

Iraq: Setting the Record Straight

A Report of the Project for the New American Century

April 2005

ABOUT THE PROJECT FOR THE NEW AMERICAN CENTURY

Established in the spring of 1997, the Project for the New American Century is a non-profit, educational organization whose goal is to promote American global leadership. The Project is an initiative of the New Citizenship Project. William Kristol is chairman of the Project, and Robert Kagan, Bruce P. Jackson, Mark Gerson and Randy Scheunemann serve as directors. Gary Schmitt is executive director of the Project.

[The United States must conduct] a foreign policy that boldly and purposefully promotes American principles abroad; and national leadership that accepts the United States' global responsibilities.

Of course, the United States must be prudent in how it exercises its power. But we cannot safely avoid the responsibilities of global leadership or the costs that are associated with its exercise. America has a vital role in maintaining peace and security in Europe, Asia, and the Middle East. If we shirk our responsibilities, we invite challenges to our fundamental interests. The history of the 20th century should have taught us that it is important to shape circumstances before crises emerge, and to meet threats before they become dire.

— From the Project's founding *Statement of Principles*

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Our report, “Iraq: Setting the Record Straight,” focuses on the question of Saddam Hussein’s WMD programs. It elaborates his failure to comply with UN resolutions for twelve years, beginning with the Gulf War cease-fire agreement in 1991, and ending with UN Resolution 1441 in 2002 and his removal from power in March 2003. The report also shows that the case for removing Saddam from power went beyond the existence of weapons stockpiles. President Bush’s decision to act, the report notes, “derived from a perception of Saddam’s intentions and capabilities, both existing and potential, and was grounded in the reality of Saddam’s prior behavior.”

We suspect some of the report’s material will come as a surprise to a number of readers. This is because much of the reporting on the documents and statements of UN inspection teams and U.S. government officials on Saddam’s weapons programs, and his compliance with UN resolutions, has left wide gaps in the public’s understanding of what the president faced on March 18, 2003, and what we have learned since. There have also been administration critics who have selectively used material in the historical record to reinforce their case against the president’s policy. With this in mind, our report attempts to give readers a fuller account of what we knew before the war, and what we know now.

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Preface

Two years after the invasion of Iraq, we still do not know with complete confidence what happened to all of the stockpiles of weapons and weapons precursors that Saddam's government admitted to possessing in the early 1990s, as well as other undeclared material Iraq had not accounted for during the United Nations weapons' inspection process. Although American inspection teams led by David Kay and Charles Duelfer have concluded that most have been destroyed, this is based principally on interviews with former officials of the Saddam regime involved in the programs.¹

Assuming for the moment that Duelfer and Kay are right, and that the stockpiles were destroyed before the war, does that mean the war was fought under false pretenses? The failure to discover weapons in Iraq has led to many charges against the Bush administration, but essentially these fall into two categories. First, it is alleged that the administration lied about the threat or, in the more sophisticated version, that it hyped the threat by manipulating the intelligence. Second, even if the administration did not lie about or hype the threat, nevertheless, the original rationale for the war has proved mistaken.

One way to begin to answer the first charge is to compare the Bush administration's claims about the nature of the threat posed by Saddam Hussein's Iraq with those made by the Clinton administration. The fact is that the current administration's arguments about the threat we faced from Iraq was not substantially different from that put forward by the previous administration.²

¹ Iraqi officials claim the weapons stockpiles were destroyed in 1991. However, the American Iraqi Survey Group [ISG]—headed first by David Kay and most recently by Charles Duelfer—has been unable to substantiate most of these claims with physical or documentary evidence. As Duelfer reports, the ISG's understanding of what happened to Iraq's chemical and biological weapons is "heavily dependent" on information provided by one man, Dr. Mahmud Firaj Bilal, the Iraqi scientist who claims to have supervised the destruction. This reliance on one source is, as Duelfer acknowledges, "a weakness in our analysis." For while Duelfer and his colleagues believe they obtained "a reasonably coherent account of the disposition of chemical weapons munitions" by interviewing Dr. Bilal and other former Iraqi officials, the ISG was "not able physically to verify that story." And while UN inspectors, according to Duelfer, had verified "some of" Bilal's story, they were never able to account fully for the long list of missing WMD and weapons-related material detailed in their March 6, 2003 report to the Security Council. "Comprehensive Report of the Special Advisor to the DCI on Iraq's WMD," (Duelfer Report) September 30, 2004, p. 32 (chemical section), available at http://www.foia.cia.gov/duelfer/Iraqs_WMD_Vol3.pdf; "Unresolved Disarmament Issues: Iraq's Proscribed Weapons Programmes," March 6, 2003, available at <http://www.un.org/Depts/unmovic/documents/cluster6mar.pdf>.

² Furthermore, the Bush administration was dependent on substantially the same intelligence as the Clinton administration. See Senate Select Committee on Intelligence, *Report on U.S. Intelligence Community's Prewar Intelligence Assessments on Iraq*, July 7, 2004, pp. 14-17, 24, available at <http://intelligence.senate.gov/iraqreport2.pdf>. As the Senate report makes clear, the intelligence community had little, if any, new hard information about Iraq's programs. What was firmly known about Iraq's WMD programs concerned activities that "pre-dated the 1991 Gulf War." With "significant short-comings in almost every aspect of the Intelligence Community's human intelligence collection efforts against Iraq's weapons of mass destruction activities," there was no new stream of intelligence data that would have led

On this question, the record is clear. Both administrations assessed the threat in similar terms.³ For example, in September 2002, Secretary of Defense Donald Rumsfeld asked CBS News viewers to “imagine a September eleventh with weapons of mass destruction. It’s not three thousand—it’s tens of thousands of innocent men, women and children.”⁴ Similarly, Clinton administration Defense Secretary William Cohen stated in a televised Pentagon press briefing that the “UN believes that Saddam may have produced as much as 200 tons of VX, and this would, of course, be theoretically enough to kill every man, woman and child on the face of the earth....We face a clear and present danger today.... [The] terrorists who bombed the World Trade Center in New York had in mind the destruction and deaths of 250,000 people that they were determined to kill.”⁵

The one possible exception to this basic continuity concerns the nuclear threat posed by Iraq. On this issue the Bush administration did go a bit further than the Clinton administration in emphasizing the potential threat posed by an Iraqi nuclear weapons program. Vice President Cheney, for example, stated in August, 2002 that “many of us are convinced that Saddam will acquire nuclear weapons fairly soon.”⁶

But even the vice president’s statement was not significantly different from what the U.S. intelligence community was saying in classified documents. The October 2002 National Intelligence Estimate stated that “in the view of most agencies, Baghdad is reconstituting its nuclear weapons programs,” and “if Baghdad acquires sufficient fissile material from abroad it could make a nuclear weapon within several months to a year.”⁷ Nor, according to former Clinton officials, was it substantively different from what the Clinton administration was being told behind closed doors. As Kenneth Pollack, former CIA analyst and Clinton NSC official has written: “The U.S. Intelligence Community’s belief toward the end of the Clinton Administration [was] that Iraq had reconstituted its nuclear

the intelligence community and, in turn, the Bush administration, to reassess prevailing assumptions about Iraq’s weapons programs. Instead, what “analysts knew” was that Iraq had not been forthcoming with the UN inspection effort, had not satisfied the UN with respect to the purported destruction of all of its pre-Gulf War weapons, precursors and equipment, was making considerable efforts to import dual-use equipment that could potentially be used in illicit programs, and had begun refurbishing facilities and sites previously associated with WMD activities. From this, the Senate report concludes it was “reasonable” for the 2002 NIE to reach the conclusions that it did. The failure, in the view of the Senate committee, was not making known to policymakers the “uncertainty”—or, more precisely, the inferential character—of the information on which the NIE’s judgments were largely based. Likewise, the Presidential “Commission on the Intelligence Capabilities of the United States Regarding Weapons of Mass Destruction” (March 29, 2005) noted that while the “fears and assumptions” in the NIE were not “foolish or even unreasonable,” the NIE nonetheless “simply didn’t communicate how weak the underlying intelligence was.” Overview of the Report, p. 10, available at <http://www.wmd.gov/>.

³ See Part I, “Iraq: The Clinton Administration’s Case.”

⁴ CBS News, *Face the Nation*, September 8, 2002.

⁵ Remarks by Defense Secretary Cohen during a Defense Department briefing, November 25, 1997, available at http://www.defenselink.mil/news/Nov1997/t11251997_t1125ptr.html.

⁶ Remarks by Vice President Cheney to the Veterans of Foreign Wars, August 26, 2002, available at <http://www.iraqwatch.org/government/US/WH/wh-cheney-082602.htm>.

⁷ “Key Judgments October 2002 National Intelligence Estimate,” available at <http://www.fas.org/irp/cia/product/iraq-wmd.html>.

weapons program and was close to acquiring nuclear weapons.”⁸ And, indeed, President Clinton, in the midst of one of a series of crises dealing with Iraq, painted a bleak future if nations did not cooperate against “organized forces of destruction,” telling the audience that only a small amount of “nuclear cake put in a bomb would do ten times as much damage as the Oklahoma City bomb did.” Effectively dealing with proliferation and not letting weapons “fall into the wrong hands” is “fundamentally what is stake in the standoff we’re having in Iraq today.”⁹

If the Bush administration was not exaggerating the threat, as it and the previous administration understood it, did it nevertheless exaggerate the imminence of the threat? Critics argue that the Bush administration did so. But a fair reading of statements by senior policymakers, including the president, show that the administration was not making the case the threat was imminent, in the sense that Iraq was about to launch a strike against the United States or its allies, or even that such a strike was likely within coming months. The Bush administration did not launch the invasion in March 2003 because it believed Saddam was about to strike. The most significant statement on this subject was made by President Bush in a speech on June 1, 2002, when he declared, “[W]e must take the battle to the enemy, disrupt his plans, and confront the worst threats before they emerge.”¹⁰ Nor did senators who approved the resolution authorizing war believe they were voting for a war to forestall an imminent threat. On October 10, 2002, then-Senator Daschle (D-SD) declared that the “threat posed by Saddam Hussein may not be imminent, but it is real, it is growing, and it cannot be ignored.”¹¹

The case for the war was not based on imminence, in the sense that if action was not taken within a few months, a weapon would be used against the United States. The case was rather that, if action were not taken soon, it might be too difficult or dangerous to act because Saddam would be too far along in his weapons programs. There was also concern, especially after 9/11, but also before it, that Saddam might pass on knowledge or capabilities to terrorists. This was the case the administration did advance.¹² In reaction to the passage of United Nations Resolution 1441, President Bush stated: “We are actively pursuing dangerous terror networks across the world, and we oppose a uniquely dangerous regime: a regime that has harbored terrorists and could supply terrorists with weapons of mass destruction, a regime that has built such terrible weapons and has used them to kill thousands, a brutal regime with a history of both reckless ambition and reckless miscalculation.”¹³ And in his 2003 State of the Union address, the president declared that “some have said we must not act until the threat is imminent. Since when have terrorists and tyrants announced their intentions, politely putting us on

⁸ Kenneth M. Pollack, “Spies, Lies, and Weapons,” *Atlantic Monthly*, January/February 2004, p. 81.

⁹ Remarks by President Clinton at a Democratic National Committee event, Sacramento Capital Club, Sacramento, CA, November 15, 1997.

¹⁰ Remarks by President Bush at West Point graduation ceremony, June 1, 2002.

¹¹ Remarks by Senator Daschle on the floor of the U.S. Senate, October 10, 2002.

¹² On Iraq’s ties to terrorists, see chapter VII, “Questions & Answers on Iraq’s Ties To Terrorism and al Qaeda.”

¹³ Remarks by President Bush delivered in White House Rose Garden, November 8, 2002.

notice before they strike? If this threat is permitted to fully and suddenly emerge, all actions, all words, and all recriminations would come too late.”¹⁴

This was precisely the case advanced by the Clinton administration in 1998 and 1999. President Clinton, speaking in February 1998, asked, “What if [Saddam] fails to comply and we fail to act, or we take some ambiguous third route, which gives him yet more opportunities to develop this program of weapons of mass destruction...Well, he will conclude that the international community has lost its will. He will then conclude that he can go right on and do more to rebuild an arsenal of devastating destruction. And some day, some way, I guarantee you he'll use this arsenal.” “In the next century,” Clinton predicted, “the community of nations may see more and more of the very kind of threat Iraq poses now—a rogue state with weapons of mass destruction, ready to use them or provide them to terrorists...who travel the world among us unnoticed.” Secretary of State Madeleine Albright on February 19, 1998 told an audience at Tennessee State that the world had not seen “except maybe since Hitler, somebody who is quite as evil as Saddam Hussein.” In answering a question, she expressed concern about what Saddam Hussein might do if were able to “break out of the box that we kept him in,” including the possibility that “he could in fact somehow use his weapons of mass destruction” or “could kind of become the salesman for weapons of mass destruction—that he could be the place that people come and get more weapons.” Arguing that action needed to be taken sooner rather than later, Albright noted that one of the “lessons of this century [is that] if you don't stop a horrific dictator before he gets started too far...he can do untold damage....” She continued: “If the world had been firmer with Hitler earlier, then chances are that we might not have needed to send Americans to Europe during the Second World War.”¹⁵

Recall that for almost a decade before the war, UN weapons inspectors, led first by Rolf Ekeus, then by Richard Butler, and finally by Hans Blix, had been engaged in attempting to verify the claims by Iraqi officials that weapons and weapons material had been destroyed. When Saddam Hussein's son-in-law revealed in 1995 that Iraq had produced far more chemical and biological weapons than previously known, senior Iraqi officials admitted that they had concealed the extent of their program and provided lists of weapons stockpiles that had been produced prior to the first Persian Gulf War in 1991.¹⁶ These included at least 3.9 tons of VX nerve gas and 805 tons of precursor ingredients for the production of more VX; nearly 8,500 liters of anthrax; 550 artillery shells filled with mustard gas; 157 aerial bombs filled with germ agents; 25 missile warheads containing germ agents such as anthrax, aflatoxin, and botulinum; as well as other weapons and weapons material.

¹⁴ State of the Union Address, January 28, 2003, available at <http://www.whitehouse.gov/news/releases/2003/01/20030128-19.html>.

¹⁵ Remarks by Secretary Albright at Tennessee State University in Nashville, February 20, 1998.

