

Report In Connection With Presidential Determination Under  
Public Law 107-243

This report summarizes diplomatic and other peaceful means pursued by the United States, working for more than a dozen years with cooperating foreign countries and international organizations such as the United Nations, in an intensive effort (1) to protect the national security of the United States, as well as the security of other countries, against the continuing threat posed by Iraqi development and use of weapons of mass destruction, and (2) to obtain Iraqi compliance with all relevant United Nations Security Council (UNSC) resolutions regarding Iraq. Because of the intransigence and defiance of the Iraqi regime, further continuation of these efforts will neither adequately protect the national security of the United States against the continuing threat posed by Iraq nor likely lead to enforcement of all relevant UNSC resolutions regarding Iraq.

This report also explains that a determination to use force against Iraq is fully consistent with the United States and other countries continuing to take the necessary actions against international terrorists and terrorist organizations, including those nations, organizations, or persons who planned, authorized, committed, or aided the terrorist attacks that occurred on September 11, 2001. Indeed, as Congress found when it passed the Authorization for Use of Military Force Against Iraq Resolution of 2002 (Public Law 107-243), Iraq continues to harbor and aid international terrorists and terrorist organizations, including organizations that threaten the safety of United States citizens. The use of military force to remove the Iraqi regime is therefore not only consistent with, but is a vital part of, the international war on terrorism.

This document is summary in form rather than a comprehensive and definitive rendition of actions taken and related factual data that would constitute a complete historical record. This document should be considered in light of the information that has been, and will be, furnished to Congress, including the periodic reports consistent with the Authorization for Use of Military Force Against Iraq Resolution (Public Law 102-1) and the Authorization for Use of Military Force Against Iraq Resolution of 2002 (Public Law 107-243).

1. The Gulf War and Conditions of the Cease-Fire

On August 2, 1990, President Saddam Hussein of Iraq initiated the brutal and unprovoked invasion and occupation of Kuwait. The United States and many foreign governments, working together and through the UN, sought by diplomatic and other peaceful means to compel Iraq to withdraw from

Kuwait and to establish international peace and security in the region.

President George H.W. Bush's letter transmitted to Congress on January 16, 1991, was accompanied by a report that catalogued the extensive diplomatic, economic, and other peaceful means pursued by the United States to achieve U.S. and UNSC objectives. It details adoption by the UNSC of a dozen resolutions, from Resolution 660 of August 2, 1990, demanding that Iraq withdraw from Kuwait, to Resolution 678 on November 29, 1990, authorizing member states to use all necessary means to "implement Resolution 660," to implement "all subsequent relevant resolutions," and "to restore international peace and security in the area." Despite extraordinary and concerted efforts by the United States, other countries, and international organizations through diplomacy, multilateral economic sanctions, and other peaceful means to bring about Iraqi compliance with UNSC resolutions, and even after the UN and the United States explicitly informed Iraq that its failure to comply with UNSC resolutions would result in the use of armed force to eject Iraqi forces from Kuwait, Saddam Hussein's regime remained intransigent. The President ordered the U.S. armed forces, working in a coalition with the armed forces of other cooperating countries, to liberate Kuwait. The coalition forces promptly drove Iraqi forces out of Kuwait, set Kuwait free, and moved into southern Iraq.

On April 3, 1991, the UNSC adopted Resolution 687, which established conditions for a cease-fire to suspend hostilities. Among other requirements, UNSCR 687 required Iraq to (1) destroy its chemical and biological weapons and ballistic missiles with ranges greater than 150 km; (2) not use, develop, construct, or acquire biological, chemical, or nuclear weapons and their delivery systems; (3) submit to international inspections to verify compliance; and (4) not commit or support any act of international terrorism or allow others who commit such acts to operate in Iraqi territory. On April 6, 1991, Iraq communicated to the UNSC its acceptance of the conditions for the cease-fire.

## 2. Iraq's Breach of the Cease-Fire Conditions: Threats to Peace and Security

Since almost the moment it agreed to the conditions of the cease-fire, Iraq has committed repeated and escalating breaches of those conditions. Throughout the first seven years that Iraq accepted inspections, it repeatedly obstructed access to sites designated by the United Nations Special Commission (UNSCOM) and the International Atomic Energy Agency (IAEA). On two occasions, in 1993 and 1998, Iraq's refusal to comply with its international obligations under the cease-fire led to military action by coalition forces. In 1998, under threat of "severest consequences,"

Iraq signed a Memorandum of Understanding pledging full cooperation with UNSCOM and IAEA and " immediate, unconditional and unrestricted" access for their inspections. In a matter of months, however, the Iraqi regime suspended cooperation, in part as an effort to condition compliance on the lifting of oil sanctions; it ultimately ceased all cooperation, causing the inspectors to leave the country.

