iraqi gas attacks against Kurdish and Shia populations, would drive casualty figures higher, possibly by the thousand.<sup>102</sup>

However, they caution that:

These numbers are not predictions, but sober reminders of what could happen, in the event that Iraqi forces do not immediately collapse at the outset of hostilities. They also underscore two points. First, American forces would win the battles with far fewer casualties than in Vietnam or Korea, though quite possibly with several times more casualties than in Desert Storm. Second, the number of Iraqi civilians who might die in combat could greatly exceed the number of Serb and Afghan civilians lost in the last two major conflicts waged by American forces.<sup>103</sup>

### 3. Post-conflict future of Iraq

UN Secretary-General Kofi Annan has highlighted a number of issues that would have to be considered in the event of unilateral military action:

I think if one does it unilaterally, or with one or two countries, we don't know what happens at the end, the unexpected consequences of this conflict. Would Iraq remain intact? What happens in the region? How do we pick up the pieces? Who does it? All these issues are very critical that one should bear in mind.<sup>104</sup>

The former Regius Professor of Modern History at Oxford, Sir Michael Howard, wrote in April 2002 that "there is a case to be made" for removing Saddam Hussein, but "it will not be convincing unless we know what will happen next."<sup>105</sup>

Attention has therefore focused on the possible formation of a government in exile, which could be drawn from the various Iraqi opposition groups outside Iraq. These disparate groups had shown little inclination prior to 2002 to cooperate and form themselves into a credible 'government in waiting'. Most of the groups come under the umbrella of the Iraqi National Congress (INC), although the different backgrounds and interests of the constituent groups have made it difficult for the body to work effectively.<sup>106</sup> US officials have engaged in consultations with opposition leaders during 2002 to consider how best to proceed.

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<sup>102</sup> Philip H Gordon, Martin Indyk and Michael E O'Hanlon, 'Getting serious about Iraq', *Survival*, Vol.44, No.3, Autumn 2002, p.18

<sup>103</sup> Philip H Gordon, Martin Indyk and Michael E O'Hanlon, 'Getting serious about Iraq', *Survival*, Vol.44, No.3, Autumn 2002, p.18

<sup>104</sup> 'Annan warns US over Iraq', BBC News web site at <http://news.bbc.co.uk>, 11 September 2002

<sup>105</sup> Sir Michael Howard, 'Why Britain must say no to America', *Evening Standard*, 4 April 2002

<sup>106</sup> Background on the main groups can be found in Section IX of Library Research Paper 99/13, 10 February 1999.

#### 4. Possible implications for the region

A change of regime in Iraq could have significant consequences for the Gulf region and the wider Middle East. Opinions differ as to whether the impact would be positive or negative.

Some commentators and elements in the Republican party in the US believe the main grievance in the Arab world against the United States stems from the latter's apparent willingness to support undemocratic Arab governments and to turn a blind eye to human rights abuses and the absence of representative government. Amity Shlaes, writing in the *Financial Times*, argues that: "The unpopularity of the US among Middle Easterners stems [...] from America's hypocritical support of non-democratic leaders."<sup>107</sup>

It is argued that the successful removal of Saddam Hussein and the establishment of democratic government in Iraq would not only eradicate one of the principal sources of regional instability, but also send a powerful signal of US support for democracy and reform in the Middle East. Gordon, Indyk and O'Hanlon contend that

toppling Saddam holds the potential to remake the region's basic security dynamics nearly as much as the aftermath of the Second World War and the Korean War reshaped Europe and East Asia.<sup>108</sup>

The former Director of the CIA, James Woolsey, argues that the establishment of democratic government in Iraq would represent the latest step in the spread of democracy since World War I and could prompt further dramatic change among neighbouring Arab states in the region.<sup>109</sup> Rather than seeking to maintain the status quo, some commentators believe the United States should actively seek political change, believing that the spread of democracy in the region would do much to foster long-term stability and promote economic and social development. Many Arab states, particularly in the Gulf, are already struggling with the early stages of rapid demographic and economic change. In the coming years, it is predicted that the increasingly youthful populations of many Arab states will be faced with declining living standards and rising unemployment as a consequence of economic stagnation and declining oil revenues. It has been argued that the best means of managing these potentially difficult and painful changes is through democratisation and economic and social reform.

Other observers contest what they perceive as idealistic and unrealistic projections, warning that US-led action against Iraq could indeed precipitate violent change in the Middle East, but in a form that would be far less favourable to western interests. It is feared that opposition to military action could lead to widespread popular unrest and

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<sup>107</sup> Amity Shlaes, 'How to end the image of the ugly American', *Financial Times*, 17 September 2002

<sup>108</sup> Philip H Gordon, Martin Indyk and Michael E O'Hanlon, 'Getting serious about Iraq', *Survival*, Vol.44, No.3, Autumn 2002, p.20

<sup>109</sup> BBC2 *Newsnight*, 11 September 2002

increased support for extremist groups like al-Qaeda. Popular discontent may be directed against Arab leaderships that are perceived to be cooperating with or acquiescing to US-led military action. It is far from certain that the existing governments in the region would be succeeded by moderate, democratic, or pro-western regimes. Historically, political change in the region has often been accompanied by extreme violence and radicalism.

The large-scale deployment of western, non-Muslim troops to the region could also have an impact. During the Gulf conflict, it was possible to station many Allied servicemen well away from Saudi population centres, using the extensive network of military bases in the desert. In the potential absence of Saudi support, it seems probable that US and allied forces would have to be based in the smaller Gulf states, such as Qatar, UAE and Bahrain, which may have greater difficulty in absorbing large numbers of troops.

In addition, western troops may become the target of terrorist attacks, a threat that did not manifest itself during the Gulf conflict of 1990/91. Since then, however, a number of US servicemen have been killed in a series of terrorist attacks across the region, including the bombing of the al-Khobar barracks in Saudi Arabia in 1996 and the suicide bombing of the USS Cole in Yemen in 2000.

Some commentators believe that British support for US military action could have an impact in the United Kingdom. Sir Michael Howard, writing in April 2002, saw potential parallels between the abortive Suez campaign in 1956 and US plans for regime change in Iraq:

If the Americans do launch such an attack, it would almost certainly be a military success – at least in the short run. But, like Suez, it would be launched in the teeth of international disapproval, not least that of the entire Arab world. It would be condemned by a huge majority in the United Nations. Like Suez, it would be deeply divisive for Britain domestically – and given the increased ethnic diversity of our population – this time perhaps fatally. And, like Suez, it would be launched with very little idea of what would happen next.<sup>110</sup>

## **5. Potential Impact on the Campaign Against International Terrorism**

Some commentators believe that, in the event of a large-scale US-led assault on Iraq, the Bush administration could face criticism for ‘taking its eye off the ball’ by diverting military and intelligence resources away from Afghanistan and al-Qaeda. Stacy Humes-Schulz, writing in the *Financial Times* on 11 September 2002, commented that:

The administration could be hard-pressed to convince detractors that a second big overseas initiative will not sap resources in the war on terrorism.

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<sup>110</sup> Sir Michael Howard, ‘Why Britain must say no to America’, *Evening Standard*, 4 April 2002

The nightmare scenario for the Bush administration – and the US – is to see a military strike launched on Iraq and then, a few weeks later, to be hit at home by an unrelated attack.<sup>111</sup>

It is feared that a major operation in Iraq could divert resources away from Afghanistan where the situation remains extremely fragile. In particular, Special Operations forces have been in heavy demand in Afghanistan and for operations against al-Qaeda in other countries across south and south-east Asia. They are expected to be used extensively in any military action against Iraq.

There are also concerns over the potential demands of post-war reconstruction and peacekeeping in Iraq. It has proved difficult to raise sufficient peacekeeping forces for the relatively small task of securing Kabul. A much bigger force, possibly as large as 100,000 troops,<sup>112</sup> may be required in Iraq to ensure internal stability and prevent external interference. The costs of rebuilding Iraq and buttressing a new democratic government would also be extensive and significantly greater than the costs involved with Afghanistan. Some of the promised assistance for Afghanistan has failed to materialise and there are concerns over possible donor fatigue regarding future funding. Some of the potential costs could be offset by Iraq's considerable economic resources and potential oil wealth, although it would take time for Iraq's society and economy to recover from over a decade of sanctions.

Gordon, Indyk and O'Hanlon warn that:

no one should underestimate the difficulty of putting a stable regime in place in Iraq once Saddam Hussein is gone, especially at a time when US attention and resources will already be burdened by nation-building efforts in these other places (and possibly Palestine as well). And to fail to meet the challenge would not only be irresponsible but could lead to the same sort of instability that produced the Taliban.<sup>113</sup>

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<sup>111</sup> *Financial Times*, 11 September 2002

<sup>112</sup> Philip H Gordon, Martin Indyk and Michael E O'Hanlon, 'Getting serious about Iraq', *Survival*, Vol.44, No.3, Autumn 2002, p.19

<sup>113</sup> Philip H Gordon, Martin Indyk and Michael E O'Hanlon, 'Getting serious about Iraq', *Survival*, Vol.44, No.3, Autumn 2002, p.19

## VI International Legal Considerations

The debate over Iraq and possible military action has touched on various issues relating to international law. These include questions concerning the legality of weapons of mass destruction, the issue of non-compliance with Security Council resolutions, the possible legal basis for the use of force, and human rights issues.

### 1. Weapons of Mass Destruction

The development, production or stockpiling of biological and toxin agents is banned under the *Biological and Toxin Weapons Convention*, 1972 (commonly known as the Biological Weapons Convention, or BWC).<sup>114</sup> States parties undertake to destroy such weapons, and to destroy any agents held above the thresholds allowed for peaceful uses.

Under the *Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on their Destruction*, 1993 (Chemical Weapons Convention or CWC) states parties undertake not to develop, produce, acquire, stockpile, retain or transfer any chemical weapons, nor will they use them. They also undertake to destroy such weapons in their territories. Unlike the BWC, the CWC includes a verification mechanism, in the form of the Organisation for the Prohibition of Chemical Weapons (OPCW).

Under the *Geneva Protocol for the Prohibition of the Use in War of Asphyxiating, Poisonous or Other Gases, and of Bacteriological Methods of Warfare*, 1925 (the Geneva Protocol 1925), the use of most types of biological and chemical weapons is prohibited, and the BWC and CWC explicitly reaffirm this Protocol. The CWC prohibits use itself, and it can be argued that the BWC also prohibits use by implication (since it would imply possession, which is the main thrust of the BWC).<sup>115</sup> In many cases the use of these weapons would contravene other principles of international law concerning indiscriminate attack, most obviously the provisions of Protocol I to the Geneva Conventions, 1977.<sup>116</sup>

Under the nuclear *Non-Proliferation Treaty* of 1968, the development and possession of nuclear weapons is prohibited for all states parties other than the five recognised nuclear weapons states of China, France, Russia, the United Kingdom and the United States. The International Atomic Energy Agency is responsible for overseeing and verifying compliance by states parties.

Iraq is a party to the BWC and the NPT and has signed but not ratified the CWC. Signature of a treaty implies commitment to its aims, although it does not confer legal obligation. Iraq is a party to the Geneva Protocol 1925.

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<sup>114</sup> Text available at <http://www.fas.org/nuke/control/bwc/index.html>

<sup>115</sup> Documents on the Laws of War, 3<sup>rd</sup> ed, A Roberts & R Guelff eds, 2000, pp155-8.

<sup>116</sup> Article 51 (4) is the most obviously relevant.

After the Gulf War the UN Security Council demanded that Iraq destroy its chemical and biological weapons and allow verification of this. This was set out in Resolution 687, which embodied the terms of the ceasefire. Iraq's development of nuclear weapons and holding of biological weapons was unlawful irrespective of the Security Council Resolution, but arguments could have been made over its chemical weapons. The Resolution placed a legal obligation on Iraq not to hold any of these types of weapon, and it added a verification procedure lacking under the BWC.

## **2. Iraqi compliance with UN Security Council Resolutions**

After Iraq's invasion of Kuwait the Security Council imposed various mandatory sanctions against Iraq. These were supposed to be the first step in an effort to reverse its invasion, but they were not successful in this aim and military force was authorised instead. However, a package of sanctions was kept in place after the ejection of Iraqi forces from Kuwait, and this was set out in the ceasefire Resolution. The intention was that the sanctions would provide pressure on Iraq to comply with its legal obligations under the ceasefire. These included the return of Kuwaiti prisoners-of-war, the recognition of the inviolable border with Kuwait, the destruction of weapons and admission of inspectors, and the avoidance of support for international terrorism. The sanctions cannot be lifted until the terms of the ceasefire are fulfilled (unless the Security Council passes a new Resolution to reverse the situation created under Resolution 687).

By mid-2002 Iraq's refusal to cooperate with UN and IAEA inspectors had led the US and British Governments to conclude that diplomatic efforts, pursued through the UN for 12 years, had come close to exhaustion. Sanctions, revised from time to time in response to Iraqi complaints, had not delivered compliance with the ceasefire, which is legally binding on Iraq. Numerous Security Council Resolutions had been breached. Equally, Iraq had made offers to cooperate with the inspectors on various occasions in the past and had not fulfilled these offers. Beyond this, cooperation is obligatory in any case, not voluntary.

The US and British Governments have spoken of a final opportunity for Iraq to comply with its obligations in peace. They have argued that if this suggestion of finality is to carry weight, it must be backed by a credible threat of force in the event of non-compliance. To this end they are engaged in efforts to pass a new Security Council Resolution that would lay out a strict timetable to ensure Iraqi compliance and allow for the use of force if such compliance is not forthcoming.

## **3. Possible legal basis for the use of force**

If the US and the UK did move to the use of force, what legal basis could they invoke? A number of possibilities have been suggested during the public debate over Iraq's behaviour and anticipated responses from abroad. The legal basis that might be offered for any military action that were taken would depend on the particular circumstances

pertaining at the time. British governments always maintain that any action taken by the UK with regard to the use of force would be consistent with international law.

Force may be used lawfully with the authority of a competent organ of the UN (almost always the Security Council), or in the exercise of the right of self-defence. A further area, which is the subject of some debate, relates to the use of force as part of an humanitarian intervention.

A new Security Council Resolution authorising the use of force would provide one legal basis for a military campaign, but the absence of such a Resolution would not imply that such action were unlawful.

An alternative legal basis might be found in self-defence, if the USA and the UK were to identify an imminent threat to themselves or to other states which might call on them for assistance.

The legality of the use of force in support of an humanitarian intervention is open to debate, but the British Government has argued strongly that such action is lawful in particular circumstances:

cases have also arisen when, in the light of all the circumstances, a limited use of force was justifiable in support of the purposes laid down by the Security Council but without the Council's express authorisation when that was the only means to avert an immediate and overwhelming humanitarian catastrophe. Such cases would in the nature of things be exceptional and would depend on an objective assessment of the factual circumstances at the time and on the terms of relevant decisions of the Security Council bearing on the situation in question.<sup>117</sup>

The USA and the UK have not made out an argument in these terms in relation to Iraq, although conditions there are certainly poor.

During Operation *Desert Fox*, the joint US-UK four-day campaign of air strikes against Iraq in December 1998, London and Washington cited existing UN Security Council resolutions as a basis for military action. The debate surrounding this was discussed in Section V B of Library Research Paper 99/13, *Iraq: "Desert Fox" and Policy Developments*, 10 February 1999, as follows:

“At the time of the February 1998 crisis, the United States cited Iraq's breach of its obligations under the terms of the cease-fire agreed at the end of the Gulf War, and embodied in Security Council Resolution 687 of 1991, as the legal basis for the use of force. Paragraph 1 of the Resolution 687 states that the Security Council:

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<sup>117</sup> HL Deb 17 December 1998, c178w.

1. Affirms all thirteen resolutions noted above, except as expressly changed below to achieve the goals of this resolution including a formal cease-fire

The thirteen resolutions included UNSCR 678, which authorised the use of force to reverse Iraq's invasion of Kuwait.