¹⁶ UN inspectors also believed Saddam produced more weapons and related material he had not declared.

When Iraqi officials made these admissions to UN weapons inspectors in the mid-1990s, the UN inspectors naturally asked what had happened to the weapons. The Iraqi government insisted that most of the weapons had been “secretly” destroyed. But when the UN inspectors asked Iraqi officials to produce convincing evidence of this alleged destruction—the location of destruction sites, fragments of destroyed weapons, some documentation of the destruction—Iraqi officials generally refused. For the next two years, until the inspectors were kicked out of Iraq in 1998, the UN inspection process became a lengthy cat-and-mouse game, with inspectors attempting either to verify or disprove Iraqi allegations, without real success. In February 1998, President Bill Clinton reported the situation to the American people in a speech on the steps of the Pentagon. Based on reports from the UN weapons inspectors, President Clinton declared, Saddam was clearly attempting “to protect whatever remains of his capacity to produce weapons of mass destruction, the missiles to deliver them, and the feed stocks necessary to produce them. The UNSCOM inspectors believe that Iraq still has stockpiles of chemical and biological munitions, a small force of Scud-type missiles, and the capacity to restart quickly its production program and build many, many more weapons.”¹⁷

When Hans Blix led a new UN inspection team in Iraq between December 2002 and March 2003, he was not able to resolve most of the outstanding questions regarding the stockpiles. In March 2003, Blix reported to the UN Security Council that the “long list” of “unaccounted for” WMD and weapons-related material catalogued in December of 1998—the month inspections ended in Iraq—and beyond remained “unaccounted for.” The list included: up to 3.9 tons of VX nerve agent; 6,526 aerial chemical bombs; 550 mustard gas shells; 2,062 tons of Mustard precursors; some 15,000 empty 122-mm chemical rocket warheads; 8,445 liters of anthrax; growth media that could have produced “3,000 - 11,000 litres of botulinum toxin, 6,000 - 16,000 litres of anthrax, up to 5,600 liters of *Clostridium perfringens*, and a significant quantity of an unknown bacterial agent”; “at a minimum” 16 to 30 structural rings for missiles; and at least 15 special warheads.¹⁸ Blix and the UN inspectors listed these weapons as “unaccounted for” despite the fact that Iraqi officials insisted that the weapons had been destroyed. The UN inspectors’ position was that, in light of Saddam’s history of deception and concealment with regards to his programs, without compelling physical or documentary evidence to confirm destruction, the weapons had to be presumed to still exist.¹⁹

As it stands today, and in spite of quite heroic ISG efforts in the face of an extremely difficult security situation, Kay and Duelfer have not been able to resolve conclusively the outstanding issues detailed in Blix’s final report. Duelfer cites Iraqi officials claiming what Iraqi officials have been claiming for nearly a decade: that the stockpiles were

¹⁷ Remarks by President Clinton at the Pentagon, February 17, 1998.

¹⁸ Kenneth Katzman, *Iraq: Weapons Programs, U.N. Requirements, and U.S. Policy*, Congressional Research Service (CRS), September 2, 2002, p. 7, available at <http://www.fas.org/man/crs/IB92117.pdf>; “Unresolved Disarmament Issues,” pp. 43, 54, 56, 77, 96, 124.

¹⁹ In addition to the lack of “documentary evidence to confirm destruction,” inspectors could not verify the total number of munitions filled and with what agents. See question number 8, Part VI.

destroyed. But ISG admits it lacks physical evidence to verify fully these assertions.²⁰ Duelfer argues that he sees no reason why former Iraqi officials would be unwilling to tell the truth now that Saddam is out of power. But one can imagine any number of reasons why former Iraqi officials might not be willing at this point to acknowledge the continued existence of weapons stockpiles, if they did exist and were hidden somewhere. As the Duelfer report itself notes: “Many of the officials interviewed by ISG had previously lied—or told half-truths—to UNSCOM, and they may have lied to ISG as well, though ISG assesses that most were being open and truthful.”²¹

It is entirely possible the ISG inspectors are right and that there were no weapon stockpiles in Iraq. It also remains possible, however, that there are weapons in Iraq that have yet to be discovered, or a chance that weapons, infrastructure, and critical

²⁰ In a few instances, ISG has been able to verify, in part, the claims of Saddam’s former officials. Nevertheless, even in these instances uncertainties remain. For example, according to Duelfer, “Iraq declared the possession of 157 aerial bombs and 25 missile warheads containing BW agents. ISG assesses that the evidence for the original number of bombs is *uncertain* [emphasis added]. ISG judges that Iraq clandestinely destroyed at least 132 bombs and 25 missiles. ISG continued the efforts of the UN at the destruction site but found no remnants of further weapons. This leaves the possibility that the fragments of up to 25 bombs may remain undiscovered...[and] would probably now only contain degraded agent.” Of the 25 biological warheads, “there is evidence only to confirm that sufficient stainless steel agent containers were unilaterally destroyed to account for the declared quantities of BW warheads. It is not possible to conclude that all of the BW warheads were destroyed or that only three agents were used.” Additionally, “UNSCOM, UNMOVIC, and the Iraqi themselves regarded these numbers (Iraq’s declaration that it had 157 aerial bombs and 25 BW warheads) as soft estimates because of the lack of documentation.” Duelfer Report, pp. 2, 51, 59 (biological section), available at http://www.foia.cia.gov/duelfer/Iraqs_WMD_Vol3.pdf. Indeed, UNMOVIC’s March 6, 2003 “Unresolved Disarmament” report (p. 43) stated: “Although UNSCOM verified the destruction of 73 to 75 special warheads that Iraq declared, a number of discrepancies and questions remain, which raise doubts about the accounting of the special warheads, including the total number produced.” Also see footnote 54, Part VI.

²¹ Duelfer Report,” p. 45 (biological section). In fact, ISG inspectors do not claim to have carried out an exhaustive search in Iraq, much less, of course, in neighboring countries like Syria. As Duelfer reports, ISG’s technical experts “fully evaluated less than one quarter of one percent of the over 10,000 weapons caches throughout Iraq, and visited fewer than ten ammunition depots identified prior to OIF [Operation Iraqi Freedom] as suspect CW [Chemical Weapons] sites.” The ISG estimates there are over 600,000 tons of munitions stored around Iraq. As of the September 2004, ISG reported that it had visited and inspected approximately 10 percent “or less of the total Iraqi munitions stocks.” Instead of attempting to visit all the sites, the ISG tried to determine which sites were “most likely associated with possible storage or deployment of chemical weapons.” In the end, the ISG visited only 24 sites. Out of 104 ammunition storage points within the Red Line around Baghdad, the ISG used “indicators of CW—such as possible decontamination vehicles—to narrow the search to 24 sites.” The result of this search of these 24 sites uncovered “no caches of CW munitions.” The Duelfer report concludes: “[A]lthough only a fraction of the hundreds of thousands of tons of Iraqi munitions were inspected, ISG has a high confidence that there are no CW present in the Iraqi inventory.” The September 2004 Duelfer report also declared that the “security situation in Iraq has limited the physical verification of Iraq’s unilateral destruction claims—by excavating and counting weapon fragments, for example.” In addition, the report noted that the survey of Iraq’s main nuclear complex at Tawaiha was the “best that could be achieved with available resources and equipment.”

documentation were moved to neighboring countries prior to the U.S. invasion last March.²² To their credit, both Duelfer and Kay have acknowledged both possibilities.²³

Nonetheless, this accounting of weapons was always subsidiary to the larger goal, which was to achieve Iraq's complete disarmament, including the elimination not only of existing prohibited weapons but also all such weapons programs, to ensure that Iraq would also not possess weapons of mass destruction in the future.²⁴

Indeed, the Clinton and Bush administrations were both concerned that containment and sanctions could not be continued indefinitely, and that when the sanctions regime collapsed, Saddam would be able to reconstitute his weapons program relatively quickly.²⁵ This was the conclusion of UN weapons inspectors, including Richard Butler, whose January 1999 report stated: “[I]t needs to be recognized that Iraq possesses an industrial capacity and knowledge base, through which biological warfare agents could be produced quickly and in volume, if the Government of Iraq decided to do so.”

In his February 1998 speech, President Clinton warned that “Iraq still has stockpiles of chemical and biological munitions...and the capacity to restart quickly its production program and build many, many more weapons.” A U.S. government White Paper on Iraq's weapons of mass destruction, released on February 13, 1998, stated that “in the absence of UNSCOM inspectors, Iraq could restart limited mustard agent production within a few weeks, full-production of sarin within a few months, and pre-Gulf War production levels—including VX—within two or three years.” National Security Adviser Samuel Berger, in a speech in December 1998, expressed the common view that containment of Saddam could not succeed over the long run. The “immediate military threat” posed by Iraq might be checked for a time, Berger argued. But “even a contained Saddam” was “harmful to stability and to positive change in the region.” And containment itself was probably not “sustainable over the long run.” It was “a costly policy, in economic and strategic terms.” And the pattern of the previous years, “Iraqi defiance, followed by force mobilization on our part, followed by Iraqi capitulation,” had

²² A March 13, 2005 *New York Times* article, “Looting at Weapons Plants Was Systematic, Iraqi Says,” reported on a “highly organized operation,” which apparently took place from mid-April to mid-May 2003 at Iraqi weapons sites, “as teams with flatbed trucks and other heavy equipment moved systematically from site to site,” collecting “tons of machinery...capable of making parts for missiles as well as chemical, biological and nuclear arms...” If accurate, this would seem to also suggest the possibility that other WMD-related material and equipment could have been targeted in a similarly organized operation prior to the March 2003 invasion.

²³ Duelfer testimony before the Senate Armed Services Committee, October 6, 2004; Kay interview National Public Radio Weekend Edition Sunday, January 25, 2004.

²⁴ The UN's first disarmament resolution in 1991, UN Resolution 687, also obligated Iraq not to, among other things, “commit or support any act of international terrorism or allow any organization directed towards commission of such acts to operate within its territory and to condemn unequivocally and renounce all acts, methods and practices of terrorism.”

²⁵ The Duelfer Report cited numerous examples of the erosion of the sanctions regime and also noted that Hussein sought to “end sanctions while preserving the capability to reconstitute his weapons of mass destruction (WMD) when sanctions were lifted.”

left “the international community vulnerable to manipulation by Saddam.” The longer the standoff continued, Berger warned, “the harder it will be to maintain” international support. Nor was there any question what Saddam would do if and when containment collapsed. “Saddam’s history of aggression, and his recent record of deception and defiance, leave no doubt that he would resume his drive for regional domination if he had the chance. Year after year, in conflict after conflict, Saddam has proven that he seeks weapons, including weapons of mass destruction, in order to use them.”²⁶

The case for war, in short, did not rest exclusively on the existence of stockpiles. It derived from a perception of Saddam’s intentions and capabilities, both existing and potential, and was grounded in the reality of Saddam’s prior behavior. This rationale was reflected in the UN resolutions regarding Iraqi disarmament from 1991 onward, including the last, UN Security Council Resolution 1441. It is important to recall that the primary purpose of Security Council Resolution 1441, passed on November 8, 2002, was not to authorize inspections absent Iraqi cooperation. Its purpose was to demand that Saddam take all steps necessary to assure the UN and the world that he was no longer in the WMD business and account fully for all the unresolved issues related to past Iraqi WMD programs. The purpose was to give Saddam “one final chance” to offer the full cooperation to inspectors that he had been promising since the end of the Gulf War in 1991 by revealing and dismantling all his programs, and to forswear all such efforts in the future. Resolution 1441 demanded that, within 30 days, Iraq provide:

A currently accurate, full, and complete declaration of all aspects of its programs to develop chemical, biological, and nuclear weapons, ballistic missiles, and other delivery systems such as unmanned aerial vehicles and dispersal systems designed for use on aircraft, including any holdings and precise locations of such weapons, components, sub-components, stocks of agents, and related material and equipment, the locations and work of its research, development and production facilities, as well as all other chemical, biological, and nuclear programs, including any which it claims are for purposes not related to weapon production or material.

It was clear at the time, and it has been proven since, that Saddam was not complying with Resolution 1441. Hans Blix, in his May 30, 2003 report to the Security Council, reported that Iraq’s declared stocks of anthrax and VX remained unaccounted for. He elaborated: “Little progress was made in the solution of outstanding issues....The long list of proscribed items unaccounted for and as such resulting in unresolved disarmament issues was not shortened either by the inspections or by Iraqi declarations and documentation.” Today, as a result of the reports by David Kay and Charles Duelfer, we know definitively that Saddam did not comply with Resolution 1441. Iraqi officials had continued to engage in a campaign of deception and concealment of weapons activities throughout the time when Hans Blix and the UNMOVIC inspectors were in the country,

²⁶ Remarks by National Security Advisor Berger, Stanford University, December 8, 1998.

and right up until the day of the invasion, and beyond.²⁷ As Kay told the Senate Armed Services Committee last year, the ISG “discovered hundreds of cases, based on both documents, physical evidence and the testimony of Iraqis, of activities that were prohibited under the initial U.N. Resolution 687 and that should have been reported under 1441, with Iraqi testimony that not only did they not tell the U.N. about this, they were instructed not to do it and they hid material.” Kay reported: “We have had a number of Iraqis who have come forward and said, ‘We did not tell the U.N. about what we were hiding, nor would we have told the U.N.,’” because the risks were too great.

And what were the Iraqis hiding? According to Kay, “[t]hey maintained programs and activities, and they certainly had the intentions at a point to resume their programs. So there was a lot they wanted to hide because it showed what they were doing was illegal.” As Kay reported in October 2003, his survey team uncovered “dozens of WMD-related program activities and significant amounts of equipment that Iraq concealed from the U.N. during the inspections that began in late 2002.”²⁸ For example, Kay discovered:

- * A clandestine network of laboratories and safehouses within the Iraqi Intelligence Service that contained equipment suitable for research in the production of chemical and biological weapons. This kind of equipment was explicitly mentioned in Hans Blix’s requests for information, but was instead concealed from Blix throughout his investigations.
- * A prison laboratory complex, which may have been used in human testing of biological weapons agents. Iraqi officials working to prepare for UN inspections in 2002 and 2003 were explicitly ordered not to acknowledge the existence of the prison complex.
- * So-called “reference strains” of biological organisms, which can be used to produce biological weapons. The strains were found in a scientist’s home.
- * New research on agents applicable to biological weapons, including Congo Crimean Hemorrhagic Fever, and continuing research on ricin and aflatoxin – all of which was, again, concealed from Hans Blix despite his specific request for any such information.
- * Plans and advanced design work on new missiles with ranges up to at least 1,000 kilometers – well beyond the 150-kilometer limit imposed on Iraq by the U.N. Security Council. These missiles would have allowed Saddam to threaten targets from Ankara to Cairo.