On December 17, 1999, after a year with no inspections in Iraq, the UNSC established the United Nations Monitoring, Verification and Inspection Commission (UNMOVIC) as a successor to UNSCOM, to address unresolved disarmament issues and verify Iraqi compliance with the disarmament required by UNSCR 687 and related resolutions. Iraq refused to allow inspectors to return for yet another three years.

### 3. Recent Diplomatic and Other Peaceful Means Rejected by Iraq

On September 12, 2002, the President addressed the United Nations General Assembly on Iraq. He challenged the United Nations to act decisively to deal with Iraq's systematic twelve-year defiance and to compel Iraq's disarmament of the weapons of mass destruction and delivery systems that continue to threaten international peace and security. The White House background paper, " A Decade of Deception and Defiance: Saddam Hussein's Defiance of the United Nations" (September 12, 2002), summarizes Iraq's actions as of the time the President initiated intensified efforts to enforce all relevant UN Resolutions and demonstrates the failure of diplomacy to affect Iraq's conduct:

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.

The President also summarized Iraq's response to a decade of diplomatic efforts and its breach of the cease-fire conditions on October 7, 2002, in an address in Cincinnati, Ohio:

Eleven years ago, as a condition for ending the Persian Gulf War, the Iraqi regime was required to destroy its weapons of mass destruction, to cease all development of

such weapons, and to stop all support for terrorist groups. The Iraqi regime has violated all of those obligations. It possesses and produces chemical and biological weapons. It is seeking nuclear weapons. It has given shelter and support to terrorism, and practices terror against its own people. The entire world has witnessed Iraq's eleven-year history of defiance, deception and bad faith.

In response to the President's challenge of September 12, 2002, and after intensive negotiation and diplomacy, the UNSC unanimously adopted UNSCR 1441 on November 8, 2002. The UNSC declared that Iraq "has been and remains in material breach" of its disarmament obligations, but chose to afford Iraq one "final opportunity" to comply. The UNSC again placed the burden on Iraq to comply and disarm and not on the inspectors to try to find what Iraq is concealing. The UNSC made clear that any false statements or omissions in declarations and any failure by Iraq to comply with UNSCR 1441 would constitute a further material breach of Iraq's obligations. Rather than seizing this final opportunity for a peaceful solution by giving full and immediate cooperation, the Hussein regime responded with renewed defiance and deception.

For example, while UNSCR 1441 required that Iraq provide a "currently accurate, full and complete" declaration of all aspects of its weapons of mass destruction ("WMD") and delivery programs, Iraq's Declaration of December 7, 2002, failed to comply with that requirement. The 12,000-page document that Iraq provided was little more than a restatement of old and discredited material. It was incomplete, inaccurate, and composed mostly of recycled information that failed to address any of the outstanding disarmament questions inspectors had previously identified.

In addition, since the passage of UNSCR 1441, Iraq has failed to cooperate fully with inspectors. It delayed until two-and-a-half months after the resumption of inspections UNMOVIC's use of aerial surveillance flights; failed to provide private access to officials for interview by inspectors; intimidated witnesses with threats; undertook massive efforts to deceive and defeat inspectors, including cleanup and transshipment activities at nearly 30 sites; failed to provide numerous documents requested by UNMOVIC; repeatedly provided incomplete or outdated listings of its WMD personnel; and hid documents in homes, including over 2000 pages of Iraqi documents regarding past uranium enrichment programs. In a report dated March 6, 2003, UNMOVIC described over 600 instances in which Iraq had failed to declare fully activities related to its chemical, biological, or missile procurements.

Dr. Hans Blix, Executive Chairman of UNMOVIC, reported to the UNSC on January 27, 2003 that " Iraq appears not to have come to a genuine acceptance, not even today, of the disarmament which was demanded of it." Dr. Mohamed El Baradei, Director General of the IAEA, reported that Iraq's declaration of December 7 " did not provide any new information relevant to certain questions that have been outstanding since 1998." Both demonstrated that there was no evidence that Iraq had decided to comply with disarmament obligations. Diplomatic efforts have not affected Iraq's conduct positively. Any temporary changes in Iraq's approach that have occurred over the years have been in response to the threat of use of force.

On February 5, 2003, the Secretary of State delivered a comprehensive presentation to the UNSC using declassified information, including human intelligence reports, communications intercepts and overhead imagery, which demonstrated Iraq's ongoing efforts to pursue WMD programs and conceal them from UN inspectors. The Secretary of State updated that presentation one month later by detailing intelligence reports on continuing efforts by Iraq to maintain and conceal proscribed materials.