The Resolution concludes with paragraphs 33 and 34 stating that the Security Council:

33. Declares that, upon official notification by Iraq to the Secretary-General and to the Security Council of its acceptance of the provisions above, a formal cease-fire is effective between Iraq and Kuwait and the Member States co-operating with Kuwait in accordance with resolution 678 (1990)

34. Decides to remain seized of the matter and to take such further steps as may be required for the implementation of the present resolution and to secure peace and security in the area.

The British Government position held that there was sufficient authority for military action under the existing Security Council Resolutions. On 5 February 1998 Mr Cook said:

The history and the statute book of the Security Council is full of resolutions which clearly set out what Saddam Hussein has to do...he clearly is not doing it, so the authority is there.<sup>118</sup>

The Government indicated at that time that a further resolution declaring Iraq to be in "material breach" of the 1991 cease-fire terms, though not in its view legally necessary, would be desirable.<sup>119</sup> In particular, this would indicate the strength of opinion arrayed against Iraq.

Russia disagreed, arguing that a further resolution sanctioning the use of force was not simply desirable, but necessary.<sup>120</sup> It stated its belief that only the Security Council had the power to declare Iraq to be in "material breach" of the 1991 cease-fire terms. Russia believes that the sole Security Council Resolution relating to the use of force is Resolution 678 of 1990, authorising the use of "all necessary means" by the Allied coalition to reverse the invasion of Kuwait. Sergey Lavrov, the Russian Ambassador to the UN, said: "There is no authorisation to use force for matters that do not relate to the aggression that has been behind us for many years."<sup>121</sup>

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<sup>118</sup> *Financial Times*, 6 February 1998

<sup>119</sup> *ibid.*

<sup>120</sup> For more detail on the argument that the use of force against Iraq is illegal, see Marc Weller, "The legality of the threat or use of force against Iraq", *Journal of Humanitarian Assistance*, at <http://www-jha.sps.cam.ac.uk/a/a527.htm>, 10 February 1998

<sup>121</sup> *Financial Times*, 6 February 1998



In the event, the need for a further resolution authorising military action was superseded by the signing of the Memorandum of Understanding on 23 February, in which Iraq agreed to comply with UN demands. This was endorsed by Security Council Resolution 1154 of 2 March 1998, which warned that any violation of the agreement "would have the severest consequences for Iraq".

Six months later, Iraq's decision to cease co-operation on 31 October 1998 led the Security Council to adopt Resolution 1205 of 5 November under Chapter VII of the Charter, condemning Iraq for a "flagrant violation of resolution 687 (1991) and other relevant resolutions" (resolution 687 being the cease-fire resolution of 1991).

On 17 December the Foreign Secretary, Robin Cook, affirmed that the British Government believed it had sufficient legal basis for military action:

...we are absolutely clear that we have thorough clear backing in UN resolutions... Last February Saddam was warned in the Security Council resolution that there would be the severest consequences if he broke his undertakings.<sup>122</sup>

The action has been described as an attempt to degrade Iraq's capacity to develop and deliver weapons of mass destruction, which could be seen as a use of force consistent with the purposes of the United Nations, especially given the work of UNSCOM and the IAEA in Iraq."

The Security Council has found Iraq to be in breach of its ceasefire obligations, for instance in Resolutions 707 and 1205. However, there is debate as to whether a breach of the ceasefire automatically returns the parties to a state of hostilities, and in particular whether the authorisation of the use of force by the UN in Security Council Resolution 678 is still valid.

A positive argument was made out by John Chipman, Director of the International Institute for Strategic Studies, who argued in the *Financial Times* that Resolution 687, passed under Chapter VII of the UN Charter (which allows the authorisation of force to restore international peace and security), did not terminate the authorisation of force in Resolution 678, and "that has to be seen as intentional." He went on, "the effect of these resolutions ... was to condition the continued cessation of hostilities on Iraqi compliance with the ceasefire terms," and "the resolutions implicitly sanctioned the resumption of hostilities at any time if there were consistent and material breach of the ceasefire terms."

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<sup>122</sup>"Interview with Foreign Secretary Robin Cook", 18 December 1998, from FCO web site at <http://www.fco.gov.uk>

The Security Council has been clear that Iraq is in breach of these terms, as indicated by Resolution 1205, mentioned above. Dr Chipman addressed a counter-argument:

some will argue that the passage of time since the initial ceasefire resolution and original UN authority to use force is so great that an automatic right to use force has lapsed. But to accept this argument risks perverse political and legal consequences.

It would suggest that an outlaw state has only to engage in a diplomatic war of attrition to be released from its legal obligations and be freed from the threat of military action to enforce compliance with UN legislation passed in an effort to end hostilities. It would penalise states that had exercised restraint and chosen the path of negotiation by denying them recourse to the use of force to buttress international law, strengthen diplomacy and meet an emerging threat once diplomacy failed.<sup>123</sup>

An alternative position would be to argue that the ceasefire already contains means of encouraging compliance and punishing non-compliance, in the form of the various sanctions which cannot be lifted until full compliance has been achieved. The authorisation of the use of force in Resolution 678 was for the purpose of expelling Iraqi forces from Kuwait,<sup>124</sup> and the ceasefire was offered in response to the achievement of that aim. Sanctions were left in place in order to achieve compliance with the terms of the ceasefire.

Various arguments have been advanced for and against military action, but these have tended to be political rather than legal arguments. For instance, Iraq's alleged possession of WMD and its track record of launching attacks on its neighbours might well be relevant to an argument in the Security Council aimed at persuading states to support a new Resolution, and it could be relevant were a claim made of self-defence, but it is not in itself a legal foundation. The same goes for the argument that the credibility of the UN will be undermined by a failure to force Iraqi compliance. Likewise concerns that action might provoke the use of Iraq's WMD, or that it might lead to uprisings around the Middle East, are political arguments against action, not legal ones. An interesting issue is the USA's development of a doctrine of pre-emption, which has been articulated at least since the 1980s and has gained impetus in response to the 11 September attacks. This can be seen as both a (contested) legal argument seeking to advance on traditional notions of self-defence, and as a political argument in favour of action before a specific link between Iraq and al-Qaeda is established. Further details on the history of this idea are given in Section IX B (e) of Research Paper01/72, *11 September 2001: the response*.

It appears that the US and British Governments are seeking support for a Security Council Resolution of some kind. What does this entail? It does not provide a democratic

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<sup>123</sup> 'America's right to fight Iraq', *Financial Times*, 13 August 2002

<sup>124</sup> This was pursuant to the terms of Resolution 660, which demanded Iraq's withdrawal from Kuwait.

mandate for action, since the membership of the Security Council is restricted, nor does it entail approval by some supra-national body, since the members are states acting as such. It could, however, provide a watertight legal basis, depending on the exact terms of such a Resolution.

The UN Security Council has 15 members, five of them permanent and 10 elected by the General Assembly to serve terms of two years. The permanent members are China, France, Russia, the UK and the USA. The elected members currently are Bulgaria, Cameroon, Colombia, Guinea, Ireland, Mauritius, Mexico, Norway, Singapore and Syria. Half of the elected membership changes every January, and the states to be replaced at the beginning of 2003 are Colombia, Ireland, Mauritius, Norway and Singapore. Each member of the Security Council has one vote, and it may vote for a Resolution, it may vote against it, it may abstain, or it may absent itself from the voting. For a Resolution to be passed a total of nine votes must be cast in favour, and none of the permanent members must vote against. The USA and the UK would therefore need to convince seven states to vote for a Resolution and to persuade China, France and Russia not to vote against.

#### **4. Broader compliance with International Law**

In the supporting document released by the White House at the time of President Bush's address to the UN General Assembly on 12 September 2002 the USA drew attention to a set of inter-related issues, which it felt justified its approach to Iraq. Much of this turned on the question of Iraq's alleged transgressions of international law:

For more than a decade, Saddam Hussein has deceived and defied the will and resolutions of the United Nations Security Council by, among other things: continuing to seek and develop chemical, biological, and nuclear weapons, and prohibited long-range missiles; brutalizing the Iraqi people, including committing gross human rights violations and crimes against humanity; supporting international terrorism; refusing to release or account for prisoners of war and other missing individuals from the Gulf War era; refusing to return stolen Kuwaiti property; and working to circumvent the UN's economic sanctions.<sup>125</sup>

What is Iraq's relationship to international law, how far does it transgress, and is it unique in this regard?

It is sometimes claimed that Iraq is in breach of as many as 20 UN Security Council Resolutions. The main Resolution usually cited is Resolution 687, the 'cease-fire resolution' of April 1991, which laid out Iraq's disarmament obligations. Most of the subsequent Resolutions, including 1205 and 1284 (the most recent concerning Iraqi disarmament), refer back to Iraq's non-compliance with 687, rather than setting out fresh

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<sup>125</sup> *A Decade of Deception and Defiance: Saddam Hussein's Defiance of the United Nations*, 12 September 2002.

obligations with which Iraq should comply. A full list, with summaries, is given in Appendix 5. They are also discussed in detail in *A Decade of Deception and Defiance: Saddam Hussein's Defiance of the United Nation*, referenced above.

Some Security Council Resolutions are legally binding, but many are not.<sup>126</sup> States might fail to act consistently with them without acting unlawfully. Equally, there can be debate as to what obligations do arise from a Resolution, so that matters of interpretation come to the fore. Over the history of the UN a great many Resolutions have been passed, the provisions of which have not been satisfied unequivocally. Indeed, there are some aspects of the UN Charter itself which have never been brought into force. For instance, the Security Council has never obliged states to carry out the obligations arising from Article 43, which requires them to draw up agreements with the Security Council to allow it to call on their armed forces.

Some of the Resolutions which have not been brought into effect concern long-running disputes, such as Cyprus, Kashmir and Western Sahara. In all these cases the Security Council passed Resolutions in the early stages, and has passed others since which reiterate their provisions or sometimes add to them, but these have not been satisfied in full. Sometimes there is dispute as to which parties are responsible for this, and in the case of Kashmir, the Indian Government argues that the UN Resolutions (the most important of which were adopted not by the Security Council but by a special commission which it had established) have been superseded by a subsequent bilateral agreement between India and Pakistan.

It is possible to draw a few tentative conclusions. It would be false to claim that Iraq is unique in its disinclination to abide by Security Council Resolutions. On the other hand, few states have resisted such a concentration of binding Resolutions placing upon them unambiguous obligations. Further, the demand for decommissioning Iraq's weapons of mass destruction in Security Council Resolution 687, which set out the terms of the ceasefire at the end of the Gulf War, is a reiteration of existing legal obligations into which Iraq had entered freely. The holding of chemical and biological weapons is illegal under international conventions to which Iraq is party, so the Security Council was not making a novel demand on Iraq in requiring it to destroy those weapons.

Moving to Iraq's behaviour in general and not solely in relation to Security Council Resolutions, in many areas of its unlawful behaviour Iraq is not alone, but is one of a handful of transgressing states. There are others that appear to have chemical and biological weapons, which are banned under international law. There are other countries that abuse the human rights of their people. However, Iraq compounds substantial and undeniable breaches of international law in many different areas in a way which few, if

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<sup>126</sup> Historically the proportion of binding to non-binding Resolutions is very roughly 2:5. See "Conclusion: the United Nations as international law-giver," C Joyner, in *The United Nations and International Law*, ed C Joyner, 1997, p440.

any, states match. For instance, Burma has a poor record on human rights, and, depending on one's point of view, the regime could be considered to be at least as objectionable as Iraq's on this basis, but Burma has not invaded its neighbours nor developed weapons of mass destruction. Pakistan has developed a nuclear capability, it has sponsored terrorism, and President Musharraf was closely involved in the use of military force within Indian-administered Kashmir (though before he took power), but it has not used weapons of mass destruction, it has responded to the US call for states to take action against terrorism, and it does not operate a policy of systematic coercion of the civilian population. Likewise, it is commonplace to argue that Israel is in breach of UN Security Council Resolutions, just like Iraq, but the Resolutions concerning Israel are not directly comparable with those concerning Iraq, and whatever tensions may exist between its policies and the position preferred by the Security Council, it is not really accurate to view it as being in flagrant breach, as Iraq is, of obligations arising from Security Council Resolutions. The Resolutions concerning Israel are not legally binding, and they do not specify unequivocally steps which Israel must take regardless of other steps to be taken by its neighbours.

The logic behind the argument that Iraq presents a special problem is that this regime has undertaken acts of aggression against its neighbours in the past, it has had illegal weapons, appears still to have some and is engaged in efforts to develop more, it has used these weapons against its own people, and it has not responded to efforts, pursued through the UN, to make it comply with international law by destroying those weapons and allowing verification of that destruction. Its breaches of international law are more serious, more numerous and cover more areas than in any other case, and, crucially, it is the only remaining regime which has in the past undertaken acts of aggression.<sup>127</sup> This is a key point, because acts of aggression are universally recognised as one of the most serious breaches of international law. In the past, various countries have committed such acts, but the only state to have undertaken an act of aggression and still to be ruled by the same regime is Iraq. Its initiation of the war against Iran (1980) and its invasion of Kuwait (1990) were fairly straightforward examples of acts of aggression. In addition, the campaigns against the Kurds in the 1980s and early 1990s and the Shi'a minority in the 1990s could be regarded as examples of genocide, as defined in the *Genocide Convention*, 1948. The commission of two acts of aggression and two possible acts of genocide constitutes a remarkably poor record in international legal terms.

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<sup>127</sup> The various interventions in the Democratic Republic of Congo occurred in support of parties engaged in a civil war. The conflict between Ethiopia and Eritrea arose as an escalation of reciprocal skirmishes.

## 5. Human Rights in Iraq

The human rights situation in Iraq was summarised earlier this year by an international lawyer, Karima Bennoune, who is Visiting Professor at the University of Michigan Law School, and a former legal adviser to Amnesty International:

There is little left to be said about the nightmarish violations of the vast majority of the human rights of the Iraqi population by the Ba'ath regime under the leadership of President Saddam Hussein. Insulting the President is a capital offence. Reports of widespread extra-judicial killings, torture whose cruelty defies the imagination, prolonged detention without trial or charge, mass 'disappearances', persecution of the Shi'a of the south, and genocidal acts against the Kurdish minority have been abundantly documented. While many Western governments and media personify these atrocities in the numen-like figure of 'Saddam,' in fact, a sophisticated and far-reaching bureaucracy has been involved. The Iraqi state offers a Westphalian nightmare of absolutist ideas of sovereignty in their ugliest guise: an unaccountable state apparatus exercising absolute power over its terrified citizenry.<sup>128</sup>

In April 2001 Amnesty drew attention to the high level of executions in Iraq, claiming that "hundreds of political prisoners and detainees are executed in Iraq every year," and that:

in October 2000, dozens of women accused of prostitution were beheaded without any judicial process in Baghdad and other cities. Men suspected of procurement were also beheaded.<sup>129</sup>

In December 2001 Amnesty wrote,

In November [2001] the Revolutionary Command Council, the highest executive body in Iraq, issued a decree providing the death penalty for the offences of prostitution, homosexuality, incest and rape. The decree also stated that those convicted of providing accommodation for the purpose of prostitution would be executed by the sword.<sup>130</sup>

Amnesty has also addressed the question of torture in Iraq, which it describes as "systematic". It gave the following account of methods, which is explicit:

victims of torture in Iraq are subjected to a wide range of forms of torture, including the gouging out of eyes, severe beatings and electric shocks ... some victims have died as a result and many have been left with permanent physical and psychological damage.

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<sup>128</sup> "'Sovereignty vs Suffering'? Re-examining sovereignty and human rights through the lens of Iraq," K Bennoune, *European Journal of International Law*, February 2002, p249.

<sup>129</sup> *Iraq: relentless executions must end*, MDE 14/004/2001, 5 April 2001.

<sup>130</sup> *Death Penalty News*, December 2001.

Other methods of torture include extinguishing of cigarettes on various parts of the body, extraction of finger nails and toenails and piercing of the hands with an electric drill. Some have been sexually abused and others have had objects, including broken bottles, forced into their anus. In addition to physical torture, detainees have been threatened with rape and subjected to mock executions.<sup>131</sup>

Torture is reportedly used against the Shi'a minority, against political opponents and against common criminals, including through the use of judicial punishments such as amputation and forehead branding.