²⁷ See Part III, “Iraq: A History of Deception, Obstruction & Failure to Meet International Obligations.”

²⁸ David Kay, statement before the House Permanent Select Committee on Intelligence, the House Committee on Appropriations, Subcommittee on Defense, and the Senate Select Committee on Intelligence, October 2, 2003, available at http://www.cia.gov/cia/public_affairs/speeches/2003/david_kay_10022003.html.

In addition, Duelfer also reported his findings on Saddam's weapons programs:²⁹

* As UN sanctions eroded there was a concomitant expansion of activities that could support full WMD reactivation. He directed that ballistic missile work continue that would support long-range missile development. Virtually no senior Iraqi believed that Saddam had forsaken WMD forever. Evidence suggests that, as resources became available and the constraints of sanctions decayed, there was a direct expansion of activity that would have the effect of supporting future WMD reconstitution.

* Saddam never abandoned his intentions to resume a CW effort when sanctions were lifted and conditions were judged favorable.

* ISG believes that two of Saddam's primary goals after the war were to recover economically from war damage and to retain Iraq's capability to reconstitute its WMD program after sanctions were lifted or became ineffectual, inspections were removed, and the threat of force abated.

* ISG judges that the longstanding intent of the Regime was to restart WMD production once UN sanctions were lifted. Based on an investigation of facilities, materials, and production outputs, ISG also judges that Iraq had a break-out capability to produce large quantities of sulfur mustard CW agent, but not nerve agents.

* Nevertheless, after 1996 Iraq still had a significant dual-use capability—some declared—readily useful for BW if the Regime chose to use it to pursue a BW program. Moreover, Iraq still possessed its most important BW asset, the scientific know-how of its BW cadre.

With the failure to find stockpiles of WMD in Iraq after the war, critics have insisted that the Bush administration manipulated opinion both inside and outside of government by hyping the threat we faced from Iraq and, therefore, the war was not justifiable. As this preface and what follows attempts to show, neither accusation is valid. With few exceptions, both the Bush and Clinton administrations viewed the threat posed by Iraq in much the same way. The important and singular difference is that, after September 11, 2001, the Bush administration viewed the threat as no longer tolerable and decided to address it decisively. Moreover, nothing that we have learned since the war's conclusion has altered the fact that the proximate cause for taking military action was Saddam's continued refusal to take all the necessary, UN-mandated steps to assure the world that he had totally disarmed. And whatever the final status of Iraq's stockpiles, inspections after the war have shown conclusively that Saddam never intended to live up to that obligation and, indeed, was preparing to restart his WMD programs as soon as he could. That is

²⁹ Duelfer Report, full text available at http://www.cia.gov/cia/reports/iraq_wmd_2004/index.html.

what those who supported the war believed—in the Congress, in both political parties, and in both the Clinton and Bush administrations. And they were right.

I

Iraq: The Clinton Administration's Case

“[We] may see more and more of the very kind of threat Iraq poses now—a rogue state with weapons of mass destruction, ready to use them or provide them to terrorists, drug traffickers, or organized criminals who travel the world among us unnoticed.”

— President Clinton, February 17, 1998

“[Saddam Hussein] has stored secret supplies of biological and chemical weapons throughout his country.”

— Former Vice President Al Gore, September 23, 2002

In June of 1997, Iraq officials had ratcheted up their obstruction of UNSCOM inspection efforts. They interfered with UNSCOM air operations and denied and delayed access of inspectors to sites. In September, they burned documents at sites while inspectors watched outside the front entrance. By mid-November, Saddam Hussein had demanded an end to U-2 surveillance flights over Iraq and called on American inspectors to leave Iraq.³⁰ Suspiciously, Iraq also began moving equipment out of the range of video cameras that inspectors had installed inside key industrial facilities.³¹

At first, the Clinton administration adopted a generally reserved tone toward Saddam's provocations. “We believe that he needs to fulfill all the Security Council obligations and that that is an appropriate way to deal with him,” commented Secretary of State Madeleine Albright at a November 5 press conference with the German foreign minister.³²

The next day Defense Secretary William Cohen held a ceremony unrelated to Iraq, but, citing “an unusual array” of journalists present, spoke on Iraq. “[I]t's imperative that Iraq comply with U.N. mandates,” said Cohen, but “the task right now, however, is to persuade them to cease and desist from their obstruction.” Striking a similar tone on

³⁰ Department of State, “Timeline of UN-Iraq Coalition Incidents, 1991-2002,” published February 20, 2004, available at <http://usinfo.state.gov/products/pubs/iraq/timeline.htm>.

³¹ John M. Goshko, “Iraqis May Be Acting to Avoid Surveillance,” *Washington Post*, November 6, 1997.

³² Remarks by Secretary of State Madeleine Albright at press conference held with German Foreign Minister Kinkel in Washington, D.C., November 5, 1997.

November 10 at the Pentagon, Vice President Al Gore stated: “Saddam has taken steps that interfere with the ability of the inspection team to carry out its mission.” He added, “The procedure chosen to deal with this situation is to engage him in discussions in which he can be made aware that this is not a smart thing for him to do, and he ought to change his mind.”³³

But Saddam remained defiant. On Friday, November 14, President Bill Clinton and his top advisors met at the White House and decided to launch a public campaign to build support for a possible war against Iraq.

“Prepare the Country for War”

The *New York Times* reported that at the November 14 meeting the “White House decided to prepare the country for war.” According to the *Times*, “[t]he decision was made to begin a public campaign through interviews on the Sunday morning television news programs to inform the American people of the dangers of biological warfare.”³⁴ During this time, the *Washington Post* reported that President Clinton specifically directed Cohen “to raise the profile of the biological and chemical threat.”³⁵

On Sunday, November 16, Cohen made a widely-reported appearance on ABC’s *This Week* in which he placed a five-pound bag of sugar on the table and stated that that amount of anthrax “would destroy at least half the population” of Washington, D.C. Cohen explained how fast a person could die once exposed to anthrax. “One of the things we found with anthrax is that one breath and you are likely to face death within five days. One small particle of anthrax would produce death within five days.” He noted that Iraq “has had enormous amounts” of anthrax. Cohen also spoke about the extreme lethality of VX nerve agent: “One drop [of VX] from this particular thimble as such—one single drop will kill you within a few minutes.” Finally, he reminded the world that Saddam may have enough VX to kill “millions, millions, if it were properly dispersed and through aerosol mechanisms.”³⁶

“The War of Words Grows; U.S.: Poisons Are World Threat” headlined the *New York Daily News* Monday morning.³⁷ *CBS News* said the White House had begun “a new tack, warning in the darkest possible terms of the damage which Saddam Hussein could inflict

³³ Remarks by Vice President Al Gore at Pentagon procurement reform news briefing, November 10, 1997.

³⁴ Elaine Sciolino, “How Tough Questions and Shrewd Mediating Brought Iraqi Showdown to an End,” *New York Times*, November 23, 1997.

³⁵ Barton Gellman; Dana Priest; Bradley Graham, “Diplomacy and Doubts on the Road to War,” *Washington Post*, March 1, 1998.

³⁶ ABC News “This Week,” November 16, 1997.

³⁷ Thomas M. DeFrank; Helen Kennedy, *Daily News* (New York), “The War of Words Grows, U.S.: Poisons are World Threat,” November 17, 1997.

with his chemical and biological weapons.”³⁸ And in “America the Vulnerable; A disaster is just waiting to happen if Iraq unleashes its poison and germs,” *Time* wrote that

“officials in Washington are deeply worried about what some of them call ‘strategic crime.’ By that they mean the merging of the output from a government’s arsenals, like Saddam’s biological weapons, with a group of semi-independent terrorists, like radical Islamist groups, who might slip such bioweapons into the U.S. and use them.”³⁹

This message was echoed in a series of remarks President Clinton delivered the same week.

“I say this not to frighten you”

In Sacramento on November 15, Clinton painted a bleak future if nations did not cooperate against “organized forces of destruction,” telling the audience that only a small amount of “nuclear cake put in a bomb would do ten times as much damage as the Oklahoma City bomb did.” Effectively dealing with proliferation and not letting weapons “fall into the wrong hands” is “fundamentally what is stake in the standoff we’re having in Iraq today.”

Clinton asked Americans to not to view the current crisis as a “replay” of the Gulf War in 1991. Instead, he encouraged people to “think about it in terms of the innocent Japanese people that died in the subway when the sarin gas was released [by the religious cult Aum Shinrikyo in 1995]; and how important it is for every responsible government in the world to do everything that can possibly be done not to let big stores of chemical or biological weapons fall into the wrong hands, not to let irresponsible people develop the capacity to put them in warheads on missiles or put them in briefcases that could be exploded in small rooms. And I say this not to frighten you.”⁴⁰

Again in Wichita, on November 17, Clinton said that what happens in Iraq “matters to you, to your children and to the future, because this is a challenge we must face not just in Iraq but throughout the world. We must not allow the 21st century to go forward under a cloud of fear that terrorists, organized criminals, [and] drug traffickers will terrorize people with chemical and biological weapons the way the nuclear threat hung over the heads of the whole world through the last half of this century. That is what is at issue.”⁴¹

On November 19, at a White House signing ceremony for an adoption bill, Clinton warned that Iraq must “let the weapons inspectors resume their work to prevent Iraq from

³⁸ CBS Morning News transcript, November 17, 1997.

³⁹ Bruce W. Nelan, reported by Edward Barnes/New York, Elain Shannon and Mark Thompson/Washington, “America the Vulnerable,” *Time*, November 24, 1997.

⁴⁰ Remarks by President Clinton at a Democratic National Committee event, Sacramento Capital Club, Sacramento, CA, November 15, 1997.

⁴¹ Remarks by President Clinton, Cessna Training Facility, Wichita, KS, November 17, 1997.

developing an arsenal of nuclear, chemical, and biological weapons.” In order to achieve this, “we are prepared to pursue whatever options are necessary” because, Clinton added,

“I do not want these children we are trying to put in stable homes to grow up into a world where they are threatened by terrorists with biological and chemical weapons.”⁴²

In Washington, D.C. on November 21, Clinton applauded the return of UNSCOM inspectors that day (after a three week absence) “to proceed with their work without interference, to find, to destroy, to prevent Iraq from rebuilding nuclear, chemical and biological weapons and the missiles to carry them.” He added: “We must not let our children be exposed to the indiscriminate availability and potential abuse and actual use of the biological and chemical and smaller-scale nuclear weapons which could terrorize the 21st century.”⁴³

Upon UNSCOM’s return, however, Iraqi officials began delaying entry of inspectors to “sensitive sites.”⁴⁴

“Clear and Present Danger”

On November 25, the Pentagon released “Proliferation: Threat and Response.” The report stated that Iraq “probably has hidden” chemical munitions, “may retain...some missile warheads” from its old biological program, and could jump-start production of chemical and biological weapons “should UN sanctions and monitoring end or be substantially reduced.”⁴⁵

Cohen began his press briefing on the Pentagon report by showing a picture of a Kurdish mother and her child who had been gassed by Saddam’s army. Later, standing besides the gruesome image, he described death on a mass scale: “One drop [of VX nerve agent] on your finger will produce death in a matter of just a few moments. Now the UN believes that Saddam may have produced as much as 200 tons of VX, and this would, of course, be theoretically enough to kill every man, woman and child on the face of the earth.” He then sketched an image of a massive chemical attack on an American city. Recalling Saddam’s use of poison gas and the sarin attack in Tokyo, Cohen warned that “we face a clear and present danger today,” and reminded people that the “terrorists who bombed the World Trade Center in New York had in mind the destruction and deaths of some 250,000 people that they were determined to kill.”

⁴² Remarks by President Clinton at White House signing ceremony for the Adoption and Safe Families Act of 1997, November 19, 1997.

⁴³ Remarks by President Clinton at the Rabin-Peres Peace Foundation Award ceremony, Washington, D.C., November 21, 1997.

⁴⁴ Department of State, “Timeline of UN-Iraq Coalition Incidents, 1991-2002.”

⁴⁵ Department of Defense, “Proliferation: Threat and Response—November 1997,” released November 25, 1997, available at <http://www.defenselink.mil/pubs/prolif97/>.

Asked whether Saddam had moved any of his programs underground into hardened bunkers, Cohen responded that he didn't know whether Saddam had "moved these chemicals or biological agents and materials—not only the agents themselves, but

documentation....So we don't know whether they've moved them into hardened shelters or underground bunkers."⁴⁶

By mid-December, the Pentagon had announced that all members of the military would be vaccinated against anthrax—with the first vaccinations going to those "assigned or deployed to the high threat areas of Southwest Asia and Northeast Asia."⁴⁷ At the same time, Iraqi officials announced a ban on inspections of "presidential sites" and restricted access to other "sensitive sites." With the start of the Muslim holy month of Ramadan approaching on December 31, the Clinton administration decided that any military strike had to wait. "Dragging things out to get past Ramadan" is how a senior Clinton official characterized administration policy during this period to the *Washington Post*.⁴⁸

1998: "A New Nexus of Threats"

With the end of Ramadan on January 29 and Saddam still failing to comply with his commitment to the UN to disarm, Clinton administration officials resumed their efforts in making the case about the threat posed by Saddam Hussein.

Secretary Albright flew to the Middle East to muster support among the states of the region for a possible war.⁴⁹ "Saddam Hussein, armed with chemical and biological weapons, is a threat to the international community," she told journalists in Bahrain.⁵⁰

A few days later, on February 7, Clinton, joined by British Prime Minister Tony Blair, devoted his Saturday radio address to Iraq. Noting the two were speaking from the same room where FDR and Churchill "charted our path victory in World War II," Clinton told Americans that we now face "a new nexus of threats, none more dangerous than chemical and biological weapons, and the terrorists, criminals and outlaw states that seek to acquire them." He warned that "Iraq continues to conceal chemical and biological

⁴⁶ Remarks by Defense Secretary Cohen during a Defense Department Briefing, November 25, 1997, available at http://www.defenselink.mil/news/Nov1997/t11251997_t1125ptr.html.