Despite the continued resistance by Iraq, the United States has continued to use diplomatic and other peaceful means to achieve complete and total disarmament that would adequately protect the national security of the United States from the threat posed by Iraq and which is required by all relevant UNSC resolutions. On March 7, 2003, the United States, United Kingdom, and Spain presented a draft resolution that would have established for Iraq a March 17 deadline to cooperate fully with disarmament demands. Since the adoption of UNSCR 1441 in November 2002, there have been numerous calls and meetings by President Bush and the Secretary of State with other world leaders to try to find a diplomatic or other peaceful way to disarm Iraq. On March 13, 2003, the U.S. Ambassador to the UN asked for members of the UNSC to consider seriously a British proposal to establish six benchmarks that would be used to measure whether or not the regime in Iraq is coming into full, immediate, and unconditional compliance with the pertinent UN resolutions. On March 16, 2003, the President traveled to the Azores to meet with Portuguese Prime Minister Jose Manuel Durao Barroso, British Prime Minister Tony Blair, and Spanish Prime Minister Jose Maria Aznar to assess the situation and confirm that diplomatic and other peaceful means have been attempted to achieve Iraqi compliance with all relevant UNSC resolutions. Despite these diplomatic and peaceful efforts, Iraq remains in breach of relevant UNSC resolutions and a threat to the United States and other countries. Further diplomatic efforts were suspended reluctantly after, as the President observed on March 17, " some permanent members of

the Security Council ha[d] publicly announced they will veto any resolution that compels the disarmament of Iraq."

The lesson learned after twelve years of Iraqi defiance is that the appearance of progress on process is meaningless - what is necessary is immediate, active, and unconditional cooperation in the complete disarmament of Iraq's prohibited weapons. As a result of its repeated failure to cooperate with efforts aimed at actual disarmament, Iraq has retained weapons of mass destruction that it agreed, as an essential condition of the cease-fire in 1991, not to develop or possess. The Secretary of State's February 5, 2003, presentation cited examples, such as Iraq's biological weapons based on anthrax and botulinum toxin, chemical weapons based on mustard and nerve agents, proscribed missiles and unmanned aerial vehicles to deliver weapons of mass destruction, and mobile biological weapons factories. The Secretary of State also discussed with the Security Council Saddam Hussein's efforts to reconstitute Iraq's nuclear weapons program.

The dangers posed by Iraq's weapons of mass destruction and long-range missiles are clear. Saddam Hussein has already used such weapons, repeatedly. He used them against Iranian troops in the 1980s. He used ballistic missiles against civilians during the Gulf War, firing Scud missiles into Israel and Saudi Arabia. He used chemical weapons against the Iraqi people in Northern Iraq. As Congress stated in 1998 in Public Law 105-235, "Iraq's continuing weapons of mass destruction programs threaten vital United States interests and international peace and security." Congress concluded in Public Law 105-338 that "[i]t should be the policy of the United States to support efforts to remove the regime headed by Saddam Hussein from power in Iraq and to promote the emergence of a democratic government to replace that regime."

In addition, Congress stated in the Authorization for Use of Military Force Against Iraq Resolution of 2002 (Public Law 107-243), that:

Iraq both poses a continuing threat to the national security of the United States and international peace and security in the Persian Gulf region and remains in material and unacceptable breach of its international obligations by, among other things, continuing to possess and develop a significant chemical and biological weapons capability, actively seeking a nuclear weapons capability, and supporting and harboring terrorist organizations.

Nothing that has occurred in the past twelve years, the past twelve months, the past twelve weeks, or the past twelve days provides any basis for concluding that further

diplomatic or other peaceful means will adequately protect the national security of the United States from the continuing threat posed by Iraq or are likely to lead to enforcement of all relevant UNSC resolutions regarding Iraq and the restoration of peace and security in the area.

As the President stated on March 17, " [t]he Iraqi regime has used diplomacy as a ploy to gain time and advantage." Further delay in taking action against Iraq will only serve to give Saddam Hussein's regime additional time to further develop WMD to use against the United States, its citizens, and its allies. The United States and the UN have long demanded immediate, active, and unconditional cooperation by Iraq in the disarmament of its weapons of mass destruction. There is no reason to believe that Iraq will disarm, and cooperate with inspections to verify such disarmament, if the U.S. and the UN employ only diplomacy and other peaceful means.

#### 4. Use of Force Against Iraq is Consistent with the War on Terror

In Public Law 107-243, Congress made a number of findings concerning Iraq's support for international terrorism. Among other things, Congress determined that:

- Members of al Qaida, an organization bearing responsibility for attacks on the United States, its citizens, and interests, including the attacks that occurred on September 11, 2001, are known to be in Iraq.
- Iraq continues to aid and harbor other international terrorist organizations, including organizations that threaten the lives and safety of United States citizens.
- It is in the national security interests of the United States and in furtherance of the war on terrorism that all relevant United Nations Security Council resolutions be enforced, including through the use of force if necessary.