On 12 September 2002 Amnesty took issue with the White House's citation of Amnesty reports in *A Decade of Deception and Defiance*:

several references were made to Amnesty International's reports published over the years on the human rights situation in Iraq.

"Once again, the human rights record of a country is used selectively to legitimize military actions" Amnesty International said.

"The US and other Western governments turned a blind eye to Amnesty International reports of widespread human rights violations in Iraq during the Iran-Iraq war, and ignored Amnesty International's campaign on behalf of the thousands of unarmed Kurdish civilians killed in the 1988 attacks on Halabja."

"As the debate on whether to use military force against Iraq escalates, the human rights of the Iraqi people, as a direct consequence of any potential military action, is sorely missing from the equation."

"Life, safety and security of civilians must be the paramount consideration in any action taken to resolve the current human rights and humanitarian crisis. The experience of previous armed intervention in the Gulf has shown that, all too often, civilians become the acceptable casualties of war."

"In the event of military action there is a serious possibility of large flows of refugees and the internal displacement of thousands of people. A humanitarian crisis can emerge caused by difficult or impossible delivery of basic supplies leaving shortages in food, medicine and the destruction of civilian infrastructure and institutions."<sup>132</sup>

Whatever Amnesty's view of the use made of its work, it appears that the US Government is willing to cite human rights abuses, some of which contradict international law (torture, for instance, and mass attacks on civilian populations), in order to encourage the other members of the Security Council to consider Iraq under the Ba'ath regime as a

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<sup>131</sup> *Iraq: stop the torture*, MDE 14/012/2001, 15 August 2001.

<sup>132</sup> *USA/Iraq: not in the name of human rights*, MDE 14/009/2002, 12 September 2002.

peculiar threat to the international legal order. Bennoune gives an alternative account of the impact of the repeated efforts to encourage Iraqi compliance since the Gulf War:

in human rights terms, the right to life is seriously implicated by this sustained violation of Iraq's sovereignty through the use of military force. There is also a considerable effect on a range of other rights, including the right to health, the right to education, the right to a decent standard of living and the right to a livable environment. In the terms of humanitarian law, some of these actions may qualify as war crimes, either as indiscriminate attacks or attacks on objects necessary for the maintenance of civilian life. All told, they give civilians the feeling of being caught in a seamless web of powerlessness, bounded on the one side by the undemocratic Iraqi government over which they have no control and on the other by international intervention into which they have no input.<sup>133</sup>

In its latest Resolution on Iraq the UN Commission on Human Rights strongly condemned:

(a) The systematic, widespread and extremely grave violations of human rights and of international humanitarian law by the Government of Iraq, resulting in an all-pervasive repression and oppression sustained by broad-based discrimination and widespread terror;

(b) The suppression of freedom of thought, expression, information, association, assembly and movement through fear of arrest, imprisonment, execution, expulsion, house demolition and other sanctions;

(c) The repression faced by any kind of opposition, in particular the harassment and intimidation of and threats against Iraqi opponents living abroad and members of their families;

(d) The widespread use of the death penalty in disregard of the provisions of the International Covenant on Civil and Political Rights and the United Nations safeguards;

(e) Summary and arbitrary executions, including political killings and the continued so-called clean-out of prisons, the use of rape as a political tool, as well as enforced or involuntary disappearances, routinely practised arbitrary arrests and detention, and consistent and routine failure to respect due process and the rule of law;

(f) Widespread, systematic torture and the maintaining of decrees prescribing cruel and inhuman punishment as a penalty for offences;

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<sup>133</sup> “‘Sovereignty vs Suffering’? Re-examining sovereignty and human rights through the lens of Iraq,” K Bennoune, *European Journal of International Law*, February 2002, p258.



This Resolution will pass to the General Assembly for adoption as one of its own. A Resolution in virtually identical terms was passed by the Commission last year (as indeed in previous years), and it was adopted by the General Assembly as A/RES/56/174, *Situation of human rights in Iraq*, on 27 February 2002.

## VII Attitudes within the International Community

### A. Views in the United States

#### 1. The Administration

It was a declared objective of the Bush Administration, even before the events of 11 September 2001, to bring about a regime change in Iraq, by force if necessary. This also applied to the Clinton Administration: the *Iraq Liberation Act*, signed into law by President Clinton in October 1998, allowed the US President to provide equipment and training to the Iraqi opposition and made the overthrow of President Saddam Hussein an explicit aim of US foreign policy.<sup>134</sup>

Answering a question about the goals of US policy on Iraq, President Bush confirmed this position at a press conference during his recent Camp David meeting with Mr Blair:

...our government in 1998 – action that my administration has embraced – decided that this regime [in Iraq] was not going to honor its commitments to get rid of weapons of mass destruction. The Clinton administration supported regime change. Many members of the United States Senate supported regime change. My administration still supports regime change. There’s all kinds of ways to change regimes.<sup>135</sup>

During August 2002, senior members of the Bush Administration made a succession of speeches and statements on Iraq, expressing a range of views that prompted media comment on apparent policy differences within the administration. As the *Daily Telegraph* noted, “Mr Rumsfeld and Vice-President Dick Cheney have been left to make hawkish pronouncements, while Colin Powell, the Secretary of State, has struck a much more conciliatory note.”<sup>136</sup> In response, Deputy Secretary of State Richard Armitage said there was a misperception that “there is a huge tug of war in the administration”, adding that President Bush encouraged debates within the administration, because he “likes to have a full range of opinions.”<sup>137</sup> An article in the September 2002 issue of *Strategic Comments*, published by the International Institute for Strategic Studies, comments:

Differences among the key players have been notable on all the main national security issues, ranging from Iraq and the Israeli-Palestinian conflict to policy towards North Korea. In each case, Powell has promoted a more conciliatory approach – based on engagement, negotiations and ally consultation – only to

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<sup>134</sup> For further information on US support for the Iraqi opposition, see Research Paper 99/13, pp43-4

<sup>135</sup> Department of State, International Information Programs press release, 7 September 2002, at: <http://usinfo.state.gov/regional/nea/iraq/text/0907/bshblr.htm>

<sup>136</sup> *Daily Telegraph*, 4 September 2002

<sup>137</sup> “Response to Bush’s UN speech “quite favourable”, Department of State, International Information Programs press release, 13 September 2002, at: <http://usinfo.state.gov/regional/nea/iraq/text/0913amtg.htm>

lose out to a more assertive approach favoured by Cheney and Rumsfeld, who believe in using US power to advance US interests.

[...]

On the most important issues - including Iraq – it is very likely that, once Bush has decided a course of action, his team will rally around and work hard to see it implemented. This underlines the critical importance of Bush’s behaviour in this ‘CEO’ presidency.<sup>138</sup>

In two similar speeches in Tennessee and Texas on 26 and 29 August, Vice-President Cheney argued forcefully that the threat posed by Saddam Hussein presented “an imperative for pre-emptive action” (a recent quote from former Secretary of State Henry Kissinger).<sup>139</sup> He asserted that, without such action, Iraq would “fairly soon” acquire nuclear weapons, and

...could then be expected to seek domination of the entire Middle East, take control of a great portion of the world’s energy supplies, directly threaten America’s friends throughout the region, and subject the United States or any other nation to nuclear blackmail.<sup>140</sup>

Mr Cheney also said that, even if weapons inspectors were able to return to Iraq, their presence “would provide no assurance whatsoever” of Saddam Hussein’s compliance with UN resolutions: “On the contrary, there is a great danger that it would provide false comfort that Saddam was somehow ‘back in his box’. Meanwhile, he would continue to plot.”<sup>141</sup>

In a BBC television interview with Sir David Frost on 1 September, however, Secretary of State Colin Powell stated that the US supported the return of UN weapons inspectors, saying: “as a first step let’s see what the [weapons] inspectors find – send them back in.”<sup>142</sup> He also indicated that it was time to bring allies into the debate, by releasing intelligence on Iraq’s development of nuclear, biological and chemical weapons: “The world has to be presented with the information, with the intelligence that is available. A debate is needed within the international community so that everybody can make a judgment about this.”<sup>143</sup>

A more unilateralist view was put forward by the Defense Secretary, Donald Rumsfeld, speaking in San Diego in late August. He argued that “it is less important to have

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<sup>138</sup> “US national security decision-making: clarity or confusion under Bush?”, *Strategic Comments*, Vol 8 Issue 7, September 2002

<sup>139</sup> In a briefing on this speech, the White House Press Secretary explained that Mr Cheney “did not make the case for preemptive attack; he made the case for the preemptive doctrine,” which “reinforces the fundamental and moral precepts of America’s foreign policy”

<sup>140</sup> Speech in Nashville, Tennessee, 26 August 2002, Department of State, International Information Programs press release, at: <http://usinfo.state.gov/regional/nea/iraq/text/0826chny.htm>

<sup>141</sup> *ibid.*

<sup>142</sup> Quoted in *Daily Telegraph*, 2 September 2002

<sup>143</sup> *Daily Telegraph*, 2 September 2002

unanimity than it is to be making the right decision and doing the right thing, even though at the outset it may seem lonesome”<sup>144</sup>.

On Sunday 8 September, Mr Cheney, Mr Rumsfeld, and Mr Powell all appeared on television news programmes, in advance of the President’s address on Iraq to the United Nations. As the *Washington Post* commented, “Vice-President Cheney struck a newly measured tone, reflecting a decision by White House officials to show deference to Congress and the United Nations while not backing away from Bush’s determination to deal swiftly with Hussein.”<sup>145</sup> Mr Cheney said:

We are trying very hard not to be unilateralist. We are working to build support with the American people, with the Congress, as many have suggested we should. And we are also, as many of us suggested we should, going to the United Nations, and the President will address this issue.<sup>146</sup>

Mr Powell and Mr Rumsfeld both reiterated that the United States was committed to the elimination of Iraq’s weapons of mass destruction, not simply the return of arms inspectors.

President Bush’s announcement in his address to the United Nations General Assembly on 12 September of Washington’s willingness to return to the UN on Iraq marked a significant change of approach which has proved persuasive in terms of both international and congressional support. In key passages from his speech, the President said:

As we meet today, it's been almost four years since the last U.N. inspectors set foot in Iraq, four years for the Iraqi regime to plan, and to build, and to test behind the cloak of secrecy.

We know that Saddam Hussein pursued weapons of mass murder even when inspectors were in his country. Are we to assume that he stopped when they left? The history, the logic, and the facts lead to one conclusion: Saddam Hussein's regime is a grave and gathering danger. To suggest otherwise is to hope against the evidence. To assume this regime's good faith is to bet the lives of millions and the peace of the world in a reckless gamble. And this is a risk we must not take.

Delegates to the General Assembly, we have been more than patient. We've tried sanctions. We've tried the carrot of oil for food, and the stick of coalition military strikes. But Saddam Hussein has defied all these efforts and continues to develop weapons of mass destruction. The first time we may be completely certain he has a -- nuclear weapons is when, God forbids, he uses one. We owe it to all our citizens to do everything in our power to prevent that day from coming.

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<sup>144</sup> Quoted in *Daily Telegraph*, 29 August and 4 September 2002

<sup>145</sup> *Washington Post.com*, 9 September 2002

<sup>146</sup> Department of State, International Information programs press release, 8 September 2002, at: <http://usinfo.state.gov/regional/nea/iraq/text/0908talk.htm>

The conduct of the Iraqi regime is a threat to the authority of the United Nations, and a threat to peace. Iraq has answered a decade of U.N. demands with a decade of defiance. All the world now faces a test, and the United Nations a difficult and defining moment. Are Security Council resolutions to be honored and enforced, or cast aside without consequence? Will the United Nations serve the purpose of its founding, or will it be irrelevant?<sup>147</sup>

After listing the actions required of the Iraqi regime if it wished peace, the President continued:

My nation will work with the U.N. Security Council to meet our common challenge. If Iraq's regime defies us again, the world must move deliberately, decisively to hold Iraq to account. We will work with the U.N. Security Council for the necessary resolutions. But the purposes of the United States should not be doubted. The Security Council resolutions will be enforced -- the just demands of peace and security will be met -- or action will be unavoidable. And a regime that has lost its legitimacy will also lose its power.<sup>148</sup>

## 2. Congress

Under the US Constitution, war powers are divided. Congress has the power to declare war and raise and support the armed forces, while the President is Commander in Chief. It is generally agreed that the Commander in Chief role gives the President power to repel attacks against the United States and makes him responsible for leading the armed forces. However, US involvement in extended undeclared wars in Korea and Vietnam led to concern in Congress about the erosion of its authority to decide when the US should become involved in a war or in the use of armed forces that might lead to war. On 7 November 1973, Congress passed the War Powers Resolution (or War Powers Act),<sup>149</sup> over the veto of President Nixon. Successive Presidents have disputed its constitutionality.<sup>150</sup>

The War Powers Resolution requires regular consultation with Congress in contemplating military action, written notification within 48 hours of such action, with its “estimated scope or duration”, and congressional consent through either a declaration of war or “specific statutory authorization”. If such approval is not granted within 60 days, the President is supposed to withdraw US forces within a further 30 days. The purpose of the act, as explained by the Congressional Research Service, is:

to ensure that Congress and the President share in making decisions that may get the US involved in hostilities. [...] Criteria for compliance include prior

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<sup>147</sup> White House press release, 12 September 2002. Full text of the address is available at: <http://www.whitehouse.gov/news/releases/2002/09/print/20020912-1.html>

<sup>148</sup> *ibid.*

<sup>149</sup> Public Law PL 93-148

<sup>150</sup> Congressional Research Service Issue Brief IB81050, updated 10 September 2002

consultation with Congress, fulfilment of the reporting requirements, and congressional authorization. If the President has not complied fully, the issue becomes what action Congress should take to bring about compliance or to influence US policy.<sup>151</sup>

Relations between President and Congress over committing the US to military action take place against this background.<sup>152</sup>

There was already congressional activity on Iraq before the August recess. The Senate Committee on Foreign Relations held hearings on threats, responses and regional considerations relating to Iraq, and several resolutions were tabled, calling for Congress to consider and vote on any military action. At that time, doubts were being expressed about the administration's policy, not only among Democrats, such as Senate Majority Leader Tom Daschle, but also by some senior Republicans in Congress, such as House Majority Leader Dick Armey, and by members of previous Republican administrations, such as former Secretary of State Lawrence Eagleburger and Brent Scowcroft, former National Security Advisor.<sup>153</sup>

In a briefing on 26 August, the White House Press Secretary, Ari Fleischer, stated that the President had not made any decisions about military action to remove the regime in Iraq and would continue to consult with allies and with Congress.<sup>154</sup> However, he confirmed the opinion of the White House Counsel's Office

...that there are three factors which give the President the authority to engage in military action if he were to make that decision. And those are, one, the Constitution of the United States which vests in the president authorities as Commander in Chief; the 1991 Persian Gulf War resolutions; and three, the 2001 resolutions in the Congress pertaining to the war against terrorism. That is the determination of the White House Counsel.<sup>155</sup>

Significantly, he added that if the President made a decision on the use of force, he would decide on a vote by Congress "on more than legal factors alone".<sup>156</sup>

On 4 September, as soon as Congress had returned from its summer recess, President Bush met 18 leading members of Congress, including the chairmen and ranking members of the committees dealing with foreign affairs, to inform them that he would "seek congressional support" on administration policy towards Iraq.<sup>157</sup> According to *CQ*

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<sup>151</sup> Congressional Research Service Issue Brief IB81050, updated 10 September 2002

<sup>152</sup> This is discussed in relation to the present situation over Iraq in *CQ Weekly*, 31 August 2002

<sup>153</sup> *ibid.*

<sup>154</sup> Department of State, International Information Programs press release, 26 August 2002

<sup>155</sup> *ibid.*

<sup>156</sup> *ibid.*

<sup>157</sup> Department of State, International Information Programs press release, 4 September 2002 at <http://usinfo.state.gov/regional/nea/iraq/text/0904bush1.htm>