⁴⁷ Department of Defense press release, "Defense Department To Start Immunizing Troops Against Anthrax," December 15, 1997, available at http://www.defenselink.mil/news/Dec1997/b12151997_bt679-97.html.

⁴⁸ Senior Clinton administration official, quoted in Barton Gellman, Dana Priest, Bradley Graham, "Diplomacy and Doubts on the Road to War," *Washington Post*, March 1, 1998.

⁴⁹ Anwar Faruqi, "Albright Faces Tough Mission in Gulf with Iraq," *Associated Press*, February 1, 1998.

⁵⁰ Remarks by Secretary Albright, Manama, Bahrain, February 3, 1998.

weapons and missiles that can deliver them...[and] has the capacity to quickly restart production of these weapons.”⁵¹

How fast Saddam could “restart production” was discussed in a 10-page U.S. Government white paper on “Iraq Weapons of Mass Destruction” released on February 13.⁵² “In the absence of UNSCOM inspectors,” the report stated, “Iraq could restart limited mustard agent production with[in] a few weeks, full-production of sarin within a few months, and pre-Gulf war production levels—including VX—within two or three years.” The report included a chart listing how many people were killed by Saddam’s chemical weapons in the 1980s. The report noted that although inspections severely curtailed Iraq’s WMD programs, Saddam was “actively trying to retain what remains of his WMD programs while wearing down the will of the Security Council to maintain sanctions.” But, “even a small residual force of operational missiles armed with biological or chemical warheads would pose a serious threat to neighboring countries and US military forces in the region.”⁵³

The report detailed the biological and chemical agents and munitions for which Iraq had not accounted. It stated that Iraq “provided no hard evidence to support claims that it destroyed all of its BW agents and munitions in 1991” and “has not supplied adequate evidence to support its claim that it destroyed all of its CW agents and munitions.”⁵⁴

The white paper also discussed Iraqi nuclear activity. It observed: “Baghdad’s interest in acquiring nuclear or developing nuclear weapons has not diminished”; “we [U.S. intelligence] have concerns that scientists may be pursuing theoretical nuclear research that would reduce the time required to produce a weapon should Iraq acquire sufficient fissile material”; “Iraq continues to withhold significant information about enrichment techniques, foreign procurement, weapons design, and the role of Iraq’s security and intelligence services in obtaining external assistance and coordinating postwar concealment.”⁵⁵

On February 17, President Clinton spoke on the steps of the Pentagon. The president declared that the great danger confronting the U.S. and its allies was the “threat Iraq poses now—a rogue state with weapons of mass destruction, ready to use them or provide them to terrorists, drug traffickers, or organized criminals who travel the world

⁵¹ President Clinton’s Weekly Radio Address from the White House, February 7, 1998.

⁵² U.S. government white paper, “Iraq Weapons of Mass Destruction Programs,” released by U.S. Department of State on February 13, 1998, available at http://www.state.gov/www/regions/nea/iraq_white_paper.html.

⁵³ U.S. government white paper, “Iraq Weapons of Mass Destruction Programs,” released by U.S. Department of State on February 13, 1998.

⁵⁴ Ibid.

⁵⁵ Ibid. It should be noted that the CIA’s “Report of Proliferation-Related Acquisition in 1997,” released in July of 1998—available at http://www.cia.gov/cia/reports/721_reports/acq1997.html—made no mention of nuclear activity in the three paragraphs devoted to Iraq. However, the report did discuss, at length, Iran’s nuclear activity. The CIA’s June, 1997-released report on WMD-related acquisition devoted one line to Iraq with no mention of Iraqi nuclear activity.

among us unnoticed.” Before the Gulf War of 1991, Clinton noted, “Saddam had built up a terrible arsenal, and he had used it. Not once, but many times in a decade-long war with Iran, he used chemical weapons against combatants, against civilians, against a foreign adversary and even against his own people.”

Clinton further explained that:

[Iraq] admitted, among other things, an offensive biological warfare capability, notably, 5,000 gallons of botulinum, which causes botulism; 2,000 gallons of anthrax; 25 biological-filled Scud warheads; and 157 aerial bombs. And I might say UNSCOM inspectors believe that Iraq has actually greatly understated its production....

Over the past few months, as [the weapons inspectors] have come closer and closer to rooting out Iraq’s remaining nuclear capacity, Saddam has undertaken yet another gambit to thwart their ambitions by imposing debilitating conditions on the inspectors and declaring key sites which have still not been inspected off limits....

It is obvious that there is an attempt here, based on the whole history of this operation since 1991, to protect whatever remains of his capacity to produce weapons of mass destruction, the missiles to deliver them, and the feed stocks necessary to produce them. The UNSCOM inspectors believe that Iraq still has stockpiles of chemical and biological munitions, a small force of Scud-type missiles, and the capacity to restart quickly its production program and build many, many more weapons....

Now, let’s imagine the future. What if he fails to comply and we fail to act, or we take some ambiguous third route, which gives him yet more opportunities to develop this program of weapons of mass destruction and continue to press for the release of the sanctions and continue to ignore the solemn commitments that he made? Well, he will conclude that the international community has lost its will. He will then conclude that he can go right on and do more to rebuild an arsenal of devastating destruction. And some day, some way, I guarantee you he’ll use the arsenal....⁵⁶

“Madonna and Child Saddam Hussein-style”

On February 18, Secretaries Cohen and Albright and National Security Advisor Berger held what the administration dubbed a “global town hall meeting” on the campus of Ohio State University. There, Defense Secretary Cohen bluntly stated: “Saddam Hussein has

⁵⁶ Remarks by President Clinton at the Pentagon, February 17, 1998.

developed an arsenal of deadly chemical and biological weapons. He has used these weapons repeatedly against his own people as well as Iran. I have a picture which I believe CNN can show on its cameras, but here's a picture taken of an Iraqi mother and child killed by Iraqi nerve gas. This is what I would call Madonna and child Saddam Hussein-style."

Berger declared that "in the 21st century, the community of nations may see more and more of this very kind of threat that Iraq poses now, a rogue state with biological and chemical weapons."

The "record will show that Saddam Hussein has produced weapons of mass destruction," Secretary of State Albright stated, "which he's clearly not collecting for his own personal pleasure, but in order to use." She continued: "Iraq is a long way from [here], but what happens there matters a great deal here. For the risks that the leaders of a rogue state will use nuclear, chemical or biological weapons against us or our allies is the greatest security threat we face."⁵⁷

"If the world had been firmer with Hitler...."

At Tennessee State on February 19, Albright told the crowd that the world has not "seen, except maybe since Hitler, somebody who is quite as evil as Saddam Hussein." In answering a question, she sketched scenarios should Saddam "break out of the box that we kept him in," including one in which "he could in fact somehow use his weapons of mass destruction" and one where Saddam "could kind of become the salesman for weapons of mass destruction—that he could be the place that people come and get more weapons."

Albright also noted that one of the "lessons of this century [is that] if you don't stop a horrific dictator before he gets started too far...he can do untold damage...." She continued: "If the world had been firmer with Hitler earlier, then chances are that we might not have needed to send Americans to Europe during the Second World War."⁵⁸

Four days later, February 23, UN Secretary-General Kofi Annan reached an agreement with Saddam Hussein providing for inspections of presidential sites. The Security Council endorsed the agreement on March 2 with UNSC Resolution 1154, which warned of the "severest consequences" should Iraq break the agreement.

On May 22, 1998, President Clinton delivered a speech reminiscent of the comments he had made on February 17 at the Pentagon.

⁵⁷ Remarks by Secretaries Cohen and Albright and National Security Advisor Berger at a Town Hall meeting on the campus of Ohio State University in Columbus, OH, February 18, 1998.

⁵⁸ Remarks by Secretary Albright at Tennessee State University in Nashville, February 20, 1998.

The president warned Annapolis graduates that our enemies “may deploy compact and relatively cheap weapons of mass destruction—not just nuclear, but also chemical or biological, to use disease as a weapon of war. Sometimes the terrorists and criminals act alone. But increasingly, they are interconnected, and sometimes supported by hostile countries.” The U.S., he continued, will work to “prevent the spread and use of biological weapons and to protect our people in the event these terrible weapons are ever unleashed by a rogue state or terrorist group or an international criminal organization.”

This protection will include “creating stockpiles of medicines and vaccines to protect our civilian population against the kind of biological agents our adversaries are most likely to obtain or develop.”⁵⁹

On August 5, 1998, Iraq halted no-notice inspections by UNSCOM but allowed UNSCOM’s monitoring activities to continue.⁶⁰

On August 14, 1998, President Clinton signed public law 105-235, “Iraqi Breach of International Obligations,” which had passed the Senate unanimously and by a vote of 407-6 in the House.⁶¹ Among the law’s findings: “Iraq’s continuing weapons of mass destruction programs threaten vital United States interests and international peace and security.” It concluded:

Resolved...[t]hat the Government of Iraq is in material and unacceptable breach of its international obligations, and therefore the President is urged to take appropriate action, in accordance with the Constitution and relevant laws of the United States, to bring Iraq into compliance with its international obligations.⁶²

Six days later, on August 20, the U.S. launched missiles strikes in Afghanistan and Sudan. According to a report in the September 1, 1998 *Washington Post*, a U.S. intelligence operation “to investigate Sudan’s nascent chemical weapons program ultimately linked Al Shifa [a Sudanese pharmaceutical factory] to Iraq’s chemical weapons programs....”⁶³

Regime Change and “Positive Evolution...in the Middle East”

⁵⁹ Remarks by President Clinton, U.S. Naval Academy commencement address, May 22, 1998.

⁶⁰ Department of State, “Timeline of UN-Iraq Coalition Incidents, 1991-2002.”

⁶¹ Senate vote on S.J. Resolution 54, on July 31, 1998; House roll call vote number 378, August 3, 1998.

⁶² Public Law 105-235, “A Joint Resolution Finding the Government of Iraq in Unacceptable and Material Breach of its International Obligations,” available at <http://thomas.loc.gov/cgi-bin/bdquery/z?d105: SJ00054;|TOM:/bss/d105query.html>.

⁶³ Vernon Loeb and Bradley Graham, “Sudan Plant Probed Months Before Attack,” *Washington Post*, September 1, 1998.

On October 31, 1998, Iraq ceased all cooperation with UNSCOM.⁶⁴ The same day President Clinton signed the Iraq Liberation Act, which declared 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.”⁶⁵ In signing the act, Clinton stated that the U.S. “looks forward to a democratically supported regime that would permit us to enter into a dialogue leading to the reintegration of Iraq into normal international life.”⁶⁶

Two week later, on November 14, Iraq resumed cooperation with UNSCOM, averting U.S. and British air strikes.⁶⁷

On December 8, National Security Advisor Berger delivered an address at Stanford University on U.S. policy on Iraq. He stated:

As long as Saddam remains in power and in confrontation with the world, the positive evolution we and so many would like to see in the Middle East is less likely to occur. His Iraq remains a source of potential conflict in the region, a source of inspiration for those who equate violence with power and compromise with surrender, a source of uncertainty for those who would like to see a stable region in which to invest.

Change inside Iraq is necessary not least because it would help free the Middle East from its preoccupation with security and struggle and survival, and make it easier for its people to focus their energies on commerce and cooperation.

For the last eight years, American policy toward Iraq has been based on the tangible threat Saddam poses to our security. That threat is clear. Saddam’s history of aggression, and his recent record of deception and defiance, leave no doubt that he would resume his drive for regional domination if he had the chance. Year after year, in conflict after conflict, Saddam has proven that he seeks weapons, including weapons of mass destruction, in order to use them.

Berger added:

We will continue to contain the threat Iraq poses to its region and the world. But for all the reasons I have mentioned, President Clinton has said that over the long-term, the best way to address the challenge Iraq poses is “through a government in Baghdad—a new government—that is committed to represent and respect its people, not repress them; that is committed to peace in the

⁶⁴ Department of State, “Timeline of UN-Iraq Coalition Incidents, 1991-2002.”

⁶⁵ Public law 105-338, “Iraq Liberation Act of 1998,” October 31, 1998, available at <http://thomas.loc.gov/cgi-bin/bdquery/z?d105:HR04655:TOM:/bss/d105query.html>.

⁶⁶ White House press release, “Clinton Signs Iraq Liberation Act,” October 31, 1998, available at <http://www.fas.org/news/iraq/1998/11/01/981101-in.htm>.

⁶⁷ Department of State, “Timeline of UN-Iraq Coalition Incidents, 1991-2002.”

region.” Our policy toward Iraq today is to contain Saddam, but also to oppose him.⁶⁸

On December 9, Iraq again resumed obstructing inspection activities; shortly thereafter, UNSCOM withdrew inspectors from Iraq.⁶⁹

Desert Fox and a “Threat of the Future”

On December 16, 1998, President Clinton launched Operation Desert Fox, a four-day missile and bombing attack on Iraq. “I acted quickly because, as my military advisors stressed, the longer we waited, the more time Saddam would have to disburse his forces and protect his arsenal,” Clinton explained in his December 19 radio address to the nation. “Our mission is clear: to degrade Saddam’s capacity to develop and deliver weapons of mass destruction.”⁷⁰

Secretary Albright held a briefing on Desert Fox and was asked how she would respond to those who say that unlike the 1991 Gulf War this campaign “looks like mostly an

Anglo-American mission.” She answered:

We are now dealing with a threat, I think, that is probably harder for some to understand because it is a threat of the future, rather than a present threat, or a present act such as a border crossing, a border aggression. And here, as the president described in his statement yesterday, we are concerned about the threat posed by Saddam Hussein’s ability to have, develop, deploy weapons of mass destruction and the threat that that poses to the neighbors, to the stability of the Middle East, and therefore, ultimately to ourselves.⁷¹

Secretary Cohen replied similarly in March 1998 to comments made by Senator Campbell of Colorado, who chided the administration for not keeping the “coalition together” during an Appropriations Committee hearing. Cohen responded:

⁶⁸ Address by National Security Advisor Berger, Stanford University, December 8, 1998.

⁶⁹ Department of State, “Timeline of UN-Iraq Coalition Incidents, 1991-2002.”