In addition, the Secretary of State's address to the UN on February 5, 2003 revealed a terrorist training area in northeastern Iraq with ties to Iraqi intelligence and activities of al Qaida affiliates in Baghdad. Public reports indicate that Iraq is currently harboring senior members of a terrorist network led by Abu Musab al-Zarqawi, a close al Qaida associate. In addition, Iraq has provided training in document forgery and explosives to al Qaida. Other terrorist groups have been supported by Iraq over past years.

Iraq has a long history of supporting terrorism, and continues to be a safe haven, transit point, and operational node for groups and individuals who direct violence against the United States and our allies. These actions violate Iraq's obligations under the UNSCR 687 cease-fire not to commit or support any act of international terrorism or allow others who commit such acts to operate in Iraqi

territory. Iraq has also failed to comply with its cease-fire obligations to disarm and submit to international inspections to verify compliance. In light of these Iraqi activities, the use of force by the United States and other countries against the current Iraqi regime is fully consistent with - indeed, it is an integral part of - the war against international terrorists and terrorist organizations.

Both because Iraq harbors terrorists and because Iraq could share weapons of mass destruction with terrorists who seek them for use against the United States, the use of force to bring Iraq into compliance with its obligations under UNSC resolutions would be a significant contribution to the war on terrorists of global reach. A change in the current Iraqi regime would eliminate an important source of support for international terrorist activities. It would likely also assist efforts to disrupt terrorist networks and capture terrorists around the globe. United States Government personnel operating in Iraq may discover information through Iraqi government documents and interviews with detained Iraqi officials that would identify individuals currently in the United States and abroad who are linked to terrorist organizations.

The use of force against Iraq will directly advance the war on terror, and will be consistent with continuing efforts against international terrorists residing and operating elsewhere in the world. The U.S. armed forces remain engaged in key areas around the world in the prosecution of the war on terrorism. The necessary preparations for and conduct of military operations in Iraq have not diminished the resolve, capability, or activities of the United States to pursue international terrorists to protect our homeland. Nor will the use of military force against Iraq distract civilian departments and agencies of the United States Government from continuing aggressive efforts in combating terrorism, or divert resources from the overall world-wide counter-terrorism effort. Current counter-terrorism investigations and activities will continue during any military conflict, and winning the war on terrorism will remain the top priority for our Government.

Indeed, the United States has made significant progress on other fronts in the war on terror even while Iraq and its threat to the United States and other countries have been a focus of concern. Since November 2002, when deployments of forces to the Gulf were substantially increased, the United States, in cooperation with our allies, has arrested or captured several terrorists and frustrated several terrorist plots. For example, on March 1, 2003, Khalid Shaikh Mohammed was captured in Rawalpindi, Pakistan by Pakistani authorities, with U.S. cooperation. The capture of Sheikh Mohammed, the al Qaida "mastermind" of the September 11th

attacks and Usama Bin Laden's senior terrorist attack planner, is a severe blow to al Qaida that will destabilize the terrorist network worldwide. This and other successes make clear that the United States Government remains focused on the war on terror, and that use of force in Iraq is fully consistent with continuing to take necessary actions against terrorists and terrorist organizations.

## 5. Conclusion

In the circumstances described above, the President of the United States has the authority - indeed, given the dangers involved, the duty - to use force against Iraq to protect the security of the American people and to compel compliance with UNSC resolutions.

The President has full authority to use the armed forces in Iraq under the U.S. Constitution, including his authority as Commander in Chief of the U.S. armed forces. This authority is supported by explicit statutory authorizations contained in the Authorization for Use of Military Force Against Iraq Resolution (Public Law 102-1) and the Authorization for Use of Military Force Against Iraq Resolution of 2002 (Public Law 107-243).

In addition, U.S. action is consistent with the UN Charter. The UNSC, acting under Chapter VII of the UN Charter, provided that member states, including the United States, have the right to use force in Iraq to maintain or restore international peace and security. The Council authorized the use of force in UNSCR 678 with respect to Iraq in 1990. This resolution - on which the United States has relied continuously and with the full knowledge of the UNSC to use force in 1993, 1996, and 1998 and to enforce the no-fly zones - remains in effect today. In UNSCR 1441, the UNSC unanimously decided again that Iraq has been and remains in material breach of its obligations under relevant resolutions and would face serious consequences if it failed immediately to disarm. And, of course, based on existing facts, including the nature and type of the threat posed by Iraq, the United States may always proceed in the exercise of its inherent right of self defense, recognized in Article 51 of the UN Charter.

Accordingly, the United States has clear authority to use military force against Iraq to assure its national security and to compel Iraq's compliance with applicable UNSC resolutions.