*Weekly*, the President gave a letter to those who attended, calling for a broad expression of “congressional support for US action to do whatever is necessary to deal with the threat posed by Saddam Hussein’s regime”.<sup>158</sup>

The White House Press Secretary reported that the President thought it “very important” for members of Congress to hold hearings and then vote on an Iraq resolution before the scheduled adjournment of Congress in early October to campaign for the mid-term elections on 5 November.<sup>159</sup> The President was said to be confident that “the overwhelming majority of the Congress” would support him,<sup>160</sup> although the *Los Angeles Times* commented on 6 September:

On Capitol Hill, the questions broached by lawmakers over Iraq showed that the administration would face a formidable task in assembling broad bipartisan support for a military strike, especially if large numbers of US troops are involved.<sup>161</sup>

Mr Fleischer compared the forthcoming vote with the one taken in January 1991, authorising a US military response to Iraq’s invasion of Kuwait.<sup>162</sup> Then, as now, he said, the White House position was based on the President’s authority as commander in chief, but “from a much broader point of view” the President was seeking congressional approval for any of the options he might consider. He continued: “...it is very important, particularly in a democracy, for Congress to have its role, for Congress to speak and for Congress to vote”.<sup>163</sup> Regarding the terms of a congressional resolution, he said that Congress would “draft the appropriate language, in consultation with the White House, for a vote that could cover any number of things, including the option of military force” against Iraq.<sup>164</sup> It was possible “that there could be a vote before the President has decided what action to take. Congressional language can often be all-encompassing to allow for different possibilities.”<sup>165</sup>

On 5 September Mr Fleischer told reporters “The president believes that the evidence we have already seen to date is sufficient to require regime change [in Iraq].”<sup>166</sup> This led to complaints from members of both parties on Capitol Hill that they had not yet seen such

<sup>158</sup> *CQ Weekly*, 7 September 2002, p2314

<sup>159</sup> Department of State, International Information Programs press release, 6 September 2002 at: <http://usinfo.state.gov/regional/nea/iraq/text/0906bush.htm>

<sup>160</sup> <http://usinfo.state.gov/regional/nea/iraq/text/0904bush1.htm>

<sup>161</sup> “Sharp questions on Iraq await Bush in Congress”, *Los Angeles Times*, 6 September 2002

<sup>162</sup> House Joint Resolution 77, Senate Joint Resolution 2, 12 January 1991. For further details, see “How Congress backed President Bush’s use of force against Iraq in 1991”, Department of State, International Information Programs press release, 11 September 2002, at <http://usinfo.state.gov/regional/nea/iraq/text/0911bush.htm>

<sup>163</sup> <http://usinfo.state.gov/regional/nea/iraq/text/0904bush1.htm>

<sup>164</sup> *ibid.*

<sup>165</sup> *ibid.*

<sup>166</sup> *Los Angeles Times*, 6 September 2002

evidence. Various classified briefings were then given by the Vice-President, the Defense Secretary and the CIA Director to congressional leaders and to some other groups from relevant congressional committees<sup>167</sup> Following an intelligence briefing from CIA Director George Tenet and National Security Adviser Condoleezza Rice, senior Democrats and some Republicans said they had not been persuaded that Iraq represented an immediate danger to the United States. Nancy Pelosi, the House Minority Whip and the senior Democrat on the House Intelligence Committee, claimed that the briefing had produced nothing but “embellishments” on existing information and she was not aware of any information that showed the threat from Iraq was so immediate that Congress could not wait until January to vote on an attack resolution.<sup>168</sup>

On 10 September two leading senators wrote a joint letter to the President, expressing scepticism about his case for action against Iraq. Its authors were Senator Joseph Biden, the Democrat Chairman of the Foreign Relations Committee, and the Republican Senator Richard Lugar, a senior member of the Foreign Relations and Intelligence Committees. They informed the President that there was still widespread dissent in Congress about the use of force in Iraq, and that both Houses wanted more information. They also complained about the time pressure being put on Congress to vote on this issue before the November elections.<sup>169</sup>

Some Democrats were said to be reluctant, for political reasons, to have a vote on war against Iraq in the run-up to the elections, and there was also some concern that the Republicans might make political capital at the elections from the issue of action against Iraq, as a distraction from the economy and other domestic issues, which favour the Democrats.

Following the President’s address to the UN on 12 September, however, there appears to have been a significant shift in congressional support from both parties for the administration’s approach. In meetings with congressional leaders from both Houses on 18 September the President informed them that his administration would propose language for a congressional resolution on Iraq “in the next couple of days” and thanked them for the commitment they had made to pass a resolution before going into recess for the mid-term elections. He said that a resolution on Iraq would be “an important signal” of U.S. unity against the threat of terrorism.<sup>170</sup>

This change of attitude in Congress has been attributed to the administration’s willingness to consult the UN, and also to the effect of Saddam Hussein’s letter to the UN on weapons inspectors. Bronwen Maddox commented in *The Times* that: “Even senior Democrats appear entirely convinced of the administration’s case that Saddam’s word is

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<sup>167</sup> CQ Weekly, 7 September 2002, p2314

<sup>168</sup> *Times*, 12 September 2002

<sup>169</sup> *ibid.*

<sup>170</sup> <http://usinfo.state.gov/regional/nea/iraq/text/0918bush.htm>



worthless and his “concession” (to admit weapons inspectors) is simply a delaying tactic.”<sup>171</sup> Democrats are still reported to be divided, however, on whether a congressional resolution should require any military strike against Iraq to be sanctioned by the UN.<sup>172</sup>

On 18 and 19 September the Defense Secretary appeared before the House and Senate Armed Services Committees, with the aim of convincing Congress of the need for a prompt resolution in support of the President’s undertaking to use force against Iraq if it fails to abide by UN Security Council resolutions. Mr Rumsfeld also set out extensive evidence in support of this policy. Addressing the House Armed Services Committee on 18 September, he said:

It is important that Congress send that message as soon as possible — before the U.N. Security Council votes. The Security Council must act soon, and it is important that the U.S. Congress signal the world where the U.S. stands before the U.N. vote takes place. Delaying a vote in the Congress would send a message that the U.S. may be unprepared to take a stand, just as we are asking the international community to take a stand, and as Iraq will be considering its options.

Delay would signal the Iraqi regime that they can continue their violations of the U.N. resolutions. It serves no U.S. or U.N. purpose to give Saddam Hussein excuses for further delay. His regime should recognize that the U.S. and the U.N. are purposeful. It was Congress that changed the objective of U.S. policy from containment to regime change, by the passage of the Iraq Liberation Act in 1998. The President is now asking Congress to support that policy.<sup>173</sup>

On 19 September a draft Resolution “to authorize the use of force”<sup>174</sup> was sent by the White House to Capitol Hill for consideration. The White House Press Secretary explained that a bipartisan group from the House of Representatives would “help the administration with the resolution”.<sup>175</sup> Answering questions from the press, he added that this text would “build on the 1998 resolution, which includes regime change”,<sup>176</sup> and its preamble made clear “that the purpose of the authorization to use military force will be to protect the peace by changing the regime”.<sup>177</sup> He referred to “a gathering momentum in both parties behind what the President has asked for” and did not anticipate “any fundamental changes in the core” of the draft resolution.<sup>178</sup>

<sup>171</sup> Bronwen Maddox, “Congress switch hands initiative back to Bush”, *Times* 19 September 2002

<sup>172</sup> *ibid.*

<sup>173</sup> <http://usinfo.state.gov/regional/nea/iraq/text/0918rmfd.htm>

<sup>174</sup> White House press briefing, 19 September 2002

<sup>175</sup> *ibid.*

<sup>176</sup> *ibid.*

<sup>177</sup> *ibid.*

<sup>178</sup> *ibid.*

## **B. Views in the United Kingdom**

Prime Minister Tony Blair set out the position of the British Government in a speech to the conference of the Trades Union Congress on 10 September 2002. He outlined the threat posed by Iraq, warning of the potential for a “kind of word fatigue” about weapons of mass destruction:

We're not talking about some mild variants of everyday chemicals, but anthrax, sarin and mustard gas – weapons that can cause hurt and agony on a mass scale beyond the comprehension of most decent people.

With regard to the question of how to proceed, Mr Blair said:

I totally understand the concerns of people about precipitate military action. Military action should only ever be a last resort. On the four major occasions that I have authorised it as Prime Minister, it has been when no other option remained.

I believe it is right to deal with Saddam through the United Nations. After all, it is the will of the UN he is flouting. He, not me or George Bush, is in breach of UN Resolutions. If the challenge to us is to work with the UN, we will respond to it.

But if we do so, then the challenge to all in the UN is this: the UN must be the way to resolve the threat from Saddam not avoid it.

Let it be clear that he must be disarmed. Let it be clear that there can be no more conditions, no more games, no more prevaricating, no more undermining of the UN's authority.

And let it be clear that should the will of the UN be ignored, action will follow. Diplomacy is vital. But when dealing with dictators - and none in the world is worse than Saddam - diplomacy has to be backed by the certain knowledge in the dictator's mind that behind the diplomacy is the possibility of force being used.

Because I say to you in all earnestness: if we do not deal with the threat from this international outlaw and his barbaric regime, it may not erupt and engulf us this month or next; perhaps not even this year or the next. But it will at some point. And I do not want it on my conscience that we knew the threat, saw it coming and did nothing.<sup>179</sup>

The Conservative opposition leader, Iain Duncan Smith, expressed his support for possible military action against Iraq in an article in the *Sunday Times* on 1 September 2002:

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<sup>179</sup> Prime Minister's speech to the TUC Conference, 10 September 2002, from <http://www.pm.gov.uk/output/Page6052.asp>

Britain is faced with a choice. Either we allow Saddam to build up his arsenal, including nuclear weapons, or we move against him before he can develop and deploy those weapons.

We can choose to act pre-emptively or we can prevaricate. But everyone should understand that the only winner from the confusion is Saddam. [...]

Intervening in Iraq is not about doing the right thing by the United States, it is about doing the right thing for Britain. It's not about showing what a good ally we are, it is about standing up for British interests. [...]

Those who believe we can do nothing must say how we would counter Saddam when he has nuclear and biological weapons. Ultimately, the question is not whether we deal with Saddam, but when and how.

In early September 2002 the Liberal Democrat foreign affairs spokesman, Menzies Campbell, stressed the need for Iraq to comply with UN demands:

It's time for Iraq to stop playing games. The impetus for military action by the US is growing all the time. Opening up Iraq to full scale, unimpeded inspections is the only way to satisfy the relevant UN resolutions.

Procrastination and prevarication simply play into the hands of the hawks.<sup>180</sup>

He later expressed a cautious welcome for Iraq's offer to readmit weapons inspectors, but said Iraq should be judged on its actions:

The inspectors must have the unconditional ability to poke into every nook and cranny. Saddam Hussein has conducted brinkmanship too often in the past for this development to be treated with anything other than caution.<sup>181</sup>

Some Labour Members, including consistent opponents of military action like Tam Dalyell, George Galloway and Alice Mahon, have voiced strong opposition to British participation in a US-led attack on Iraq. Alice Mahon warned in early August that:

It would be a disaster if we were to attack Saddam Hussein. Iraq isn't threatening anyone at the moment. There is no evidence that there is a danger.<sup>182</sup>

Some warn that the Government could encounter significant dissent from the backbenches if it supports a strike on Iraq without the endorsement of the UN Security Council. The Chairman of the Defence Select Committee, Bruce George, said in early

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<sup>180</sup> Liberal Democrat Press Release, 4 September 2002

<sup>181</sup> *Financial Times*, 17 September 2002

<sup>182</sup> *Independent on Sunday*, 4 August 2002

August that it would be prudent of the Prime Minister to obtain a fresh UN mandate to ensure the full backing of Parliament.

### **C. Views in the Middle East**

Prior to September 2002 there had been few public declarations of support among Arab governments for military action against Iraq. Several governments in the Gulf, including Saudi Arabia, had expressed misgivings about potential military action by the US to bring about regime change in Iraq, fearing it could lead to instability in the region and potentially threaten the stability of their own countries.

The debate over Iraq during 2002 has come at a time when relations between Washington and Saudi Arabia have deteriorated sharply. There is widespread popular resentment among Saudis at perceived American arrogance and bias in favour of Israel. In some instances this resentment has translated into support for al-Qaeda, although it is difficult to judge how widespread such sentiment is and the extent to which such support is purely rhetorical. Nonetheless, Saudi resentment at US policies has caused concern in the United States where many observers have noted the fact that many of the hijackers involved in the 11 September attacks were of Saudi origin.

The Saudi foreign minister hinted in mid-September that his country would allow the use of its bases, if military action was sanctioned by the UN Security Council. However, Riyadh seems opposed to a unilateral US strike without UN backing, a factor that has led Washington to investigate other basing options in the region.

It is suggested that some of the smaller Gulf states, such as Qatar and Kuwait, would allow the use of their bases for a US-led attack, although Saudi opposition may have an influence on their attitudes. Gordon, Indyk and O'Hanlon comment that Saudi support for US-led military action,

while not absolutely indispensable, would be enormously desirable on both political and military grounds. At a minimum, its quiescence would make it more comfortable for the other Gulf states to cooperate.<sup>183</sup>

There is concern in the region that military action against Iraq could exacerbate the conflict in Israel and the Palestinian territories. Several governments have warned of the potential for widespread unrest across the region, particularly in Jordan, unless progress is made in stemming the Israeli-Palestinian conflict and making progress towards a peace settlement.

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<sup>183</sup> Philip H Gordon, Martin Indyk and Michael E O'Hanlon, 'Getting serious about Iraq', *Survival*, Vol.44, No.3, Autumn 2002, pp.9-22, p.17

## D. Views in the European Union

### a. *EU Presidency, Commission and CFSP High Representative*

Anders Fogh Rasmussen, Prime Minister of Denmark and holder of the EU Presidency, addressed the UN General Assembly on 12 September 2002 on behalf of the European Union and emphasised that Iraq remained a major source of concern with regard to weapons of mass destruction. Mr Rasmussen expanded on his speech before the IAEA Board of Governors:

The situation in Iraq remains a major concern for the EU. We regret that recent talks with the Government of Iraq have not led to the resumption of IAEA inspections under the relevant Security Council resolutions. Three and a half years have now passed since the IAEA was last able to implement its mandate in Iraq. The Agency is therefore unable to provide any assurances regarding Iraqi compliance with its obligations. The EU underlines that, on return to Iraq, the Agency must in particular resolve the key issue of whether Iraq's nuclear activities and capabilities have changed since December 1998.

We strongly urge Iraq once again to implement in full all relevant Security Council resolutions, to co-operate fully and without any preconditions with the Agency and to provide immediate, unconditional and unrestricted access to enable the Agency to carry out its mandate.<sup>184</sup>

The EU External Affairs Commissioner, Chris Patten, spoke about the Iraq situation in an address to the European Parliament on 4 September 2002. He concluded that the international community should do two things:

- Continue to press for full Iraqi compliance with the UN resolutions.
- Recognise that efforts to force Iraqi compliance are more likely to succeed if they are backed by a coalition of concerned parties as broad and effective as that which was put together in 1991 with great diplomatic finesse.

On the issue of intervention, Mr Patten said:

We have to think constructively about what can and should justify intervention by the international community in the internal affairs of a sovereign state. We have to think equally constructively about whether the global rule book that has by and large governed our affairs for the last 50 years is still valid or whether it requires some changes, and how it can be refined and strengthened.

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<sup>184</sup> 12 September 2002, Danish Presidency website at:  
[http://www.eu2002.dk/news/news\\_read.asp?iInformationID=22248](http://www.eu2002.dk/news/news_read.asp?iInformationID=22248).

In a “Global Viewpoint” interview published in *New Perspectives Quarterly* a few days later, Mr Patten tackled the issue of anticipatory defence. He recalled that the Kosovo intervention was justified on human rights grounds, when a country was treating its own citizens ‘appallingly.’ He also discussed two other propositions:

1. that intervention should be justified where a particularly unpleasant regime is developing weapons of mass destruction;

Here, he pointed out that many countries have weapons of mass destruction but there was not always an intention to intervene against them because they do not threaten anyone. “So the context of the threat, and in particular the intent of the regime, make all the difference.”