⁷⁰ Remarks by President Clinton during his Weekly Radio Address, December 19, 1998. It should also be noted that on July 27, 2003 on CNN’s Larry King President Clinton assessed the effectiveness of Desert Fox. He stated: “When I left office, there was a substantial amount of biological and chemical material unaccounted for. That is, at the end of the first Gulf War, we knew what he had. We knew what was destroyed in all the inspection processes and that was a lot. And then we bombed with the British for four days in 1998. We might have gotten it all; we might have gotten half of it; we might have gotten none of it. But we didn’t know.”

⁷¹ Remarks by Secretary Albright during special briefing on Operation Desert Fox at the U.S. State Department, December 17, 1998.

And that's one of the reasons why you haven't seen the kind of solidarity that we had before; [it is] much harder when the case is the threat of weapons of mass destruction versus Saddam Hussein setting off 600 oil wells in the field of Kuwait and seeing that kind of threat, which is real and tangible, as opposed to one which might take place some time in the future, as far as the use of his chemical and biologicals.⁷²

On December 19, Saddam Hussein declared that inspectors would never be allowed back in Iraq.⁷³ Inspectors would not return to Iraq for five years.

⁷² Remarks of Secretary Cohen before the Senate Appropriations Committee, March 6, 1998.

⁷³ Department of State "Timeline of UN-Iraq Coalition Incidents, 1991-2002."

II

Iraq: The Perspective from Washington on March 18, 2003

“At the time the IC [Intelligence community] drafted and coordinated the NIE [National Intelligence Estimate] on Iraq's weapons of mass destruction (WMD) programs in September 2002,...analysts knew that Iraq had active nuclear, chemical, biological, and delivery programs before 1991, and had previously lied to, and was still not forthcoming with, UN inspectors about those programs. The analysts also knew that the United Nations was not satisfied with Iraq's efforts to account for its destruction of all its pre-Gulf War weapons, precursors, and equipment. Additionally, the analysts knew that Iraq was trying to import dual-use materials and equipment and had rebuilt or was continuing to use facilities that had been associated with Iraq's pre-Gulf War weapons programs, and knew that WMD were likely within Iraq's technological capabilities.”⁷⁴

— Senate Select Committee on Intelligence, July 9, 2004

On March 18, 2003, the day before Operation Iraqi Freedom commenced, President Bush confronted a long list of concerns regarding Saddam's weapons programs, his connections to terrorist organizations, and his history of aggressive behavior. These concerns were based on data that had come from a variety of sources in addition to the information contained in the 2002 National Intelligence Estimate.

What was this data?

1. The history of Saddam's regime was well known: war against Iran; war against Kuwait; war against Iraqis; mass murder and mass graves;⁷⁵ poison gas attacks; ethnic cleansing; institutionalized torture and repression; aiding terrorist organizations; serial violator of the 1991 Gulf War cease-fire agreement and numerous UN resolutions.

⁷⁴ While the Senate Select Committee on Intelligence was highly critical of the intelligence community's analytic performance, it noted that the community's judgment that Iraq had retained its pre-Gulf War weapons programs “was a reasonable assessment,” considering Iraq's past behavior and its continuing efforts to acquire dual-use materials. The heart of the committee's criticism was that statements made in the 2002 NIE (such as, Iraq “has chemical and biological weapons,” and “Iraq has maintained its chemical weapons effort,” and “is reconstituting its nuclear weapons program”) “did not accurately portray the uncertainty of the information.” *Report on U.S. Intelligence Community's Prewar Intelligence Assessments on Iraq*, (July 7, 2004), p.17, available at <http://intelligence.senate.gov/iraqreport2.pdf>.

⁷⁵ Mass graves have continued to be found in Iraq. For example, see Robert F. Worth, “Iraqis Find Graves Thought to Hold Hussein's Victims,” *New York Times*, April 15, 2005, available at <http://www.nytimes.com/2005/04/15/international/middleeast/15graves.html>

2. Former Clinton administration officials made comments before Operation Iraqi Freedom that Saddam *possessed* wmd stockpiles and was a growing missile threat.

For example:

- “It’s a slam dunk case” that Saddam has weapons of mass destruction.⁷⁶ (George Tenet, former CIA director for Presidents Bill Clinton and George W. Bush, on December 21, 2002)
- Saddam has “stored secret supplies of biological and chemical weapons throughout his country.”⁷⁷ (Former Vice President Al Gore on September 23, 2002)
- “Iraq has retained ballistic missiles, as well as chemical and biological warfare munitions....There is little doubt that the Iraqis are continuing to develop chemical, biological, and nuclear weapons....”⁷⁸ (Former National Security Council official Kenneth Pollack in 2002)
- “[T]he inspectors were unable to destroy any of Iraq’s stockpile of VX agent and filled munitions.”⁷⁹ (Pollack in 2002)
- “Within four or five years, [Iraq] could have the capability to threaten most of the Middle East and parts of Europe with missiles armed with nuclear weapons containing high-enriched uranium produced indigenously. Within that same period, it could threaten U.S. territory with nuclear weapons delivered by non-conventional means. If Iraq managed to get its hands on sufficient quantities of already produced fissile material, these threats could arrive much earlier.”⁸⁰ (Former Assistant Secretary of State for Nonproliferation Robert Einhorn on March 1, 2002)

3. Buttressing these concerns were the findings contained in detailed reports, including UN inspection reports. For example:

- On March 6, 2003, the UN issued a report on Iraq’s “Unresolved Disarmament Issues.” It stated that a “long list” of “unaccounted for” WMD and weapons-related material catalogued in December of 1998—the month inspections ended in Iraq—and beyond were still “unaccounted for.” The list included: up to 3.9 tons of VX nerve agent; 6,526 aerial chemical bombs; 550 mustard gas shells; 2,062 tons of Mustard precursors; 15,000 chemical munitions; 8,445 liters of anthrax; growth media that could have produced “3,000 - 11,000 litres of

⁷⁶ Bob Woodard, *Plan of Attack* (New York: Simon & Shuster, 2004), p. 249.

⁷⁷ Remarks by Former Vice President Al Gore at the Commonwealth Club, San Francisco, CA, September 23, 2002.

⁷⁸ Kenneth M. Pollack, *The Threatening Storm* (New York: Random House, 2002), p. 148.

⁷⁹ *Ibid.*, 171.

⁸⁰ Robert Einhorn, testimony before the Senate Governmental Affairs Committee, March 1, 2002.

- botulinum toxin, 6,000 - 16,000 litres of anthrax, up to 5,600 litres of *Clostridium perfringens*, and a significant quantity of an unknown bacterial agent”; and at least 15 biological warheads.⁸¹ Moreover, Iraq was obligated to account for these weapons and related material by providing “verifiable evidence” to UN inspectors that it had, in fact, destroyed its proscribed materials.⁸² Iraq had not met this obligation.
- The UN’s March 6, 2003 report stated that there had been “a surge of activity in the missile technology field in the past four years” in Iraq. In addition, although the UN inspectors reported that 817 of 819 Scud missiles Iraq had imported had been accounted for, they admitted that they did not know the number of indigenously produced missiles Iraq had manufactured or still possessed. Similarly, while inspectors had accounted for 73 of Iraq’s 75 declared “special” warheads, doubts remained that Iraqi officials were truthful about how many had actually been produced.⁸³
- On January 25, 1999, UNSCOM expressed “no confidence” that Iraq’s biological warfare program had been dismantled. UNMOVIC’s March 6, 2003 report stated that there appears to be no “choke points” to prevent Iraq from producing anthrax at the same level it did before 1991, and large-scale Iraqi production of botulinum toxin “could be rapidly commenced.” The March 6 report also declared that Iraq’s nearly 8500 liters of unaccounted for anthrax could still be viable 15 years after production. Moreover, Iraq may have been more successful drying anthrax into inhalation form than had been declared. Dried anthrax could be stored “indefinitely.” Finally, Iraq had not accounted for growth media that could produce up to 16,000 more liters of anthrax.⁸⁴
- Iraq admitted to having produced nearly 4 tons of VX nerve agent but had not accounted for it. Furthermore, UN inspectors also believed that Iraq had enough VX precursors to produce 200 tons of the nerve agent. Evidence indicated that the Iraqis had “weaponized” VX and that Iraqi-manufactured VX was of higher purity and more stable than the Iraqis had claimed. The March 6, 2003 report declared that, given Iraq’s history of concealment, “it cannot be excluded that it has retained some capability with regard to VX.” Iraqi officials apparently placed a high priority on their VX program, comparing the agent to a nuclear weapon. The March 6 report also stated that inspectors had found a handful of 122 mm chemical rocket warheads but noted that this discovery may only be the “tip of the iceberg” since several thousand, in the inspectors’ judgment, were still accounted for. In addition, Iraq had not accounted for 550 mustard gas shells and over 2,000

⁸¹ See Part VI, “Question & Answers: Iraq’s Chemical and Biological Weapons Programs.”

⁸² See Part III, “Iraq: A History of Deception, Obstruction and Failure to Meet International Obligations.”

⁸³ See Part V, “Questions & Answers: Iraq’s Missile and UAV Programs.”

⁸⁴ See Part VI.

- tons of mustard precursor. Tests on other 15-year old mustard shells found by UNSCOM determined the gas to be 97 percent pure and likely to remain stable for a long time. Finally, the report noted that no underground chemical facilities had been found but added that such facilities may exist given the size of Iraq and that future inspections in this area would have to rely on “specific intelligence.”⁸⁵
4. U.S. intelligence had vastly underestimated the Iraqi nuclear program prior to Operation Desert Storm in 1991.⁸⁶ Intelligence assessments going back to the Clinton administration had stated that the biggest obstacle for Iraq in producing a usable nuclear bomb was the acquisition of sufficient fissile material. Former Clinton NSC official Kenneth Pollack wrote that Iraq could make a “workable [nuclear] device” in a year or two if it obtained sufficient enriched uranium and that Iraq had been attempting to buy fissile material on the black market. The British government believed that Iraq had sought to purchase uranium from Africa. And even though the Department of Energy and the Department of State’s intelligence bureau dissented from the October 2002 NIE finding that Iraq’s attempt to import high-strength aluminum tubes was associated with efforts to reconstitute its uranium enrichment program, the Energy Department still judged that “reconstitution of the nuclear program is underway” in Iraq, and the State Department assessed that “Baghdad is pursuing at least a limited effort to maintain and acquire nuclear weapons-related capabilities.”⁸⁷

⁸⁵ Ibid.

⁸⁶ See Part III.

⁸⁷ See Part IV, “Question & Answers: Iraq’s Nuclear Weapons Program.”

III

Iraq: A History of Deception, Obstruction, and Failure to Meet International Obligations

“The onus is clearly on Iraq to provide the requisite information or devise other ways in which UNMOVIC can gain confidence that Iraq’s declarations are correct and comprehensive.”

— UNMOVIC, Unresolved Disarmament Issues, March 6, 2003

“...the long list of proscribed items unaccounted for and as such resulting in unresolved disarmament issues was not shortened either by the inspections or by Iraqi declarations and documentation.”

— UNMOVIC, 13th Quarterly Report, May 30, 2003

Much has been made of the failure to find stockpiles of weapons of mass destruction in Iraq. But the obligation to clarify the status did not lie with either the United States or the United Nations. It was an obligation Iraq never fulfilled. Saddam Hussein had a long track record of violating his international obligations with illicit, secret programs and of carrying out a campaign of deception and obstruction to keep these programs hidden from international inspectors.

I. Violating the NPT: Osirak and Iraq’s Clandestine “Manhattan Project”

In 1969, Iraq ratified the Nuclear Non-Proliferation Treaty (NPT) obligating it to use nuclear technology for peaceful purposes only. On June 7, 1981, Israeli warplanes destroyed the Osirak nuclear reactor near Baghdad. According to *Newsweek*,

[t]he Osirak reactor was theoretically only for research purposes—but Iraq twice refused a French offer to supply it with low-enriched uranium, insisting instead on weapons-grade, 93 per cent enriched fuel. Iraq was also operating an Italian-built “hot cell” lab for extracting plutonium, and had arranged to buy large quantities of uranium from Brazil, Portugal and Niger—all without any investment in a nuclear-energy program.⁸⁸

⁸⁸ Melinda Beck and Christopher Ma, “And the Nuclear Race Goes On,” *Newsweek*, June 22, 1981.

“Osirak,” observed Clinton national security official Kenneth Pollack, “was the key to Saddam’s nuclear weapons program and...was due to go online within a matter of weeks.” The bombing set Iraq’s “nuclear bomb program back by several years,” but it also “taught the Iraqis an important lesson. Thereafter, Saddam ordered a redoubling of the Iraqi program...camouflaged against detection.”⁸⁹

After the Israeli attack on Osirak, Iraq would pursue a massive clandestine nuclear weapons program that had gone undetected by Western intelligence agencies and the International Atomic Energy Agency until after the 1991 Gulf War. As former U.N. inspector David Kay reported, Iraq would pursue this program while maintaining “its status as a full member” of the NPT because it was “the desire of the military and security services not to attract any undue attention to Iraq’s developing nuclear program that would complicate procurement and development efforts.”⁹⁰

The fact that Saddam Hussein was able to conceal his nuclear program was even more remarkable given that: 1) as the *Washington Post* noted, the “scope and sophistication” of its program “resembled the Manhattan Project, the American effort that produced the first atomic bomb”⁹¹; and 2) Iraq had passed regular inspections by the International Atomic Energy Agency designed to ensure its compliance with the terms of the Nuclear Non-proliferation Treaty.

Nonetheless, on August 11, 1991, the *Post* reported that:

International inspectors...unearthed one of the most important—and disturbing—finds of the post-Cold War era: a huge assembly line for the covert manufacture of equipment to make an Iraqi bomb.

The location of the sophisticated, secret factory for manufacturing hundreds of uranium gas centrifuges was unknown to any foreign intelligence agency despite intense scrutiny and untouched by five weeks of severe aerial bombardment during the Gulf War that supposedly eviscerated the Iraqi nuclear project. As such, it is a monument to the world’s ignorance about what a determined bomb-builder such as Iraqi leader Saddam Hussein can do.

The factory was a key component in Iraq’s elaborate highly redundant and largely secret network of physics, chemistry and metallurgical laboratories, industrial mines, metalworking factories, electrical power generators, nuclear research reactors and radioactive waste processing sites—all aimed at swiftly

⁸⁹ Kenneth Pollack, *The Threatening Storm*, (New York: Random House, 2002), p. 17.