2. the system of international law that justified military action only in response to an attack by another state, but not pre-emptively, is no longer relevant where a state is using or harboring non-state actors like Al Qaeda to attack another state.<sup>185</sup>

Asked whether the EU would be able to achieve a consensus on military intervention, Mr Patten admitted that it was “more difficult to have a common position on Iraq other than that the Security Council resolutions should be implemented.” He was also concerned that “no convincing evidence has been presented to associate Saddam Hussein with terrorist organizations” and was “unhappy about interweaving the arguments about international terrorism and the arguments for dealing with Saddam Hussein.” Mr Patten also thought that Europe would have to “invest more in its own security”, in order to be a “more credible partner and in some cases to be a counterweight” to the military power of the US.

The EU’s Common Foreign and Security Policy (CFSP) High Representative, Javier Solana, said in July 2002 that the removal of Saddam Hussein would be good for the region and the “key to deadlock in the Palestinian question.”<sup>186</sup> In an interview for the German *Bild am Sonntag* on 8 September 2002, however, he said that the EU opposed a preventive war and that a US-led strike bypassing the UN “could not be reconciled” with international law. Mr Solana said in an interview for the Spanish newspaper, *El País*:

We Europeans believe we should follow the road set out by the United Nations. Kofi Annan has a margin for negotiation, albeit not infinite. We must use it, as opening up the Iraqi front now would complicate the solution of other problems. [...] Others ... believe that finishing with Saddam would be the solution to all the problems of terrorism. But we believe it is better to resolve them one at a time.

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<sup>185</sup> *New Perspectives Quarterly*, Vol. 19 (3), summer 2002, interview with editor, Nathan Gardels, “Europe must have convincing evidence to join Iraq attack; dealing with terrorism should not be linked to dealing with Saddam,” at: [http://www.digitalnpq.org/global\\_services/global%20viewpoint/09-09-02.html](http://www.digitalnpq.org/global_services/global%20viewpoint/09-09-02.html).

<sup>186</sup> Iraq-European Union, Politics, *Arabic News.com*, 30 July 2002, also *La Republica*, 29 July 2002, at: <http://www.arabicnews.com/ansub/Daily/Day/020730/2002073010.html>.

An evaluation should also be made of the risk that eventual action would mean maintaining a military presence in a highly complex scenario for decades.<sup>187</sup>

**b. Individual Member States**

The German Government of Chancellor Gerhard Schröder (SPD) has been the main opponent of a pre-emptive strike against Iraq. Mr Schröder, who has been campaigning for a general election on 22 September, said that Germany would not support a pre-emptive strike, with or without the backing of the UN Security Council. Under his leadership Germany would not participate in an intervention in Iraq and would withdraw the use of specialist *Fuchs*-tanks for detecting chemical and biological weapons (presently stationed in Kuwait). The German Foreign Minister, Joschka Fischer (Greens), has been still more outspoken against intervention.

The SPD general secretary, Franz Müntefering, insisted not only that Germany would never take part in an invasion of Iraq as long as the SPD remained in power but that Germany would not support such a campaign financially, as it did under former Chancellor Helmut Kohl in the 1991 Gulf War.<sup>188</sup>

The CDU Opposition candidate for the leadership, Edmund Stoiber, at first called Gerhard Schröder's criticism of the US 'dangerous', but more recently he has been unclear about his party's position on any US-led action.

German constitutional experts have raised questions about whether Germany could prevent the United States from using its airbases, the conditions for which are set out in the 1954 stationing agreement. According to this treaty American troops were there to respond to the then "present situation and the need to assure the defence of the free world". At the time this related to Article 5 of the 1949 NATO Treaty and the defence of Germany as a NATO member against an aggressor invading its territory.

There has been some criticism of the Chancellor's possible motives for non-participation. Whether or not playing the 'Iraqi card' is primarily a vote winner (given the wide scale public opposition to German involvement in any attack), Gerhard Schröder's opposition to an attack on Iraq was in fact voiced some time ago. The Chancellor has countered accusations that his opposition is no more than a cynical ploy to gain votes by insisting that it is "valid before the election and will remain so after the election."<sup>189</sup> Some commentators believe that if returned to office, he would reconsider German opposition. There is already some indication of a weakening in the German Government's stance, as the SPD's foreign policy spokesman, Gernot Erler, has said that if the UN endorsed a

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<sup>187</sup> *El País*, reproduced in translation in *Atlantic News*, No. 3411, 11 September 2002.

<sup>188</sup> *Frankfurter Allgemeine Zeitung* (English version on-line) at: <http://www.faz.com/IN/INtemplates/eFAZ/docmain.asp?rub={B1311FCC-FBFB-11D2-B228-00105A9CAF88}&doc={CBA6A3A3-B026-46C3-B66C-BEB972EC5281}>.

<sup>189</sup> *Stern*, 12 September 2002.

military presence to ensure the return of weapons inspectors to Iraq, German forces would take part.<sup>190</sup>

The French Government has been wary of publicly endorsing an attack that could damage France's considerable business interests in Iraq. President Chirac would like to see two UN Security Council Resolutions: one demanding the return of UN weapons inspectors to Iraq and another to set out a course of action, possibly military action, if the inspectors are prevented from completing their work. In an interview for the *New York Times*,<sup>191</sup> Mr Chirac made a number of points:

- He condemned the Iraqi regime but wanted proof, which he had not yet seen, of its production of WMD.
- He condemned unilateralism. If military action proved necessary, it should be the responsibility of the international community, backed by a UN SC Resolution.
- UN weapons inspectors should be allowed to return without conditions within two or three weeks. If Iraq agreed to this, then no action should be taken. If it did not, then the Security Council should set out, in a second Resolution, the future course of action, including the possibility of military action.
- France's position was different to Germany's on this issue, as France was a permanent member of the Security Council. French action would depend on the nature of the second SC Resolution, which it would help draft.
- He was very worried about the consequences that intervention would have on the international coalition against terrorism, which could break down.
- The present issue was whether or not Saddam Hussein had weapons of mass destruction. Neither the UN SC nor the international community should be aiming to change the Iraqi regime.
- On the principle of non-interference with the domestic affairs of other states (Treaty of Westphalia of 1648), he drew a distinction between non-intervention, which was unacceptable, and non-interference, which could be justified today. The latter could include the sending of weapons inspectors.

The Defence Minister, Michèle Alliot-Marie, has suggested that in the event of French participation in a US-led attack, the aircraft carrier, Charles de Gaulle, could be made available at any time.<sup>192</sup>

The Spanish Prime Minister, José María Aznar, has said that Spain would support a US-led attack on Iraq if Saddam Hussein refused to allow arms inspections, and that a new UN Resolution supporting military action against Iraq would be preferable but not necessary. Mr Aznar (*Partido Popular*) supported the US after the attacks of 11 September and offered the use of its air bases for strikes in response (the US in fact did

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<sup>190</sup> *Independent*, 9 September 2002.

<sup>191</sup> 9 September 2002, French President's website at: [http://www.elysee.fr/ang/disc/disc\\_.htm](http://www.elysee.fr/ang/disc/disc_.htm).

<sup>192</sup> *Financial Times*, 11 September 2002.



not make use of Spanish bases for the action in Afghanistan). The Government would prefer the diplomatic route to be exhausted before any consideration of a military option,<sup>193</sup> but Mr Aznar told the Spanish Congress of Deputies on 11 September that Spain would ‘always’ support the US in its fight against terrorism, including an attack against Iraq, because of the regime’s covert terrorism and attempts to acquire weapons of mass destruction.<sup>194</sup>

The leader of the main opposition party, José Luis Rodríguez Zapatero (PSOE), is opposed to military intervention “because it is not the time for war, but for dialogue”.<sup>195</sup> The other main opposition parties, the IU (United Left) and the CiU (Convergence and Union), are also against military action, marking the first time since Spain’s return to democracy that the opposition parties have not supported the Government over an international crisis such as this.<sup>196</sup>

The Italian Prime Minister, Silvio Berlusconi, has pledged to support the US in any action it takes against Iraq if diplomatic pressure fails to bring about the readmission of UN weapons inspectors. In a letter published in the Italian newspaper, *Il Foglio*, on 11 September Mr Berlusconi wrote:

Either things change, or it is necessary to act determinedly, using all diplomatic and political means possible, and without excluding the option of military force, to reinforce global security against a verifiable threat”.<sup>197</sup>

The Defence Minister, Antonio Martino, has said that Italy would allow the use of its airspace in a US-led attack, but that Italy would only send troops if there were proof that the Iraqi regime was making nuclear weapons.<sup>198</sup>

### **c. European and US Public Opinion Polls**

On 4 September the BBC reported on an opinion poll of 9,000 people carried out in June 2002 in the US and in six European countries<sup>199</sup>, which suggested that most people would support a military attack on Iraq if carried out as a joint allied action with UN approval<sup>200</sup>. The poll found 60% of Europeans and 65% of Americans in favour of military action<sup>201</sup>. The French were the most critical towards the US, with 63% saying it was partly to blame for creating the conditions that led to the terrorist attacks of 11 September.

<sup>193</sup> *El País*, 11 September 2002..

<sup>194</sup> *El País*, 12 September 2002.

<sup>195</sup> Zapatero, quoted in *El País*, 11 September 2002.

<sup>196</sup> *El País*, 12 September 2002

<sup>197</sup> *The Washington Times*, 12 September 2002.

<sup>198</sup> *Associated Press*, 10 September 2002.

<sup>199</sup> UK, France, Germany, Italy, the Netherlands and Poland

<sup>200</sup> <http://news.bbc.co.uk/1/low/world/europe/2235092.stm>.

<sup>201</sup> 6,001 Europeans and 3,262 Americans were interviewed.

A *Newsweek* poll, conducted after the patriotic commemoration of the September 11<sup>th</sup> anniversary and President Bush's speech at the UN, found that 66 percent of Americans supported military action against Iraq, compared with 62 per cent in the previous month. The President's personal approval rating also rose to 70 per cent, its highest since June.<sup>202</sup>

A CNN/USA Today /Gallup poll, conducted on 13-16 September, showed that Americans strongly support the President's call for UN action on Iraq. While a majority (57 per cent) generally supports the use of American ground troops to remove Saddam Hussein from power, support levels would drop if the UN took a clear stance against such action (37 per cent). With UN support, however, the approval for use of US ground troops rises to over 80 per cent. The President's job approval rating rose from 66 per cent in early September to 70 per cent.

In the UK, an ICM poll, published on 17 September, showed that the British public's opposition to military action had fallen sharply over the last three weeks, perhaps as a result of the UK and USA's willingness to seek UN backing for their action and a concerted campaign to highlight Iraq's attempts to develop weapons of mass destruction.<sup>203</sup>

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<sup>202</sup> *Daily Telegraph*, 16 September 2002

<sup>203</sup> *Daily Telegraph*, 18 September 2002

## **Appendix 1 – UN Security Council Resolution 660 (1990)**

### **Security Council Resolution 660 (1990)**

**S/RES/660 (1990)**

**2 August 1990**

Adopted by the Security Council at its 2932nd meeting, on 2 August 1990  
The Security Council,

*Alarmed* by the invasion of Kuwait on 2 August 1990 by the military forces of Iraq,

*Determining* that there exists a breach of international peace and security as regards the Iraqi invasion of Kuwait,

*Acting* under Articles 39 and 40 of the Charter of the United Nations,

1. *Condemns* the Iraqi invasion of Kuwait;
2. *Demands* that Iraq withdraw immediately and unconditionally all its forces to the positions in which they were located on 1 August 1990;
3. *Calls upon* Iraq and Kuwait to begin immediately intensive negotiations for the resolution of their differences and supports all efforts in this regard, and especially those of the League of Arab States;
4. *Decides* to meet again as necessary to consider further steps with to ensure compliance with the present resolution.

## **Appendix 2 – UN Security Council Resolution 678 (1990)**

### **Resolution 678 (1990)**

**S/RES/678 (1990)**

**29 November 1990**

Adopted by the Security Council at its 2963rd meeting  
on 29 November 1990

The Security Council,

Recalling, and reaffirming its resolutions 660 (1990) of 2 August (1990), 661 (1990) of 6 August 1990, 662 (1990) of 9 August 1990, 664 (1990) of 18 August 1990, 665 (1990) of 25 August 1990, 666 (1990) of 13 September 1990, 667 (1990) of 16 September 1990, 669 (1990) of 24 September 1990, 670 (1990) of 25 September 1990, 674 (1990) of 29 October 1990 and 677 (1990) of 28 November 1990.

Noting that, despite all efforts by the United Nations, Iraq refuses to comply with its obligation to implement resolution 660 (1990) and the above-mentioned subsequent relevant resolutions, in flagrant contempt of the Security Council,

Mindful of its duties and responsibilities under the Charter of the United Nations for the maintenance and preservation of international peace and security,

Determined to secure full compliance with its decisions,

Acting under Chapter VII of the Charter,

1. Demands that Iraq comply fully with resolution 660 (1990) and all subsequent relevant resolutions, and decides, while maintaining all its decisions, to allow Iraq one final opportunity, as a pause of goodwill, to do so;
2. Authorises Member States co-operating with the Government of Kuwait, unless Iraq on or before 15 January 1991 fully implements, an set forth in paragraph 1 above, the foregoing resolutions, to use all necessary means to uphold and implement resolution 660 (1990) and all subsequent relevant resolutions and to restore international peace and security in the area;
3. Requests all States to provide appropriate support for the actions undertaken in pursuance of paragraph 2 of the present resolution;
4. Requests the States concerned to keep the Security Council regularly informed on the progress of actions undertaken pursuant to paragraphs 2 and 3 of the present resolution:

Decides to remain seized of the matter.

### **Appendix 3 – UN Security Council Resolution 687 (1991)**

Resolution 687, 3 April 1991

*Adopted at the 2981st meeting by 12 votes in favour, 1 against (Cuba), Yemen, and Ecuador abstaining.*

*The Security Council,*

*Recalling* its resolutions 660 (1990), 661 (1990), 662 (1990), 664 (1990), 665 (1990), 666 (1990), 667 (1990), 669 (1990), 670 (1990), 674 (1990), 677 (1990), 678 (1990) and 686 (1991),

*Welcoming* the restoration to Kuwait of its sovereignty, independence, and territorial integrity and the return of its legitimate government,

*Affirming* the commitment of all Member States to the sovereignty, territorial integrity and political independence of Kuwait and Iraq, and noting the intention expressed by the Member States co-operating with Kuwait under paragraph 2 of resolution 678 (1990) to bring their military presence in Iraq to an end as soon as possible consistent with paragraph 8 of resolution 686 (1991),

*Reaffirming* the need to be assured of Iraq's peaceful intentions in light of its unlawful invasion and occupation of Kuwait,

*Taking note* of the letter sent by the Foreign Minister of Iraq on 27 February 1991 (S/22275) and those sent pursuant to resolution 686 (1991) (S/22273, S/22276, S/22320, S/22321 and S/22330),

*Noting* that Iraq and Kuwait, as independent sovereign States, signed at Baghdad on 4 October 1963 'Agreed Minutes Regarding the Restoration of Friendly Relations, Recognition and Related Matters', thereby recognising formally the boundary between Iraq and Kuwait and the allocation of islands, which were registered with the United Nations in accordance with Article 102, of the Charter and in which Iraq recognised the independence and complete sovereignty of the State of Kuwait within its borders as specified and accepted in the letter of the Prime Minister of Iraq dated 21 July 1932, and as accepted by the Ruler of Kuwait in his letter dated 10 August 1932,

*Conscious* of the need for demarcation of the said boundary,

*Conscious also* of the statements by Iraq threatening to use weapons in violation of its obligations under the Geneva Protocol for the Prohibition of the Use in War of Asphyxiating, Poisonous or Other Gases, and of Bacteriological Methods of Warfare, signed at Geneva on 17 June 1925, and of its prior use of chemical Weapons and that grave consequences would follow any further use by Iraq of such weapons,

*Recalling* that Iraq has subscribed to the Declaration adopted by all States participating in the Conference of States Parties to the 1925 Geneva Protocol and Other Interested States, held at Paris from 7 to 11 January 1989, establishing the objective of universal elimination of chemical and biological weapons,

*Recalling further* that Iraq has signed the Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on Their Destruction, of 10 April 1972,

*Noting* the importance of Iraq ratifying this Convention,

*Noting moreover* the importance of all States adhering to this Convention and encouraging its forthcoming Review Conference to reinforce the authority, efficiency and universal scope of the convention,

*Stress the importance* of an early conclusion by the Conference on Disarmament of its work on a Convention on the Universal Prohibition of Chemical Weapons and of universal adherence thereto,

*Aware* of the use by Iraq of ballistic missiles in unprovoked attacks and therefore of the need to take specific measures in regard to such missiles located in Iraq,

*Concerned* by the reports in the hands of Member States that Iraq has attempted to acquire materials for a nuclear-weapons programme contrary to its obligations under the Treaty on the Non-Proliferation of Nuclear Weapons of 1 July 1968,

*Recalling* the objective of the establishment of a nuclear-weapons-free zone in the region of the Middle East,

*Conscious* of the threat which all weapons of mass destruction pose to peace and security in the area and of the need to work towards the establishment in the Middle East of a zone free of such weapons,

*Conscious also* of the objective of achieving balanced and comprehensive control of armaments in the region,

*Conscious further* of the importance of achieving the objectives noted above using all available means, including a dialogue among the States of the region,

*Noting* that resolution 686 (1991) marked the lifting of the measures imposed by resolution 661 (1990) in so far as they applied to Kuwait,

*Noting* that despite the progress being made in fulfilling the obligations of resolution 686 (1991), many Kuwaiti and third country nationals are still not accounted for and property remains unreturned,

*Recalling* the International Convention against the Taking of Hostages, opened for signature at New York on 18 December 1979, which categorises all acts of taking hostages as manifestations of international terrorism,

*Deploring* threats made by Iraq during the recent conflict to make use of terrorism against targets outside Iraq and the taking of hostages by Iraq,

*Taking note* with grave concern of *the reports of* the Secretary-General of 20 March 1991 (S/22366) and 28 March 1991 (S/22409), and conscious of the necessity to meet urgently the humanitarian needs in Kuwait and Iraq,

*Bearing in mind* its objective of restoring International peace and security in the area as set out In recent Council resolutions,

*Conscious* of the need to take the following measures acting under Chapter VII of the Charter.

1. Affirms all thirteen resolutions noted above, except as expressly changed below to achieve the goals of this resolution, including a formal cease-fire;

A

2. *Demands* that Iraq and Kuwait respect the inviolability of the international boundary and the allocation of islands set out in the “Agreed Minutes Between the State of Kuwait and the Republic of Iraq Regarding the Restoration of Friendly Relations, Recognition and Related Matters”, signed by them in the exercise of their sovereignty at Baghdad on 4 October 1963 and registered with the United Nations and published by the United Nations in document 7063, United Nations Treaty Series, 1964;

3. *Calls on* the Secretary-General to lend his assistance to make arrangements with Iraq and Kuwait, to demarcate the boundary between Iraq and Kuwait, drawing on appropriate material including the map transmitted by Security Council document S/22412 and to report back to the Security Council within one month;

4. *Decides* to guarantee the inviolability of the above-mentioned international boundary and to take as appropriate all necessary measures to that end in accordance with the Charter;

B

5. *Requests* the Secretary-General, after consulting with Iraq and Kuwait, to submit within three days to the Security Council for its approval a plan for the immediate deployment of a United Nations observer unit to monitor the Khor Abdullah and a demilitarised zone, which is hereby established, extending 10 kilometres into Iraq and 5 kilometres into Kuwait from the boundary referred to in the ‘Agreed Minutes

Between the State of Kuwait and the Republic of Iraq Regarding the Restoration of Friendly Relations, Recognition and Related Matters’ of 4 October 1963; to deter violations of the boundary through its presence in and surveillance of the demilitarised zone; to observe any hostile or potentially hostile action mounted from the territory of one State to the other; and for the Secretary-General to report regularly to the Council on the operations of the unit, and immediately if there are serious violations of the zone or potential threats to peace;

6. *Notes* that as soon as the Secretary-General notifies the Council of the completion of the deployment of the United Nations observer unit, the conditions will be established for the Member States co-operating with Kuwait in accordance with resolution 678 (1990) to bring their military presence in Iraq to an end consistent with resolution 686 (1991);

C

7. *Invites* Iraq to reaffirm unconditionally its obligations under the Geneva Protocol for the Prohibition of the Use in, War of Asphyxiating, Poisonous or Other Gases, and of Bacteriological

Methods of Warfare, signed at Geneva on 17 June 1925, and to ratify the Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on their Destruction, of 10 April 1972;

8. *Decides* that Iraq shall unconditionally accept the destruction, removal, or rendering harmless, under international supervision, of.

- (a) all chemical and biological weapons and all stocks of agents and all related subsystems and components and all h, development, support and manufacturing facilities;
- (b) all ballistic missiles with a range greater than 150 kilometres and related major parts, and repair and production facilities;

9. *Decides*, for die implementation of paragraph 8 above, the following:

- (a) Iraq shall submit to the Secretary-General, within fifteen days of the adoption of this resolution, a declaration of the locations, amounts and types of all items specified in paragraph 8 and agree to urgent, on-site inspection as specified below;
- (b) the General, in consultation with the appropriate Governments and, where appropriate, with the Director-General of the World Health Organisation (WHO), within 45 days of the passage of this resolution, shall develop, and submit to the Council for approval, a plan calling for the completion of the following acts within 45 days of such approval:

- (i) the forming of a Special Commission, which shall carry out immediate on-site inspection of Iraq's biological, chemical and missile capabilities, based on Iraq's declarations and the designation of any additional locations by the Special Commission itself, the yielding by Iraq of possession to the Special Commission for destruction, removal or rendering harmless, taking into account the requirements of public safety, of all items specified under paragraph 8 (a) above including items at the additional locations designated by the Special Commission under paragraph 9 (b) (i) above and the destruction by Iraq, under supervision of the Special Commission, of all its missile capabilities including launchers as specified under paragraph 8 (b) above;
- the provision by the Special Commission of the assistance and co-operation to the Director-General of the International Atomic Energy Agency (IAEA) required in paragraphs 12 and 13 below;

10. *Decides* that Iraq shall unconditionally undertake not to use, develop, construct or acquire any of the items specified in paragraphs 8 and 9 above and requests the Secretary-General, in consultation with the Special Commission, to develop a plan for the future ongoing monitoring and verification of Iraq's compliance with this paragraph, to be submitted to the Council for approval within 120 days of the passage of this resolution;

11. *Invites* Iraq to reaffirm unconditionally its obligations under the Treaty on the Non-Proliferation of Nuclear Weapons, of 1 July 1968;

12. *Decides* that Iraq shall unconditionally agree not to, acquire or develop nuclear weapons or nuclear-weapons-usable material or any subsystems or components or any research, development, support or manufacturing facilities related to the above; to submit to the Secretary-General and the Director-General of the International Atomic Energy Agency (IAEA) within 15 days of the adoption of this resolution a declaration of the locations, amounts, and types of all items specified above, to place all of its nuclear-weapons-usable materials under the exclusive



control, for custody and removal, of the IAEA, with the assistance and co-operation of the Special Commission as provided for in the plan of the Secretary-General discussed in paragraph 9 (b) above; to accept, in accordance with the arrangements provided for in paragraph 13 below, urgent on-site inspection and the destruction, removal, or rendering harmless as appropriate of all items specified above; and to accept the plan discussed in paragraph 13 below for the future ongoing monitoring and verification of its compliance with these undertakings;

13. *Requests* the Director-General of the International Atomic Energy Agency (IAEA) through the Secretary-General, with the assistance and co-operation of the Special Commission as provided for in the plan of the Secretary-General in paragraph 9 (b) above, to carry out immediate onsite inspection of Iraq's nuclear capabilities based on Iraq's declarations and the designation of any additional locations by the Special Commission; to develop a plan for submission to the Security Council within 45 days calling for the destruction, removal, or rendering harmless as appropriate of all items listed in paragraph 12 above; to carry out the plan within 45 days following approval by the Security Council; and to develop a plan, taking into account the rights and obligations of Iraq under the Treaty on the Non-Proliferation of Nuclear Weapons, of 1 July 1968, for the future ongoing, monitoring and verification of Iraq's compliance with paragraph 12 above, including an inventory of all nuclear material in Iraq subject to the Agency's verification and inspections to confirm that IAEA safeguards cover all relevant nuclear activities in Iraq, to be submitted to the Council for approval within 120 days of the passage of this resolution;

14. *Takes note* that the actions to be taken by Iraq in paragraphs 8, 9, 10, 11, 12 and 13 of this resolution represent steps towards the goal of establishing in the Middle East a zone free from weapons of mass destruction and all missiles for their delivery and the objective of a global ban on chemical weapons;

#### D

15. *Requests* the Secretary-General to report to the Security Council on the steps taken to facilitate the return of all Kuwaiti property seized by Iraq, including a list of any property which Kuwait claims has not been returned or which has not been returned intact;

#### E

16. *Reaffirms* that Iraq, without prejudice to the debts and obligations of Iraq arising prior to 2 August 1990, which will be addressed through the normal mechanisms, is liable under international law for any direct loss, damage, including environmental damage and the depletion of natural resources, or injury to foreign Government nationals and corporations, as a result of Iraq's unlawful invasion and occupation of Kuwait;

17. *Decides* that all Iraqi statements made since 2 August 1990, repudiating its foreign debt, are null and void, and demands that Iraq scrupulously adhere to all of its obligations concerning servicing and repayment of its foreign debt;

18. *Decides* to create a Fund to pay compensation for claims that fall within paragraph 16 above and to establish a Commission that will administer the Fund;

19. *Directs* the Secretary-General to develop and present to the Council for decision, no later than 30 days following the adoption of this resolution, recommendations for the Fund to meet the requirement for the payment of claims established in accordance with paragraph 18 above and for

a programme to implement the decisions in paragraphs 16, 17, and 18 above, including: administration of the Fund; mechanisms for determining the appropriate level of Iraq's contribution to the Fund based on a percentage of the value of the exports of petroleum and petroleum products from Iraq not to exceed a figure to be suggested to the Council by the Secretary-General, taking into account the requirements of the people of Iraq, Iraq's payment capacity as assessed in conjunction with the international financial institutions taking into consideration external debt service, and the needs of the Iraqi economy; arrangements for ensuring that payments are made to the Fund, the process by which funds will be allocated and claims paid; appropriate procedures for evaluating losses, listing claims and verifying their validity and resolving disputed claims in respect of Iraq's liability as specified in paragraph 16 above; and the composition of the Commission designated above;

F

20. *Decides*, effective immediately, that the prohibitions against the sale or supply to Iraq of commodities or products, other than medicine and health supplies, and prohibitions against financial transactions related thereto, contained in resolution 661 (1990) shall not apply to foodstuffs notified to the Committee established by resolution 661 (1990) or, with the approval of that Committee, under the simplified and accelerated 'no-objection' procedure, to materials and supplies for essential civilian needs as identified in the report of the Secretary-General dated 20 March 1991 (S/22366), and in any further findings of humanitarian need by the Committee;

21. *Decides* that the Council shall review the provisions of paragraph 20 above every sixty days in light of the policies and practices of the Government of Iraq, including the implementation of all relevant resolutions of the Security Council, for the purpose of determining whether to reduce or lift the prohibitions referred to therein;

22. *Decides* that upon the approval by the Council of the programme called for in paragraph 19 above and upon Council agreement that Iraq has completed all actions contemplated in paragraphs 8, 9, 10, 11, 12, and 13 above, the prohibitions against the import of commodities and products originating in Iraq and the prohibitions against social transactions related thereto contained in resolution 661 (1990) shall have no further force or effect;

23. *Decides* that, pending action by the Council under paragraph 22 above, the Committee established by resolution 661 (1990) shall be empowered to approve, when required to assure adequate financial resources on the part of Iraq to carry out the activities under paragraph 20 above, exceptions to the prohibition against the import of commodities and products originating in Iraq;

24. *Decides* that, in accordance with resolution 661 (1990) and subsequent related resolutions and until a further decision is taken by the Council, all States shall continue to prevent the sale or supply, or promotion or facilitation of such sale or supply, to Iraq by their nationals, or from their territories or using their flag vessels or aircraft, of:

- (a) arms and related *materiel* of all types, specifically including the sale or transfer through other means of all forms of conventional military equipment, including for paramilitary forces, and spare parts and components and their means of production, for such equipment;
- (b) items specified and defined in paragraph 8 and paragraph 12 above not otherwise covered above;
- (c) technology under licensing or other transfer arrangements used in the production, utilisation or stockpiling of items specified in subparagraphs (a) and (b) above;

(d) personnel or materials for training or technical support services relating to the design, development, manufacture, use, maintenance or support of items specified in subparagraphs (a) and (b) above;

25. *Calls upon* all States and international organisations to act strictly in accordance with paragraph 24 above, notwithstanding the existence of any contracts, agreements, licences, or any other arrangements;

26. *Requests* the Secretary-General, in consultation with appropriate Governments, to develop within 60 days, for approval of the Council, guidelines to facilitate full international implementation of paragraphs 24 and 25 above and paragraph 27 below, and to make them available to all States and to establish a procedure for updating these guidelines periodically;

27. *Calls upon* all States to maintain such national controls and procedures and to take such other actions consistent with the guidelines to be established by the Security Council under paragraph 26 above as may be necessary to ensure compliance with the terms of paragraph 24 above, and calls upon international organisations to take all appropriate steps to assist in ensuring such full compliance;

28. *Agrees* to review its decisions in paragraphs 22, 23, 24, and 25 above, except for the items specified and defined in paragraphs 8 and 12 above, on a regular basis and in any case 120 days following passage of this resolution, taking into account Iraq's compliance with this resolution and general progress towards the control of armaments in the region;

29. *Decides* that all States, including Iraq, shall take the necessary measures to ensure that no claim shall lie at the instance of the Government of Iraq, or of any person or body in Iraq, or of any person claiming through or for the benefit of any such person or body, in connection with any contract or other transaction where its performance was affected by reason of the measures taken by the Security Council in resolution 661 (1990) and related resolutions;

## G

30. *Decides* that, in furtherance of its commitment to facilitate the repatriation of all Kuwaiti and third country nationals, Iraq shall extend all necessary co-operation to the International Committee of the Red Cross, providing be of such persons, facilitating the access of the International Committee of the Red Cross to all such persons wherever located or detained and facilitating the search by the International Committee of the Red Cross for those Kuwaiti and third country nationals still unaccounted for;

31. *Invites* the International Committee of the Red Cross to keep the Secretary-General apprised as appropriate of all activities undertaken in connection with facilitating the repatriation or return of all Kuwaiti and third country nationals or their remains present in UN on or after 2 August 1990;

## H

32. *Requires* Iraq to inform the Council that it will not commit or support any act of international terrorism or allow any organisation directed towards commission of such acts to operate within its territory and to condemn unequivocally and renounce all acts, methods, and practices of terrorism;

33. *Declares* that, upon official notification by Iraq to the Secretary-General and to the Security Council of its acceptance of the provisions above, a formal cease-fire is effective between Iraq and Kuwait and the Member States co-operating with Kuwait in accordance with resolution 678 (1990);

34. *Decides* to remain seized of the matter and to take such further steps as may be required for the implementation of this resolution aid to secure peace and security in the area.