⁹⁰ David A. Kay, “Denial and Deception Practices of WMD Proliferators: Iraq and Beyond,” *Washington Quarterly*, Winter 1995, p. 87.

⁹¹ R. Jeffrey Smith and Glenn Frankel, “Saddam’s Nuclear-Weapons Dream: A Lingering Nightmare,” *Washington Post*, October 13, 1991.

putting a nuclear weapon in the hands of one of the world's most ruthless leaders.⁹²

The *Post* also reported on just how close Saddam came to getting a nuclear bomb:

Despite repeated warnings and Saddam's own public statements, Western experts consistently underestimated Iraq's scientific and technical capabilities. Inspection officials now believe Iraq was only 12 to 18 months from producing its first bomb, not five to 10 years as previously thought.⁹³

Former U.N. inspector David Kay wrote that Iraq concealed its secret program, which employed at least 20,000 personnel, by keeping it "heavily compartmentalized" and employing a variety of deception techniques.⁹⁴ For example, Iraq created a network of front companies to import nuclear-related materials "in quantities that were below the size that triggered controls." Equipment was imported ostensibly for civilian purposes but was diverted to the nuclear program as well.⁹⁵

The Iraqis, Kay observed, had an "accurate understanding of the limitations of U.S. technical collection systems..." and exploited these vulnerabilities through various methods, including:

- "construction of buildings within buildings";
- "hiding power and water feeds to mislead as to facility use";
- "diminishing value of a facility by apparent low security and lack of defenses"; and
- "moving critical pieces of equipment at night."⁹⁶

Iraq also tapped foreign universities to aide its nuclear program. Iraqi "students" were sent abroad to acquire greater technical expertise in nuclear-bomb assembly. The Iraqis shielded the real purpose of its student program by dispersing the students in many nations, thereby, Kay wrote, making it "more difficult for any one country to fully appreciate the breadth of technical skills being built up in Iraq."⁹⁷

⁹² R. Jeffrey Smith, "Iraq's Secret A-Arms Effort: Grim Lessons for the World," *Washington Post*, August 11, 1991.

⁹³ R. Jeffrey Smith and Glenn, "Saddam's Nuclear-Weapons Dream: A Lingering Nightmare," *Washington Post*, October 13, 1991.

⁹⁴ David Kay, "Denial and Deception Practices WMD Proliferators: Iraq and Beyond," *Washington Quarterly*, Winter 1995, p. 88.

⁹⁵ *Ibid.*, 90.

⁹⁶ *Ibid.*, 94.

⁹⁷ *Ibid.*, 95. For further information on this topic related to Iraq's biological warfare program, see "The world's deadliest woman? 'Dr. Germ' headed Iraq's biological warfare program," NBC News investigative report, September 23, 2004, available at <http://www.msnbc.msn.com/id/3340765/>.

II. Post-Gulf War: UN Resolution 687 & Iraq's Non-compliance, 1991-95

In April, 1991, the U.N. Security Council adopted Resolution 687, which declared 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.

Resolution 687 further declared, "Iraq shall submit to the Secretary-General, within fifteen days of the adoption of the present resolution, a declaration of the locations, amounts and types of all [prohibited] items...."

Resolution 687 announced the formation 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."

Resolution 687 also called on "the yielding by Iraq of possession to the Special Commission for destruction, removal or rendering harmless" of these banned weapons, and that "Iraq shall unconditionally undertake not to use, develop, construct or acquire any" such weapons or "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," and submit "within fifteen days" a declaration on its nuclear program.⁹⁸

Iraq would never comply with its obligations under Resolution 687 or numerous subsequent disarmament resolutions. For twelve years, Iraq would undermine international inspection efforts and commit acts of aggression inside and outside its borders.

From 1991 to 1995, Iraq violated its obligation to disarm dozens of times and engaged, again, in a massive deception campaign to hide the truth about its weapons programs from inspectors⁹⁹:

⁹⁸ UN Resolution 687 also declared that Iraq "not commit or support any act of international terrorism or allow any organization directed towards commission of such acts to operate within its territory and to condemn unequivocally and renounce all acts, methods and practices of terrorism." Resolution 687 available at <http://www.iraqwatch.org/un/unsresolutions/s-res-687.htm>.

⁹⁹ Chronology compiled from the following sources: U.S. Department of State, "Timeline of UN-Iraq Coalition Incidents, 1991-2002," February 20, 2004, available at

1991

- Spring — Decision taken by Iraq to provide to the inspectors “only a portion of its proscribed weapons, their components and production capability and stocks.”

According to UNSCOM,

the policy...was based on the following Iraqi actions: [1] provide a portion of their extant weapon stocks, with an emphasis on those which were least modern; [2] retain production capability and the ‘know-how’ documentation necessary to revive programmes when possible; [3] conceal the full extent of chemical weapons programmes, including its VX project, and retain production equipment and raw materials; [4] conceal the number and type of BW and CW warheads for proscribed missiles; [5] conceal indigenous long-range missile production, and retain production capabilities, specifically with respect to guidance systems and missile engines; [6] conceal the very existence of its biological weapons programme and retain all production capabilities.

- June 21-23 — Iraq obstructs an inspection team from gaining access to prohibited items. Iraqi soldiers fire at inspectors.
- June 23-28 — Iraq is caught attempting to conceal nuclear equipment. According to UNSCOM, this incident led Iraq

to eliminate some of these retained proscribed materials on its own, and in secret and in such a way that precise knowledge about what and how much had been destroyed would not be achievable. This decision and action...was a so-called ‘unilateral destruction’....What was not recognized at the time...was that the unilateral destruction action itself was a determined measure taken to conceal evidence which would reveal retained capabilities....Iraq took active deception measures, during the Commission’s verification of the unilateral destruction, such as ‘seeding’ warhead areas...melt[ing] down weapons and components to make impossible accurate identification or quantification of them...and other elements of the unilateral destruction presentation by Iraq [that] were also proved to be false.

<http://usinfo.state.gov/products/pubs/iraq/timeline.htm>; UN resolutions texts; January 25, 1999 UNSCOM Disarmament Report to the Security Council; 2003 UNMOVIC reports presented to the Security Council on January 27, February 14, and February 28 (UN reports available at <http://www.iraqwatch.org/un/index.html>); Richard Butler, *The Greatest Threat* (New York: Public Affairs, 2000); and Tim Trevan, *Saddam’s Secrets: The Hunt for Iraq’s Hidden Weapons* (London: HarperCollins, 1999).

- June 28 — A UN Security Council presidential statement condemns Iraq for flagrant violations of UN Resolution 687 in denying inspectors access.
- August 18-20 — Iraq resists efforts of inspectors to inventory dual-purpose equipment.
- September 6-24 — Iraq blocks use of helicopters on inspections.
- September 21-30 — Iraq refuses to allow IAEA inspectors to leave a site with nuclear documents. Inspectors are held at gunpoint in a parking lot for four days after having found documents describing Iraq's plan to build nuclear weapons.
- December 1-9 — Inspectors supervise the destruction of remaining supergun components and discover that Iraq has welded together parts of missile transporter destroyed in a previous inspection.

1992

- February 21-28 — Inspectors were sent to supervise the destruction of missile production and repair facilities and equipment but Iraq refuses to destroy the specified missiles and components. The inspection team is withdrawn and the Security Council informed.
- July 5 — Iraq blocks an inspection team from entering the Ministry of Agriculture.
- July 6 — A UN Security Council presidential statement declares that Iraq is in material breach of UN Resolution 687.
- July 6-29 — Inspectors maintain a watch on the Ministry of Agriculture building, pending access. On July 22, an inspector maintaining this watch is attacked. The inspection team is withdrawn from outside the Ministry but remains in Iraq. Access is finally gained on July 28-29. Inspectors' observations suggest the recent removal of items from the Ministry of Agriculture.

1993

- January 7 — Iraq stops UNSCOM aircraft from transporting personnel and equipment into and out of Iraq from Bahrain.
- January 8 — Iraq announces it cannot guarantee the safety of UN aircraft flying over Iraqi territory.
- January 11 — A UN Security Council presidential statement condemns Iraq for material breach of UN Resolution 687 by preventing UNSCOM from flying its own aircraft.
- February 22 — Iraq threatens to shoot down an UNSCOM helicopter providing overhead surveillance during a missile site inspection. The helicopter is forced to leave the area.
- June 10 — Iraq refuses to allow emplacement of UN monitoring cameras at weapons facilities.
- June 17 — Iraq blocks UNSCOM from installing monitoring cameras at two rocket test sites. Iraq also refuses to move chemical weapons equipment and

- precursors located at Fallujah to Muthanna intended for destruction under UNSCOM supervision.
- June 18 — A UN Security Council presidential statement declares Iraq's refusal of monitoring cameras in material breach of UN Resolution 687, and warns of serious consequences.

1994

- October 6 — Iraq threatens to cease cooperation with UNSCOM and the IAEA, and shifts troops toward Kuwaiti border.
- October 8 — UN Security Council presidential statement expresses grave concern over Iraqi actions toward UNSCOM and Kuwait.

1995

Despite Baghdad's continuing lack of cooperation with UNSCOM, in the spring and early summer, Iraq began pressuring the UN to issue a favorable report on the state of its disarmament, followed by the lifting of sanctions. But on August 8, the head of Iraq's weapons programs, Lieutenant General Hussein Kamal, and several other Iraqis defected to Jordan. In Amman, Kamal revealed that Iraq had an ongoing concealment campaign to hide the extent of its weapons programs.

Kamal's defection alerted UNSCOM to the fact that not only were its previous conclusions on Iraq's WMD program suspect, but also that since 1991 Iraq had continued "prohibited activities" that had gone undetected by UNSCOM. UNSCOM chief Richard Butler stated to the Security Council "that a program of concealment, run at a very senior level in Iraq, must have operated successfully for over four years without detection by the Commission."¹⁰⁰

He added that with the defection of Kamal,

[i]mmediately, the entire basis upon which the Commission was conducting its assessments and analysis was undermined. It became clear that Iraq's declaration of March 1992 was itself a fraud; everything had NOT been declared to the Commission; everything had not been destroyed.¹⁰¹

UNSCOM also reported that the Kamal revelations highlighted the need for "obtaining verifiable evidence" from Iraq on its claims that it had unilaterally destroyed weapons stocks and related materials. As UNSCOM's January 25, 1999 report noted:

¹⁰⁰ Richard Butler, "Statement to the Security Council," June 3, 1998, available at <http://www.iraqwatch.org/un/UNSCOM/butlertounsc-6-3-98.html>.

¹⁰¹ Ibid. (emphasis in original)

[T]he overall period of the Commission's disarmament work must be divided into two parts, separated by the events following the departure from Iraq, in August 1995, of Lt. General Hussein Kamal. This which resulted in the provision to the Commission of an extensive cache of documents on Iraq's prohibited programmes. These documents and subsequent disclosures by Iraq indicated that, during the first four years of its activities, the Commission had been very substantially misled by Iraq both in terms of its understanding of Iraq's proscribed weapons programmes and the continuation of prohibited activities, even under the Commission's monitoring. Positive conclusions on Iraq's compliance reported to the Council previously by the Commission had to be revised. They were conclusions generally based on accepting Iraq's declarations at face value. Analysis of the new material shaped the direction of the Commission's subsequent work including the emphasis on: obtaining verifiable evidence including physical materials or documents; investigation of the successful concealment activities by Iraq; and, the thorough verification of the unilateral destruction events.¹⁰²

In short, Kamal's defection led to a renewed sense of urgency to account for all of Saddam's weapons of mass destruction after years of Iraqi deception and non-compliance.¹⁰³

III. Post-Gulf War: UN Resolution 687 & Iraq's Non-compliance, 1996-98

Kamal's defection did not, however, lead to renewed Iraqi cooperation. Indeed, Iraqi behavior ultimately led to the bombing of Iraq in Operation Desert Fox in December 1998 and the suspension of inspections for five years.¹⁰⁴

1996

- June 12 — U.N. Resolution 1060:

Deplores the refusal of the Iraqi authorities to allow access to sites designated by the Special Commission, which constitutes a clear violation of the provisions of Security Council resolutions 687 (1991), 707 (1991) and 715 (1991); [and]

¹⁰² "UNSCOM Report on Disarmament," January 25, 1999, available at <http://www.un.org/Depts/unscom/s99-94.htm>.

¹⁰³ See Part VI, "Question & Answers: Iraq's Chemical and Biological Weapons Programs."

¹⁰⁴ 1996-1998 chronology compiled from the following sources: Department of State, "Timeline of UN-Iraq Coalition Incidents, 1991-2002," February 20, 2004; UN resolutions texts; 2003 UNMOVIC reports presented to the UN Security Council on January 27, February 14, and February 28; Richard Butler, *The Greatest Threat* (New York: Public Affairs, 2000); and Tim Trevan, *Saddam's Secrets: The Hunt for Iraq's Hidden Weapons* (London: HarperCollins, 1999).

Demands that Iraq cooperate fully with the Special Commission in accordance with the relevant resolutions; and that the Government of Iraq allow the Special Commission inspection teams immediate, unconditional and unrestricted access to any and all areas, facilities, equipment, records and means of transportation which they wish to inspect.