## Appendix 4 – UN Security Council Resolution 707 (1991)

### Resolution 707 (1991)

S/RES/707 (1991)

15 August 1991

Adopted by the Security Council at its 3004th meeting  
on 15 August 1991

The Security Council,

Recalling its resolution 687 (1991), and its other resolutions on this matter,

Recalling the letter of 11 April 1991 from the President of the Security Council to the Permanent Representative of Iraq to the United Nations (S/22485) noting that on the basis of Iraq's written agreement (S/22456) to implement fully resolution 687 (1991) the preconditions established in paragraph 33 of that resolution for a cease-fire had been met,

Noting with grave concern the letters dated 26 June 1991 (S/22739), 28 June 1991 (S/22743) and 4 July 1991 (S/22761) from the Secretary-General, conveying information obtained from the Executive Chairman of the Special Commission and the Director-General of the IAEA which establishes Iraq's failure to comply with its obligations under resolution 687 (1991),

Recalling further the statement issued by the President of the Security Council on 28 June 1991 (S/22746) requesting that a high-level mission consisting of the Chairman of the Special Commission, the Director-General of the IAEA, and the Under-Secretary-General for Disarmament Affairs be dispatched to meet with officials at the highest levels of the Government of Iraq at the earliest opportunity to obtain written assurance that Iraq will fully and immediately cooperate in the inspection of the locations identified by the Special Commission and present for immediate inspection any of those items that may have been transported from those locations,

Dismayed by the report of the high-level mission to the Secretary-General (S/22761) on the results of its meetings with the highest levels of the Iraqi Government,

Gravely concerned by the information provided to the Council by the Special Commission and the IAEA on 15 July 1991 (S/22788) and 25 July 1991 (S/22837) regarding the actions of the Government of Iraq in flagrant violation of resolution 687 (1991),

Gravely concerned also by the evidence in the letter of 7 July 1991 from the Minister of Foreign Affairs of Iraq to the Secretary-General and in subsequent statements and findings that Iraq's notifications of 18 and 28 April were incomplete and that it had concealed activities, which both constituted material breaches of its obligations under resolution 687 (1991),

Noting also from the letters dated 26 June 1991 (S/22739), 28 June 1991 (S/22743) and 4 July 1991 (S/22761) from the Secretary-General that Iraq has not fully complied with all of its undertakings relating to the privileges, immunities and facilities to be accorded to the Special Commission and the IAEA inspection teams mandated under resolution 687 (1991),

Affirming that in order for the Special Commission to carry out its mandate under paragraph 9 (b) (i), (ii) and (iii) of resolution 687 (1991) to inspect Iraq's chemical and biological weapons and ballistic missile capabilities and to take possession of them for destruction, removal or rendering harmless, full disclosure on the part of Iraq as required in paragraph 9 (a) of resolution 687 (1991) is essential,

Affirming that in order for the IAEA with the assistance and cooperation of the Special Commission, to determine what nuclear-weapons-usable material or any subsystems or components or any research, development, support or manufacturing facilities related to them need, in accordance with paragraph 13 of resolution 687 (1991), to be destroyed, removed or rendered harmless, Iraq is required to make a declaration of all its nuclear programmes including any which it claims are for purposes not related to nuclear-weapons-usable material,

Affirming that the aforementioned failures of Iraq to act in strict conformity with its obligations under resolution 687 (1991) constitutes a material breach of its acceptance of the relevant provisions of resolution 687 (1991) which established a cease-fire and provided the conditions essential to the restoration of peace and security in the region,

Affirming further that Iraq's failure to comply with its safeguards agreement with the International Atomic Energy Agency, concluded pursuant to the Treaty on the Non-Proliferation of Nuclear Weapons of 1 July 1968, as established by the resolution of the Board of Governors of the IAEA of 18 July 1991 (GOV/2531), constitutes a breach of its international obligations,

Determined to ensure full compliance with resolution 687 (1991) and in particular its section C,

Acting under Chapter VII of the Charter,

1. Condemns Iraq's serious violation of a number of its obligations under section C of resolution 687 (1991) and of its undertakings to cooperate with the Special Commission and the IAEA, which constitutes a material breach of the relevant provisions of resolution 687 which established a cease-fire and provided the conditions essential to the restoration of peace and security in the region,
2. Further condemns non-compliance by the Government of Iraq with its obligations under its safeguards agreement with the International Atomic Energy Agency, as established by the resolution of the Board of Governors of 18 July, which constitutes a violation of its commitments as a party to the Treaty on the Non-Proliferation of Nuclear Weapons of 1 July 1968,
3. Demands that Iraq
  - (i) provide full, final and complete disclosure, as required by resolution 687 (1991), of all aspects of its programmes to develop weapons of mass destruction and ballistic missiles with a range greater than 150 kilometres, and of all holdings of such weapons, their components and production facilities and locations, as well as all other nuclear programmes, including any which it claims are for purposes not related to nuclear-weapons-usable material, without further delay,

- (ii) allow the Special Commission, the IAEA and their Inspection Teams immediate, unconditional and unrestricted access to any and all areas, facilities, equipment, records and means of transportation which they wish to inspect,
  - (iii) cease immediately any attempt to conceal, or any movement or destruction of any material or equipment relating to its nuclear, chemical or biological weapons or ballistic missile programmes, or material or equipment relating to its other nuclear activities without notification to and prior consent of the Special Commission,
  - (iv) make available immediately to the Special Commission, the IAEA and their Inspection Teams any items to which they were previously denied access,
  - (v) allow the Special Commission, the IAEA and their Inspection Teams to conduct both fixed wing and helicopter flights throughout Iraq for all relevant purposes including inspection, surveillance, aerial surveys, transportation and logistics without interference of any kind and upon such terms and conditions as may be determined by the Special Commission, and to make full use of their own aircraft and such airfields in Iraq as they may determine are most appropriate for the work of the Commission,
  - (vi) halt all nuclear activities of any kind, except for use of isotopes for medical, agricultural or industrial purposes until the Security Council determines that Iraq is in full compliance with this resolution and paragraphs 12 and 13 of resolution 687 (1991), and the IAEA determines that Iraq is in full compliance with its safeguards agreement with that Agency,
  - (vii) ensure the complete implementation of the privileges, immunities and facilities of the representatives of the Special Commission and the IAEA in accordance with its previous undertakings and their complete safety and freedom of movement,
  - (viii) immediately provide or facilitate the provision of any transportation, medical or logistical support requested by the Special Commission, the IAEA and their Inspection Teams,
  - (ix) respond fully, completely and promptly to any questions or requests from the Special Commission, the IAEA and their Inspection Teams,
4. Determines that Iraq retains no ownership interest in items to be destroyed, removed or rendered harmless pursuant to paragraph 12 of resolution 687 (1991),
  5. Requires that the Government of Iraq forthwith comply fully and without delay with all its international obligations, including those set out in the present resolution, in resolution 687 (1991), in the Treaty on the Non-Proliferation of Nuclear Weapons of 1 July 1968 and its safeguards agreement with the IAEA.
  6. Decides to remain seized of this matter. .

## **Appendix 5 – UN Security Council Resolution 1205 (1998)**

### **UNITED NATIONS**

**5 November 1998**

**Resolution 1205 (1998)**

Adopted by the Security Council at its 3939th meeting,  
on 5 November 1998

The Security Council,

Recalling all its previous relevant resolutions on the situation in Iraq, in particular its resolution 1154 (1998) of 2 March 1998 and 1194 (1998) of 9 September 1998,

Noting with alarm the decision of Iraq on 31 October 1998 to cease cooperation with the United Nations Special Commission, and its continued restrictions on the work of the International Atomic Energy Agency (IAEA),

Noting the letters from the Deputy Executive Chairman of the Special Commission of 31 October 1998 (S/1998/1023) and from the Executive Chairman of the Special Commission of 2 November 1998 (S/1998/1032) to the President of the Security Council, which reported to the Council the decision by Iraq and described the implications of that decision for the work of the Special Commission, and noting also the letter from the Director General of the IAEA of 3 November 1998 (S/1998/1033, annex) which described the implications of the decision for the work of the IAEA,

Determined to ensure immediate and full compliance by Iraq without conditions or restrictions with its obligations under resolution 687 (1991) of 3 April 1991 and the other relevant resolutions,

Recalling that the effective operation of the Special Commission and the IAEA is essential for the implementation of resolution 687 (1991),

Reaffirming its readiness to consider, in a comprehensive review, Iraq's compliance with its obligations under all relevant resolutions once Iraq has rescinded its above-mentioned decision and its decision of 5 August 1998 and demonstrated that it is prepared to fulfil all its obligations, including in particular on disarmament issues, by resuming full cooperation with the Special Commission and the IAEA consistent with the Memorandum of Understanding signed by the Deputy Prime Minister of Iraq and the Secretary-General on 23 February 1998 (S/1998/166), endorsed by the Council in resolution 1154 (1998),

Reiterating the commitment of all Member States to the sovereignty, territorial integrity and political independence of Kuwait and Iraq,

Acting under Chapter VII of the Charter of the United Nations,

1. Condemns the decision by Iraq of 31 October 1998 to cease cooperation with the Special Commission as a flagrant violation of resolution 687 (1991) and other relevant resolutions;



2. Demands that Iraq rescind immediately and unconditionally the decision of 31 October 1998, as well as the decision of 5 August 1998, to suspend cooperation with the Special Commission and to maintain restrictions on the work of the IAEA, and that Iraq provide immediate, complete and unconditional cooperation with the Special Commission and the IAEA;
3. Reaffirms its full support for the Special Commission and the IAEA in their efforts to ensure the implementation of their mandates under the relevant resolutions of the Council;
4. Expresses its full support for the Secretary-General in his efforts to seek full implementation of the Memorandum of Understanding of 23 February 1998;
5. Reaffirms its intention to act in accordance with the relevant provisions of resolution 687 (1991) on the duration of the prohibitions referred to in that resolution, and notes that by its failure so far to comply with its relevant obligations Iraq has delayed the moment when the Council can do so;
6. Decides, in accordance with its primary responsibility under the Charter for the maintenance of international peace and security, to remain actively seized of the matter.

## **Appendix 6 – UN Security Council Resolution 1284 (1999)**

**Resolution 1284**  
**S/RES/1284 (1999)**  
**17 December 1999**

Adopted by the Security Council at its 4084th meeting,  
on 17 December 1999

The Security Council,

Recalling its previous relevant resolutions, including its resolutions 661 (1990) of 6 August 1990, 687 (1991) of 3 April 1991, 699 (1991) of 17 June 1991, 707 (1991) of 15 August 1991, 715 (1991) of 11 October 1991, 986 (1995) of 14 April 1995, 1051 (1996) of 27 March 1996, 1153 (1998) of 20 February 1998, 1175 (1998) of 19 June 1998, 1242 (1999) of 21 May 1999 and 1266 (1999) of 4 October 1999,

Recalling the approval by the Council in its resolution 715 (1991) of the plans for future ongoing monitoring and verification submitted by the Secretary-General and the Director General of the International Atomic Energy Agency (IAEA) in pursuance of paragraphs 10 and 13 of resolution 687 (1991),

Welcoming the reports of the three panels on Iraq (S/1999/356), and having held a comprehensive consideration of them and the recommendations contained in them,

Stressing the importance of a comprehensive approach to the full implementation of all relevant Security Council resolutions regarding Iraq and the need for Iraqi compliance with these resolutions,

Recalling the goal of establishing in the Middle East a zone free from weapons of mass destruction and all missiles for their delivery and the objective of a global ban on chemical weapons as referred to in paragraph 14 of resolution 687 (1991),

Concerned at the humanitarian situation in Iraq, and determined to improve that situation,

Recalling with concern that the repatriation and return of all Kuwaiti and third country nationals or their remains, present in Iraq on or after 2 August 1990, pursuant to paragraph 2 (c) of resolution 686 (1991) of 2 March 1991 and paragraph 30 of resolution 687 (1991), have not yet been fully carried out by Iraq,

Recalling that in its resolutions 686 (1991) and 687 (1991) the Council demanded that Iraq return in the shortest possible time all Kuwaiti property it had seized, and noting with regret that Iraq has still not complied fully with this demand,

Acknowledging the progress made by Iraq towards compliance with the provisions of resolution 687 (1991), but noting that, as a result of its failure to implement the relevant Council resolutions fully, the conditions do not exist which would enable the Council to take a decision pursuant to resolution 687 (1991) to lift the prohibitions referred to in that resolution,

Reiterating the commitment of all Member States to the sovereignty, territorial integrity and political independence of Kuwait, Iraq and the neighbouring States,

Acting under Chapter VII of the Charter of the United Nations, and taking into account that operative provisions of this resolution relate to previous resolutions adopted under Chapter VII of the Charter,

A.

1. Decides to establish, as a subsidiary body of the Council, the United Nations Monitoring, Verification and Inspection Commission (UNMOVIC) which replaces the Special Commission established pursuant to paragraph 9 (b) of resolution 687 (1991);
2. Decides also that UNMOVIC will undertake the responsibilities mandated to the Special Commission by the Council with regard to the verification of compliance by Iraq with its obligations under paragraphs 8, 9 and 10 of resolution 687 (1991) and other related resolutions, that UNMOVIC will establish and operate, as was recommended by the panel on disarmament and current and future ongoing monitoring and verification issues, a reinforced system of ongoing monitoring and verification, which will implement the plan approved by the Council in resolution 715 (1991) and address unresolved disarmament issues, and that UNMOVIC will identify, as necessary in accordance with its mandate, additional sites in Iraq to be covered by the reinforced system of ongoing monitoring and verification;
3. Reaffirms the provisions of the relevant resolutions with regard to the role of the IAEA in addressing compliance by Iraq with paragraphs 12 and 13 of resolution 687 (1991) and other related resolutions, and requests the Director General of the IAEA to maintain this role with the assistance and cooperation of UNMOVIC;
4. Reaffirms its resolutions 687 (1991), 699 (1991), 707 (1991), 715 (1991), 1051 (1996), 1154 (1998) and all other relevant resolutions and statements of its President, which establish the criteria for Iraqi compliance, affirms that the obligations of Iraq referred to in those resolutions and statements with regard to cooperation with the Special Commission, unrestricted access and provision of information will apply in respect of UNMOVIC, and decides in particular that Iraq shall allow UNMOVIC teams immediate, unconditional and unrestricted access to any and all areas, facilities, equipment, records and means of transport which they wish to inspect in accordance with the mandate of UNMOVIC, as well as to all officials and other persons under the authority of the Iraqi Government whom UNMOVIC wishes to interview so that UNMOVIC may fully discharge its mandate;
5. Requests the Secretary-General, within 30 days of the adoption of this resolution, to appoint, after consultation with and subject to the approval of the Council, an Executive Chairman of UNMOVIC who will take up his mandated tasks as soon as possible, and, in consultation with the Executive Chairman and the Council members, to appoint suitably qualified experts as a College of Commissioners for UNMOVIC which will meet regularly to review the implementation of this and other relevant resolutions and provide professional advice and guidance to the Executive Chairman, including on significant policy decisions and on written reports to be submitted to the Council through the Secretary-General;

6. Requests the Executive Chairman of UNMOVIC, within 45 days of his appointment, to submit to the Council, in consultation with and through the Secretary-General, for its approval an organizational plan for UNMOVIC, including its structure, staffing requirements, management guidelines, recruitment and training procedures, incorporating as appropriate the recommendations of the panel on disarmament and current and future ongoing monitoring and verification issues, and recognizing in particular the need for an effective, cooperative management structure for the new organization, for staffing with suitably qualified and experienced personnel, who would be regarded as international civil servants subject to Article 100 of the Charter of the United Nations, drawn from the broadest possible geographical base, including as he deems necessary from international arms control organizations, and for the provision of high quality technical and cultural training;
7. Decides that UNMOVIC and the IAEA, not later than 60 days after they have both started work in Iraq, will each draw up, for approval by the Council, a work programme for the discharge of their mandates, which will include both the implementation of the reinforced system of ongoing monitoring and verification, and the key remaining disarmament tasks to be completed by Iraq pursuant to its obligations to comply with the disarmament requirements of resolution 687 (1991) and other related resolutions, which constitute the governing standard of Iraqi compliance, and further decides that what is required of Iraq for the implementation of each task shall be clearly defined and precise;
8. Requests the Executive Chairman of UNMOVIC and the Director General of the IAEA, drawing on the expertise of other international organizations as appropriate, to establish a unit which will have the responsibilities of the joint unit constituted by the Special Commission and the Director General of the IAEA under paragraph 16 of the export/import mechanism approved by resolution 1051 (1996), and also requests the Executive Chairman of UNMOVIC, in consultation with the Director General of the IAEA, to resume the revision and updating of the lists of items and technology to which the mechanism applies;
9. Decides that the Government of Iraq shall be liable for the full costs of UNMOVIC and the IAEA in relation to their work under this and other related resolutions on Iraq;
10. Requests Member States to give full cooperation to UNMOVIC and the IAEA in the discharge of their mandates;
11. Decides that UNMOVIC shall take over all assets, liabilities and archives of the Special Commission, and that it shall assume the Special Commission's part in agreements existing between the Special Commission and Iraq and between the United Nations and Iraq, and affirms that the Executive Chairman, the Commissioners and the personnel serving with UNMOVIC shall have the rights, privileges, facilities and immunities of the Special Commission;
12. Requests the Executive Chairman of UNMOVIC to report, through the Secretary-General, to the Council, following consultation with the Commissioners, every three months on the work of UNMOVIC, pending submission of the first reports referred to in paragraph 33 below, and to report immediately when the reinforced system of ongoing monitoring and verification is fully operational in Iraq;