1997

- Early June — Iraq interferes with UNSCOM's aerial operations in four separate incidents.
- June 10 — Iraq blocks UNSCOM access to a site for seven hours.
- June 12 — Iraq denies UNSCOM access to two sites.
- June 13 — UN Security Council presidential statement deplors Iraq's interference with UN aerial inspections.
- June 21 — UN Security Council adopts UN Resolution 1115 condemning “clear and flagrant violation of the provisions of Security Council resolutions 687 (1991), 707 (1991), 715 (1991) and 1060 (1996)” and “demands that Iraq cooperate fully with the Special Commission in accordance with the relevant resolutions; and that the Government of Iraq allow the Special Commission inspection teams immediate, unconditional and unrestricted access to any and all areas, facilities, equipment, records and means of transportation which they wish to inspect in accordance with the mandate of the Special Commission.”
- September 13 — UNSCOM is only allowed to send four inspectors into the large military complex at Tikrit after the site is designated “sensitive” by Iraqi government. The inspection team is then not allowed in for three hours, as inspectors watched vehicles move in and out of the barracks. An UNSCOM helicopter, hovering above the complex, is also prevented by Iraqis on board from photographing the vehicles.
- September 15 — Iraqi obstruction occurs at the Sarabadi Republican Guard base similar to that in Tikrit on September 13.
- September 17 — Iraqis are videotaped burning documents at sensitive sites “as inspectors wait at gate.”
- Late September/early October — Iraq blocks UN inspectors' access to three presidential sites.
- September 27 — Inspectors are stopped at gunpoint by Iraqi security officials from inspecting the headquarters of the Special Security Organization for materials related to Iraq's biological warfare program.
 - October 23 — The UN Security Council adopts UN Resolution 1134 condemning the “repeated refusal of the Iraqi authorities...to allow access to sites designated by the Special Commission, and especially Iraqi actions endangering the safety of

- Special Commission personnel, the removal and destruction of documents of interest to the Special Commission and interference with the freedom of movement of Special Commission personnel,” and “decides that such refusals to cooperate constitute a flagrant violation of Security Council resolutions 687 (1991), 707 (1991), 715 (1991) and 1060 (1996),” and notes that “the...Executive Chairman was unable to advise that Iraq was in substantial compliance with paragraphs 2 and 3 of resolution 1115 (1997).”
- October 29 — Iraq states that it will no longer accept US personnel in UNSCOM and demands that U-2 flights end. A UN Security Council presidential statement condemns Iraq’s announcement and demands that it reverse its decision unconditionally.
 - November 2 — Iraq warns that UNSCOM U-2 missions will fly “at their own risk.”
 - November 12 — The UN Security Council adopts UN Resolution 1137 condemning “the continued violations by Iraq of its obligations under the relevant resolutions to cooperate fully and unconditionally with the Special Commission in the fulfilment [sic] of its mandate, including its unacceptable decision of 29 October 1997 to seek to impose conditions on cooperation with the Special Commission, its refusal on 30 October 1997 and 2 November 1997 to allow entry to Iraq to two Special Commission officials on the grounds of their nationality, its denial of entry on 3, 4, 5, 6 and 7 November 1997 to sites designated by the Special Commission for inspection to Special Commission inspectors on the grounds of their nationality, its implicit threat to the safety of the reconnaissance aircraft operating on behalf of the Special Commission, its removal of significant pieces of dual-use equipment from their previous sites, and its tampering with monitoring cameras of the Special Commission.”
 - November 13 — Iraq demands that all US inspectors leave within 24 hours. UNSCOM withdraws all personnel except for a skeletal staff in Baghdad; UN Security Council presidential statement again condemns Iraq.
 - December 17 — UNSCOM head Richard Butler reports to the Security Council on his visit to Baghdad, and Iraq’s refusal to allow UNSCOM access to “presidential and sovereign sites.”
 - December 22 — UNSCOM inspects “sensitive site” after Iraq delays entry; UN Security Council presidential statement terms Iraqi obstruction a clear violation of relevant UN resolutions.

1998

- January 12 — Iraq announces that it will bar further inspections by the UNSCOM team led by Scott Ritter because of an "imbalance" of US and UK inspectors.
- January 14 — A UN Security Council presidential statement declares Iraqi actions a clear violation of its disarmament obligations.

- August 5 — Iraq's RCC and Ba'ath Party Command halt cooperation with UNSCOM and IAEA and end no-notice inspections, but monitoring activities are allowed to continue.
- September 9 — UN Security Council adopts UN Resolution 1194 condemning Iraq and suspending reviews of sanctions until UNSCOM is permitted to resume full operations.
- October 31 — Saddam ends all cooperation with UNSCOM.
- November 5 — UN Security Council adopts UN Resolution 1205 condemning “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.”
- December 5 — Iraqi officials obstruct inspection by, among things, preventing inspectors from photographing bombs.
- December 9-14 — Inspectors are denied access to a building believed to be storing material related to its missile program. More Iraqi obstruction occurs at suspect sites.
- December 15-16 — UNSCOM reports to the UN Security Council that it is unable to perform disarmament mandate and withdraws inspectors from Iraq.
- December 19 — Iraq declares that UNSCOM will never be allowed back in Iraq.

IV. UN Resolution 1441: Iraq's “Final Opportunity to Comply,” 2002-03

On November 8, 2002, the Security Council passed Resolution 1441 chronicling Iraq's history of non-compliance with U.N. resolutions by:

Deploing the fact that Iraq has not provided an accurate, 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 one hundred and fifty 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....

Deploing further that Iraq repeatedly obstructed immediate, unconditional, and unrestricted access to sites designated by the United Nations Special Commission (UNSCOM) and the International Atomic Energy Agency (IAEA), failed to cooperate fully and unconditionally with UNSCOM and IAEA weapons inspectors, as required by resolution 687 (1991), and ultimately ceased all cooperation with UNSCOM and the IAEA in 1998....

Deploing also that the Government of Iraq has failed to comply with its commitments pursuant to resolution 687 (1991) with regard to terrorism....

In Resolution 1441, the Security Council also found that Iraq “has been and remains in material breach of its obligations under relevant resolutions, including resolution 687 (1991)...” The Council afforded Iraq “a final opportunity to comply with its disarmament obligations,” beginning with the submission of “a currently accurate, full, and complete declaration of all aspects of its programmes to develop chemical, biological, and nuclear weapons, ballistic missiles, and other delivery systems....”¹⁰⁵

On December 7, 2002, Iraq submitted a declaration in response to UN Resolution 1441 that was supposed to address, in the words of UNMOVIC head Hans Blix, “unresolved disarmament issues” and “key remaining disarmament tasks.”¹⁰⁶ On January 27, 2003, Blix commented on Iraq’s declaration to the Security Council:

They [“unresolved disarmament issues” and “key remaining disarmament tasks”] deserve to be taken seriously by Iraq rather than being brushed aside as evil machinations of UNSCOM. Regrettably, the 12,000 page declaration, most of which is a reprint of earlier documents, does not seem to contain any new evidence that would eliminate the questions or reduce their number. Even Iraq’s letter sent in response to our recent discussions in Baghdad to the President of the Security Council on 24 January does not lead us to the resolution of these issues.¹⁰⁷

Blix further stated:

Resolution 687 (1991), like the subsequent resolutions I shall refer to, required cooperation by Iraq but such was often withheld or given grudgingly. Unlike South Africa, which decided on its own to eliminate its nuclear weapons and welcomed inspection as a means of creating confidence in its disarmament, Iraq appears not to have come to a genuine acceptance—not even today—of the disarmament, which was demanded of it and which it needs to carry out to win the confidence of the world and to live in peace.

As we know, the twin operation “declare and verify,” which was prescribed in resolution 687 (1991), too often turned into a game of “hide and seek.” Rather than just verifying declarations and supporting evidence, the two inspecting organizations found themselves engaged in efforts to map the weapons

¹⁰⁵ “United Nations Security Council Resolution 1441,” November 8, 2002, available at <http://www.iraqwatch.org/un/unscresolutions/un-sres1441-110802.pdf>.

¹⁰⁶ Hans Blix statement to the Security Council, January 27, 2003, available at <http://www.iraqwatch.org/un/unmovic/unmovic-blix-012703.htm>.

¹⁰⁷ Hans Blix statement to the Security Council, January 27, 2003, available at <http://www.iraqwatch.org/un/unmovic/unmovic-blix-012703.htm>.

programmes and to search for evidence through inspections, interviews, seminars, inquiries with suppliers and intelligence organizations.¹⁰⁸

On February 14, Blix told the Security Council that:

If Iraq had provided the necessary cooperation in 1991, the phase of disarmament—under resolution 687 (1991)—could have been short and a decade of sanctions could have been avoided. Today, three months after the adoption of resolution 1441 (2002), the period of disarmament through inspection could still be short, if ‘immediate, active and unconditional cooperation’ with UNMOVIC and the IAEA were to be forthcoming.¹⁰⁹

And again, in its February 28 report, UNMOVIC informed the Security Council that: “during the period of time covered by the present report, Iraq could have made greater efforts to find any remaining proscribed items or provide credible evidence showing the absence of such items.”¹¹⁰

On March 6, 2003, UNMOVIC—confronted with the “long list” of “unaccounted for” weapons and weapons-related material—reported that: “The onus is clearly on Iraq to provide the requisite information or devise other ways in which UNMOVIC can gain confidence that Iraq’s declarations are correct and comprehensive...”¹¹¹

V. Saddam Hussein and the Obligation to Disarm

The inspection regime established by the UN Security Council in the wake of the Gulf War was never about the number of inspections conducted or, for that matter, whether UN inspectors could independently determine the status of Iraq’s weapons programs. It was about Saddam Hussein actively engaging in disarmament, and providing positive evidence of that disarmament to the UN team. Given Iraq’s history of successfully hiding its illicit weapons activities in a country the size of California, there could be no certainty that Saddam Hussein had disarmed unless and until Iraq fully cooperated in documenting its disarmament. As Defense Secretary William Cohen put it in November of 1998: “[Inspectors] have to find documents, computer discs, production points, ammunition areas in an area that size. Hussein has said, ‘we have no program now.’ We’re saying, ‘prove it.’ He says he has destroyed all his nerve agent. [W]e’re asking

¹⁰⁸ Ibid.

¹⁰⁹ Hans Blix statement to the Security Council, February 14, 2003, available at <http://www.iraqwatch.org/un/unmovic/unmovic-blix-briefing-021403.html>.

¹¹⁰ “S/2003/232, UNMOVIC, 12th Quarterly Report, February 28, 2003,” p. 13, available at <http://www.un.org/Depts/unmovic/documents/2003-232.pdf>.

¹¹¹ “Unresolved Disarmament Issues: Iraq’s Proscribed Weapons Programmes,” March 6, 2003, p. 11, available at <http://www.un.org/Depts/unmovic/documents/cluster6mar.pdf>.

‘where, when and how?’” Cohen added: “The onus for this is firmly on Saddam Hussein.”¹¹²

And Saddam never met that obligation—a fact UNMOVIC acknowledged in its first post-war (May 30, 2003) report: “The long list of proscribed items unaccounted for and as such resulting in unresolved disarmament issues was not shortened either by the inspections or by Iraqi declarations and documentation.”¹¹³ Moreover, as David Kay in his October 2003 Congressional testimony reported, even with the threat of war looming, Saddam Hussein continued to violate his obligation to the UN Security Council to come clean with respect to his weapons programs:

We have discovered dozens of WMD-related program activities and significant amounts of equipment that Iraq concealed from the United Nations during the inspections that began in late 2002. The discovery of these deliberate concealment efforts have come about both through the admissions of Iraqi scientists and officials concerning information they deliberately withheld and

¹¹² Jim Garamone, American Forces Press Service, “Cohen Says Iraqi Compliance is Bottom Line,” November 12, 1998, available at http://www.fas.org/news/iraq/1998/11/12/n11121998_9811123.html.

¹¹³ “S/2003/580, UNMOVIC 13th Quarterly Report to the UN Security Council, May 30, 2003,” p. 39, available at http://www.un.org/Depts/unmovic/new/documents/quarterly_reports/s-2003-580.pdf. Regarding Iraqi declarations, UNMOVIC also reported:

Iraq was required to declare the import of dual-use items and supply UNMOVIC with details as to their origin. However, Iraq’s recent semi-annual monitoring declarations, starting with the “backlog” of declarations since 1998 supplied to UNMOVIC in October 2002, showed a trend of withholding pertinent information...The biological imports were of a slightly more significant kind, and included the import of a dozen autoclaves, half a dozen centrifuges and a number of laminar flow cabinets. (p. 27)

Missile imports, however, were more substantial and could have contributed significantly to any missile development programme. One example was the importation of 380 Volga engines that Iraq planned to use in the production of the Al Samoud 2 missile, a missile system UNMOVIC later determined to be prohibited since its range exceeded 150 km. In its declaration of 7 December 2002, Iraq declared that it had imported 131 such engines but failed to supply any information about their origin (suppliers, exporting countries) until inspectors observed 231 such engines at an Al Samoud production facility. (p. 27)

A trend that was especially pronounced in the missile area (but to a lesser extent also present in the biological and chemical fields) was the use of the term “local market” to classify the import of some very sophisticated pieces of equipment...UNMOVIC came to understand that Iraq used the term “local market” when an Iraqi import company imported a commodity and then sold or transferred it to a government facility, which suggested that Iraq was trying to conceal the extent of its import activities and to preserve its importing networks.” (pp. 27-28)

through physical evidence of equipment and activities that ISG has discovered that should have been declared to the UN.¹¹⁴

¹¹⁴ David Kay, statement before the House Permanent Select Committee on Intelligence, the House Committee on Appropriations, Subcommittee on Defense, and the Senate Select Committee on Intelligence, October 2, 2003, available at http://www.cia.gov/cia/public_affairs/speeches/2003/david_kay_10022003.html.

IV

Questions & Answers: Iraq's Nuclear Weapons Program

“The U.S. Intelligence Community’s belief toward the end of the Clinton Administration [was] that Iraq had reconstituted its nuclear weapons program and was close to acquiring nuclear weapons....”

— Former Clinton Administration NSC official Kenneth Pollack, *Atlantic Monthly*, 2004

1. *There has been much discussion about the “dissents” offered by the Department of Energy (DOE) and the Department of State’s Bureau of Intelligence and Research (INR) in the CIA’s 2002 National Intelligence Estimate (NIE) on the status of Iraq’s nuclear program. But precisely what material or judgment contained in this NIE did these departments dissent from?*

INR’s “dissents” were related to “Iraq’s efforts to acquire aluminum tubes.” INR concluded that “Iraq’s efforts to acquire aluminum tubes is central to the argument that Baghdad is reconstituting its nuclear weapons program, but INR is not persuaded that the tubes in question are intended for use as centrifuge rotors.” Citing the DOE’s judgment that the aluminum tubes were “poorly suited for use in gas centrifuges to be used for uranium enrichment” and other factors, INR concluded that “the tubes are not intended for use in Iraq’s nuclear weapon program.”¹¹⁵

It should be noted, however, that DOE did not dispute the NIE’s overall assessment with respect to Iraq’s nuclear weapons program. The “Key Judgments” section of the NIE stated that “DOE agrees that reconstitution of the nuclear program is underway but assesses that the tubes probably are not part of the program.”¹¹⁶ INR also stated in its “Alternative View” that “the activities we have detected do not, however, add up to a compelling case that Iraq is currently pursuing what INR would consider to be an

¹¹⁵ “Key Judgments [From October 2002 National Intelligence Estimate],” available at <http://www.fas.org/irp/cia/product/iraq-wmd.html>. On this matter, Iraq Survey Group head Charles Duelfer concluded: “Although ISG also uncovered inconsistencies that raise questions about whether high-specification aluminum tubes were really needed for such a rocket program, these discrepancies are not sufficient to show a nuclear end use was planned for the tubes...ISG found that high-level interest in aluminum tubes appears to have come from efforts to produce 81-mm rockets, rather than a nuclear end use.” “Comprehensive Report of the Special Advisor to the DCI on Iraq’s WMD (Duelfer Report),” September 30, 2004, pp. 21-22 (nuclear section), available at http://www.foia.cia.gov/duelfer/Iraqs_WMD_Vol2.pdf.