## B.

13. Reiterates the obligation of Iraq, in furtherance of its commitment to facilitate the repatriation of all Kuwaiti and third country nationals referred to in paragraph 30 of resolution 687 (1991), to extend all necessary cooperation to the International Committee of the Red Cross, and calls upon the Government of Iraq to resume cooperation with the Tripartite Commission and Technical Subcommittee established to facilitate work on this issue;
14. Requests the Secretary-General to report to the Council every four months on compliance by Iraq with its obligations regarding the repatriation or return of all Kuwaiti and third country nationals or their remains, to report every six months on the return of all Kuwaiti property, including archives, seized by Iraq, and to appoint a high-level coordinator for these issues;

## C.

15. Authorizes States, notwithstanding the provisions of paragraphs 3 (a), 3 (b) and 4 of resolution 661 (1990) and subsequent relevant resolutions, to permit the import of any volume of petroleum and petroleum products originating in Iraq, including financial and other essential transactions directly relating thereto, as required for the purposes and on the conditions set out in paragraph 1 (a) and (b) and subsequent provisions of resolution 986 (1995) and related resolutions;
16. Underlines, in this context, its intention to take further action, including permitting the use of additional export routes for petroleum and petroleum products, under appropriate conditions otherwise consistent with the purpose and provisions of resolution 986 (1995) and related resolutions;
17. Directs the Committee established by resolution 661 (1990) to approve, on the basis of proposals from the Secretary-General, lists of humanitarian items, including foodstuffs, pharmaceutical and medical supplies, as well as basic or standard medical and agricultural equipment and basic or standard educational items, decides, notwithstanding paragraph 3 of resolution 661 (1990) and paragraph 20 of resolution 687 (1991), that supplies of these items will not be submitted for approval of that Committee, except for items subject to the provisions of resolution 1051 (1996), and will be notified to the Secretary-General and financed in accordance with the provisions of paragraph 8 (a) and 8 (b) of resolution 986 (1995), and requests the Secretary-General to inform the Committee in a timely manner of all such notifications received and actions taken;
18. Requests the Committee established by resolution 661 (1990) to appoint, in accordance with resolutions 1175 (1998) and 1210 (1998), a group of experts, including independent inspection agents appointed by the Secretary-General in accordance with paragraph 6 of resolution 986 (1995), decides that this group will be mandated to approve speedily contracts for the parts and the equipments necessary to enable Iraq to increase its exports of petroleum and petroleum products, according to lists of parts and equipments approved by that Committee for each individual project, and requests the Secretary-General to continue to provide for the monitoring of these parts and equipments inside Iraq;

19. Encourages Member States and international organizations to provide supplementary humanitarian assistance to Iraq and published material of an educational character to Iraq;
20. Decides to suspend, for an initial period of six months from the date of the adoption of this resolution and subject to review, the implementation of paragraph 8 (g) of resolution 986 (1995);
21. Requests the Secretary-General to take steps to maximize, drawing as necessary on the advice of specialists, including representatives of international humanitarian organizations, the effectiveness of the arrangements set out in resolution 986 (1995) and related resolutions including the humanitarian benefit to the Iraqi population in all areas of the country, and further requests the Secretary-General to continue to enhance as necessary the United Nations observation process in Iraq, ensuring that all supplies under the humanitarian programme are utilized as authorized, to bring to the attention of the Council any circumstances preventing or impeding effective and equitable distribution and to keep the Council informed of the steps taken towards the implementation of this paragraph;
22. Requests also the Secretary-General to minimize the cost of the United Nations activities associated with the implementation of resolution 986 (1995) as well as the cost of the independent inspection agents and the certified public accountants appointed by him, in accordance with paragraphs 6 and 7 of resolution 986 (1995);
23. Requests further the Secretary-General to provide Iraq and the Committee established by resolution 661 (1990) with a daily statement of the status of the escrow account established by paragraph 7 of resolution 986 (1995);
24. Requests the Secretary-General to make the necessary arrangements, subject to Security Council approval, to allow funds deposited in the escrow account established by resolution 986 (1995) to be used for the purchase of locally produced goods and to meet the local cost for essential civilian needs which have been funded in accordance with the provisions of resolution 986 (1995) and related resolutions, including, where appropriate, the cost of installation and training services;
25. Directs the Committee established by resolution 661 (1990) to take a decision on all applications in respect of humanitarian and essential civilian needs within a target of two working days of receipt of these applications from the Secretary-General, and to ensure that all approval and notification letters issued by the Committee stipulate delivery within a specified time, according to the nature of the items to be supplied, and requests the Secretary-General to notify the Committee of all applications for humanitarian items which are included in the list to which the export/import mechanism approved by resolution 1051 (1996) applies;
26. Decides that Hajj pilgrimage flights which do not transport cargo into or out of Iraq are exempt from the provisions of paragraph 3 of resolution 661 (1990) and resolution 670 (1990), provided timely notification of each flight is made to the Committee established by resolution 661 (1990), and requests the Secretary-General to make the necessary arrangements, for approval by the Security Council, to provide for reasonable expenses related to the Hajj pilgrimage to be met by funds in the escrow account established by resolution 986 (1995);

27. Calls upon the Government of Iraq:
- (i) to take all steps to ensure the timely and equitable distribution of all humanitarian goods, in particular medical supplies, and to remove and avoid delays at its warehouses;
  - (ii) to address effectively the needs of vulnerable groups, including children, pregnant women, the disabled, the elderly and the mentally ill among others, and to allow freer access, without any discrimination, including on the basis of religion or nationality, by United Nations agencies and humanitarian organizations to all areas and sections of the population for evaluation of their nutritional and humanitarian condition;
  - (iii) to prioritize applications for humanitarian goods under the arrangements set out in resolution 986 (1995) and related resolutions;
  - (iv) to ensure that those involuntarily displaced receive humanitarian assistance without the need to demonstrate that they have resided for six months in their places of temporary residence;
  - (v) to extend full cooperation to the United Nations Office for Project Services mine-clearance programme in the three northern Governorates of Iraq and to consider the initiation of the demining efforts in other Governorates;
28. Requests the Secretary-General to report on the progress made in meeting the humanitarian needs of the Iraqi people and on the revenues necessary to meet those needs, including recommendations on necessary additions to the current allocation for oil spare parts and equipment, on the basis of a comprehensive survey of the condition of the Iraqi oil production sector, not later than 60 days from the date of the adoption of this resolution and updated thereafter as necessary;
29. Expresses its readiness to authorize additions to the current allocation for oil spare parts and equipment, on the basis of the report and recommendations requested in paragraph 28 above, in order to meet the humanitarian purposes set out in resolution 986 (1995) and related resolutions;
30. Requests the Secretary-General to establish a group of experts, including oil industry experts, to report within 100 days of the date of adoption of this resolution on Iraq's existing petroleum production and export capacity and to make recommendations, to be updated as necessary, on alternatives for increasing Iraq's petroleum production and export capacity in a manner consistent with the purposes of relevant resolutions, and on the options for involving foreign oil companies in Iraq's oil sector, including investments, subject to appropriate monitoring and controls;
31. Notes that in the event of the Council acting as provided for in paragraph 33 of this resolution to suspend the prohibitions referred to in that paragraph, appropriate arrangements and procedures will need, subject to paragraph 35 below, to be agreed by the Council in good time beforehand, including suspension of provisions of resolution 986 (1995) and related resolutions;
32. Requests the Secretary-General to report to the Council on the implementation of paragraphs 15 to 30 of this resolution within 30 days of the adoption of this resolution;

## D.

33. Expresses its intention, upon receipt of reports from the Executive Chairman of UNMOVIC and from the Director General of the IAEA that Iraq has cooperated in all respects with UNMOVIC and the IAEA in particular in fulfilling the work programmes in all the aspects referred to in paragraph 7 above, for a period of 120 days after the date on which the Council is in receipt of reports from both UNMOVIC and the IAEA that the reinforced system of ongoing monitoring and verification is fully operational, to suspend with the fundamental objective of improving the humanitarian situation in Iraq and securing the implementation of the Council's resolutions, for a period of 120 days renewable by the Council, and subject to the elaboration of effective financial and other operational measures to ensure that Iraq does not acquire prohibited items, prohibitions against the import of commodities and products originating in Iraq, and prohibitions against the sale, supply and delivery to Iraq of civilian commodities and products other than those referred to in paragraph 24 of resolution 687 (1991) or those to which the mechanism established by resolution 1051 (1996) applies;
34. Decides that in reporting to the Council for the purposes of paragraph 33 above, the Executive Chairman of UNMOVIC will include as a basis for his assessment the progress made in completing the tasks referred to in paragraph 7 above;
35. Decides that if at any time the Executive Chairman of UNMOVIC or the Director General of the IAEA reports that Iraq is not cooperating in all respects with UNMOVIC or the IAEA or if Iraq is in the process of acquiring any prohibited items, the suspension of the prohibitions referred to in paragraph 33 above shall terminate on the fifth working day following the report, unless the Council decides to the contrary;
36. Expresses its intention to approve arrangements for effective financial and other operational measures, including on the delivery of and payment for authorized civilian commodities and products to be sold or supplied to Iraq, in order to ensure that Iraq does not acquire prohibited items in the event of suspension of the prohibitions referred to in paragraph 33 above, to begin the elaboration of such measures not later than the date of the receipt of the initial reports referred to in paragraph 33 above, and to approve such arrangements before the Council decision in accordance with that paragraph;
37. Further expresses its intention to take steps, based on the report and recommendations requested in paragraph 30 above, and consistent with the purpose of resolution 986 (1995) and related resolutions, to enable Iraq to increase its petroleum production and export capacity, upon receipt of the reports relating to the cooperation in all respects with UNMOVIC and the IAEA referred to in paragraph 33 above;
38. Reaffirms its intention to act in accordance with the relevant provisions of resolution 687 (1991) on the termination of prohibitions referred to in that resolution;
39. Decides to remain actively seized of the matter and expresses its intention to consider action in accordance with paragraph 33 above no later than 12 months from the date of the adoption of this resolution provided the conditions set out in paragraph 33 above have been satisfied by Iraq.



## Appendix 7 – List of the main UN Security Council Resolutions on Iraq

**Resolution 661**, 6 August 1990:  
imposing sanctions on Iraq following the invasion of Kuwait.<sup>204</sup>

**Resolution 678**, 29 November 1990:  
authorising the “use of all necessary means” to bring about an end to the occupation of Kuwait by Iraq.

**Resolution 687**, 3 April 1991:  
‘cease-fire resolution’ adopted following the conclusion of Operation Desert Storm, imposing obligations on Iraq to destroy its weapons of mass destruction programmes. UN Special Commission (UNSCOM) established to carry out inspection and monitoring of the destruction of Iraq’s chemical, biological and ballistic missile capabilities. International Atomic Energy Agency (IAEA) charged with inspecting and destroying Iraq’s nuclear capability. Iraq also obligated to recognise the inviolability of its border with Kuwait and return all Kuwaiti POWs.

**Resolution 688**, 5 April 1991:  
condemning Iraq’s repression of its civilian population and appealing to Member States to contribute to humanitarian relief efforts – cited by the US and UK as justification for the no-fly zones over southern and northern Iraq.

**Resolution 707**, 15 August 1991:  
condemning Iraq’s failure to comply with the IAEA and UNSCOM as a “serious violation” and a “material breach” of its obligations under Resolution 687, and demanding a full, final and complete disclosure of its WMD and ballistic missile capabilities, and full unconditional and unrestricted access for IAEA and UNSCOM inspection teams.

**Resolution 715**, 11 October 1991:  
approving the plans for ongoing monitoring and verification (OMV) by the IAEA and UNSCOM of suspected sites to ensure future Iraqi compliance. Iraq did not accept the Resolution until November 1993 and OMV was subsequently put in place from April 1995 to December 1998.

**Resolution 1051**, 27 March 1996:  
approving an import-export monitoring mechanism for dual-use items to prevent the acquisition of WMD-related materials by Iraq.

**Resolution 1060**, 12 June 1996:  
deploring Iraq’s refusal to allow access for UNSCOM to suspected weapons sites, which constituted a “clear violation” of Resolutions 687, 707 and 715, and demanding that Iraq grant immediate and unrestricted access to all sites designated by inspectors. Subsequent

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<sup>204</sup> For more detail on the sanctions regime, see Library Standard Note SN/IA/1431 (copy enclosed).

negotiations between the UNSCOM Executive Chairman and the Iraqi Deputy Prime Minister resulted in a Joint 1996 Statement and a Joint Programme of Action, which laid out arrangements for UNSCOM to access sensitive sites, including bi-monthly meetings to take account of Iraq's legitimate security concerns.

**Resolution 1115**, 21 June 1997:

condemning Iraq's denial of access for UNSCOM to certain sites, and demanding immediate, unconditional and unrestricted access for inspection teams.

**Resolution 1134**, 23 October 1997:

condemning Iraq's repeated refusal of access for UNSCOM teams, and deciding that such refusals constituted a "flagrant violation" of Resolutions 687, 707, 715 and 1060.

**Resolution 1154**, 2 March 1998:

endorsing the Memorandum of Understanding reached by Iraq and the UN Secretary-General, which established procedures for the inspection of disputed 'presidential sites', but warning that any violation would have the severest consequences for Iraq.

**Resolution 1205**, 5 November 1998:

condemning Iraq's failure to co-operate with UN weapons inspectors as a flagrant violation of Resolution 687 and other relevant resolutions. Resolutions 1154 and 1205 were cited by the US and UK as justification for Operation "Desert Fox", the four-day campaign of bombing in December 1998.

**Resolution 1284**, 17 December 1999:

establishing the UN Monitoring, Verification and Inspection Commission (UNMOVIC) to replace UNSCOM.

**Resolution 1293**, 31 March 2000

allowing US\$600 million to be used by Iraq to pay for oil spare parts under the Oil for Food programme.

**Resolution 1302**, 8 June 2000

extending the Oil for Food programme for a further 180 days and seeking additional improvements to the programme.

**Resolution 1330**, 5 December 2000

extending the Oil for Food programme for a further 180 days and seeking additional improvements to the programme.

**Resolution 1352**, 1 June 2001

extending the Oil for Food programme until 3 July 2001 to allow a debate in the Security Council on possible amendments to the sanctions regime to ease the flow of humanitarian items into Iraq.

**Resolution 1360**, 3 July 2001

extending the Oil for Food programme for a further 150 days after the Security Council failed to reach agreement on possible amendments to the sanctions regime (see Section E of Library Standard Note SN/IA/1431, *Sanctions on Iraq*, for more detail on the debate in the Council).

**Resolution 1382**, 29 November 2001

extending the Oil for Food programme for a further 180 days, but agreeing that amendments to the sanctions regime detailed in Annexes 1 and 2 would be implemented from 30 May 2002. The changes would streamline the procedure for approving humanitarian items for sale to Iraq, and would refine the list of military or dual-use items that Iraq is prohibited from acquiring.

**Resolution 1409**, 14 May 2002

implementing the changes to the sanctions regime laid out in Resolution 1382.