¹¹⁶ *Ibid.*

integrated and comprehensive approach to acquire nuclear weapons.” But INR nevertheless concluded “that Saddam continues to want nuclear weapons and that available evidence indicates that Baghdad is pursuing at least a limited effort to maintain and acquire nuclear weapons-related capabilities.”¹¹⁷

Additionally, in the NIE section entitled “Confidence Levels for Selected Key Judgments in This Estimate,” the intelligence community expressed “High Confidence” that “Iraq is continuing, and in some areas expanding, its chemical, biological, nuclear, and missile programs contrary to UN resolutions,”¹¹⁸ and that “Iraq could make a nuclear weapon in months to a year once it acquires sufficient weapons-grade fissile material.”¹¹⁹

2. *Other than the 2002 NIE, were there examples of other publicly available U.S. government documents that discussed the status of Iraq’s nuclear program?*

Yes. Since 1997, several unclassified intelligence reports had cited concern over Iraq’s nuclear activities—particularly regarding “foreign procurement” and access to “fissile material.”

On February 13, 1998, the U.S. State Department released a government white paper “Iraq Weapons of Mass Destruction Programs.” Under its “Nuclear Weapons” section, the report declared:

Iraq had a comprehensive nuclear weapons development program before the Gulf War that was focused on building an implosion-type weapon. The program was linked to a ballistic missile project that was the intended delivery system. After Husayn Kamil's defection in 1995, Iraq retreated from its longtime claim that its nuclear program was intended only to conduct research:

Iraq admitted experimenting with seven uranium enrichment techniques and was most actively pursuing electromagnetic isotope separation, gas centrifuge, and gas diffusion.

Baghdad planned to build a nuclear device in 1991 by using IAEA-safeguarded highly enriched uranium from its Soviet-supplied reactors.

UNSCOM and IAEA inspections have hindered Iraq's nuclear program, but Baghdad's interest in acquiring or developing nuclear weapons has not diminished:

¹¹⁷ Ibid.

¹¹⁸ Ibid.

¹¹⁹ Ibid.

Iraq retains a large cadre of nuclear engineers, scientists, and technicians who are the foundation of its nuclear program. We have concerns that scientists may be pursuing theoretical nuclear research that would reduce the time required to produce a weapon should Iraq acquire sufficient fissile material.

Iraq continues to withhold significant information about enrichment techniques, foreign procurement, weapons design, and the role of Iraq's security and intelligence services in obtaining external assistance and coordinating postwar concealment. Iraq continues to withhold documentation on the technical achievements of its nuclear program, experimentation data, and accounting.

Baghdad has not fully explained the interaction between its nuclear program and its ballistic missile program.¹²⁰

The CIA's January-June 1998 report on weapons of mass destruction stated:

We assess that Iraq continues to hide documentation, and probably some equipment, relating to key aspects of past nuclear activities. After years of Iraqi denials, the IAEA was able to get Iraq to admit to a far more advanced nuclear weapons program and a project based on advanced uranium enrichment technology. However, Baghdad continues to withhold significant information about enrichment techniques, foreign procurement, and weapons design.¹²¹

The CIA's January-June 2000 WMD report stated:

We believe that Iraq has probably continued low-level theoretical R&D associated with its nuclear program. A sufficient source of fissile material remains Iraq's most significant obstacle to being able to produce a nuclear weapon.¹²²

The CIA's July-December 2000 WMD report stated:

We believe that Iraq has probably continued low-level theoretical R&D associated with its nuclear program. A sufficient source of fissile material

¹²⁰ U.S. Government White Paper, "Iraq Weapons of Mass Destruction Programs," released by Department of State on February 13, 1998, available at www.fas.org/irp/threat/whitepap.htm.

¹²¹ CIA's "Unclassified Report to Congress on the Acquisition of Technology Relating to Weapons of Mass Destruction and Advanced Conventional Munitions, 1 January through 30 June 1998," released February 1999, available at http://www.cia.gov/cia/reports/721_reports/jan_jun1998.html#iraq.

¹²² CIA's "Unclassified Report to Congress on the Acquisition of Technology Relating to Weapons of Mass Destruction and Advanced Conventional Munitions, 1 January Through 30 June 2000," released February 2001, available at http://www.cia.gov/cia/reports/721_reports/jan_jun2000.htm#4.

remains Iraq's most significant obstacle to being able to produce a nuclear weapon. Although we were already concerned about a reconstituted nuclear weapons program, our concerns were increased last September when Saddam publicly exhorted his "Nuclear Mujahidin" to "defeat the enemy."¹²³

3. *Besides official U.S. government documents, were there other examples in which the status of Iraq's nuclear program was addressed?*

Yes. In March 2000, Rolf Ekeus, former Executive Chairman of UNSCOM, testified before the Senate Foreign Relations Committee: "[T]here is no concluding or conclusive evidence that Iraq has decided to terminate any of its weapons programs. That goes for nuclear weapons, biological, chemical, and missiles. It is clear that Iraq has still not disclosed important information in all these areas." At the same hearing, Richard Butler testified: "[T]here is also every reason to assume—it would be folly not to assume—that once again Iraq is seeking to make, if not indeed making, chemical, biological and seeking to acquire nuclear loadings for the warheads for those missiles."¹²⁴

Robert Einhorn, assistant secretary of state for nonproliferation in the Clinton administration, testified before a Senate committee in March 2002 that:

Within four or five years, [Iraq] could have the capability to threaten most of the Middle East and parts of Europe with missiles armed with nuclear weapons containing high-enriched uranium produced indigenously. Within that same period, it could threaten U.S. territory with nuclear weapons delivered by non-conventional means. If Iraq managed to get its hands on sufficient quantities of already produced fissile material, these threats could arrive much earlier.¹²⁵

Kenneth Pollack, a Clinton National Security Council official who served as director for Persian Gulf affairs, wrote in his 2002 book, *The Threatening Storm: The Case for*

¹²³ CIA's "Unclassified Report to Congress on the Acquisition of Technology Relating to Weapons of Mass Destruction and Advanced Conventional Munitions, 1 July Through 31 December 2000," released September 2001, available at http://www.cia.gov/cia/reports/721_reports/july_dec2000.htm#4.

¹²⁴ Rolf Ekeus and Richard Butler, testimony before the Senate Foreign Relations Committee, March 28, 2000.

¹²⁵ Robert Einhorn, testimony before the Senate Governmental Affairs Committee, March 1, 2002. In addition, the German Federal Intelligence Service in early 2001 reportedly estimated that Iraq may be capable of developing a nuclear weapon in three years. See Douglas Busvine, "Iraq Nearing Capability to Use Nuclear Weapons as Early as 2005, It Could Fire a Missile to Europe, According to a German Intelligence Assessment," *Philadelphia Inquirer*, February 25, 2001. Former UNSCOM inspector Charles Duelfer commented on this intelligence report on February 22, 2002 before a Senate committee: "The German intelligence authorities made an oft-quoted estimate last year in which it was stated that Iraq could, in the worst case, have a nuclear weapon in 3-6 years. German intelligence noted the growth in Iraqi procurement efforts in particular for weapons-related items" in 2000 and 2001 (available at http://www.senate.gov/~armed_services/statemnt/2002/Duelfer.pdf, p. 7).

Invading Iraq, that “there is a consensus that Iraq has resumed work on nuclear weapons.”¹²⁶ “Moreover,” Pollack noted,

Iraq has been actively looking to buy black market enriched uranium from the former Soviet Union, North Korea, China, Pakistan, or anyone else who might be willing to sell it. So far, Iraq has had no luck, but if it is able to buy it ready-made, it could then probably build a workable [nuclear] device in a year or two.¹²⁷

Furthermore, Pollack noted that “[f]ormer UN inspectors and other experts on the Iraqi nuclear program unanimously agree that Iraq is probably now working to enrich uranium (probably via centrifuge separation) for nuclear weapons.”¹²⁸

Pollack also wrote the following in the January/February 2004 issue of *The Atlantic Monthly*:

In the late spring of 2002 I participated in a Washington meeting about Iraqi WMD. Those present included nearly twenty former inspectors from the United Nations Special Commission (UNSCOM), the force established in 1991 to oversee the elimination of WMD in Iraq. One of the senior people put a question to the group: Did anyone in the room doubt that Iraq was currently operating a secret centrifuge plant? No one did. Three people added that they believed Iraq was also operating a secret calutron plant (a facility for separating uranium isotopes).¹²⁹

4. *No significant nuclear program has been found in Iraq. Didn't the International Atomic Energy Agency [IAEA] reach this conclusion in 1997 when it reported that there were no signs of an Iraqi capability to produce weapons-usable nuclear material of "practical significance"? What was the IAEA's assessment in March 2003?*

While the IAEA found no capability to produce material of “practical significance,” the same October 1997 report to the UN Security Council also explained:

It should be recognised, however, that OMV [Office of Monitoring and Verification] measures cannot guarantee detection of readily concealable or disguisable proscribed activities, such as computer-based weaponisation studies or small-scale centrifuge cascade development. Iraq's direct acquisition of weapon-usable nuclear material would also present a severe technical challenge

¹²⁶ Kenneth M. Pollack, *The Threatening Storm* (New York: Random House, 2002), p. 169.

¹²⁷ *Ibid.*, 175.

¹²⁸ *Ibid.*, 174.

¹²⁹ Kenneth M. Pollack, “Spies, Lies, and Weapons,” *Atlantic Monthly*, January/February 2004, p. 80.

to the OMV measures and great reliance must be placed on international controls.¹³⁰

Furthermore, the IAEA stated that:

Iraq continued to conceal and deny aspects of its weaponisation and centrifuge enrichment activities until the revelations which followed the August 1995 departure from Iraq of the late Lt. Gen. Hussein Kamel....[I]t still continues to limit the scope of information provided in response to IAEA questioning in an effort to understate the capabilities developed within the clandestine nuclear programme.¹³¹

Weeks after issuing the October 1997 report, IAEA director Mohamed El Baradei stated to the Security Council that the status of Iraq's nuclear program remained an open question asking, "When, if ever, was Iraq's clandestine nuclear programme abandoned?" and "When, if ever, was the ambition to reconstitute the programme abandoned?"¹³²

One year after the October 1997 IAEA report, Mohamed El Baradei again emphasized the limits of the IAEA findings in an October 1998 letter to the UN Security Council: "Iraq will not cooperate in any activity involving investigation of its clandestine nuclear programme....As a consequence, IAEA is unable, through capable site inspections, to ensure that prohibited activities are not being carried out in Iraq...."¹³³

Finally, as of March 17, 2003, the IAEA reported that it "had found no evidence or plausible indication of the revival of a nuclear weapons programme in Iraq. Nevertheless, this does not mean that the IAEA had completed its investigations on whether Iraq had attempted to revive its nuclear programme between 1998 and 2002. Provided that Iraq's co-operation had remained active, and barring unforeseen circumstances, the IAEA would have been able to provide the Security Council with credible assurance regarding the absence of such revival within two to three months of continuing verification activities."

But the report added:

[that] any such assurance, as with any verification process, would have had a degree of uncertainty. It is for that reason that the IAEA...would have moved to the implementation of its reinforced OMV system, which was designed to act as

¹³⁰ "S/1997/779," IAEA Report, October 8, 1997,"

available at http://www.iaea.org/worldatom/Programmes/ActionTeam/reports/s_1997_779.pdf, p. 22.

¹³¹ Ibid., 20.

¹³² "S/1997/950," notes of the IAEA briefing to the Security Council on 24 November 1997 and December 3, 1997, available at <http://www.nci.org/i/iaea-950.htm>, pp. 5-6.

¹³³ "S/1998/927—Letter Dated 7 October 1998 From The Secretary-General Addressed To The President Of The Security Council," available at www.iaea.org/worldatom/Programmes/ActionTeam/reports/s_1998_927.pdf.

an effective deterrent to and insurance against resumption by Iraq of its nuclear weapons programme....¹³⁴

5. *What conclusions did chief weapons inspectors David Kay and Charles Duelfer reach with regard to Saddam Hussein's nuclear program?*

In congressional testimony and media appearances, Kay reported that his team did not find evidence that Iraq “undertook significant post-1998 steps to actually build nuclear weapons or produce fissile material.”¹³⁵ He also stated that there was “no doubt at all” Iraq had less ability to produce fissile material than in 1991 because the nuclear program had “been seriously degraded. The activities of the inspectors in the early ‘90s did a tremendous amount.”¹³⁶

However, in his October 2, 2003 Congressional testimony, David Kay also stated the following:

With regard to Iraq's nuclear program, the testimony we have obtained from Iraqi scientists and senior government officials should clear up any doubts about whether Saddam still wanted to obtain nuclear weapons. They have told ISG [Iraq Survey Group] that Saddam Husayn remained firmly committed to acquiring nuclear weapons. These officials assert that Saddam would have resumed nuclear weapons development at some future point. Some indicated a resumption after Iraq was free of sanctions.

At least one senior Iraqi official believed that by 2000 Saddam had run out of patience with waiting for sanctions to end and wanted to restart the nuclear program. The Iraqi Atomic Energy Commission (IAEC), beginning around 1999, expanded its laboratories and research activities and increased its overall funding levels. This expansion may have been in initial preparation for renewed nuclear weapons research, although documentary evidence of this has not been found, and this is the subject of continuing investigation by ISG.¹³⁷

¹³⁴ “Fifteenth Consolidated Report of the Director General of the International Atomic Energy Agency of UNSC Resolution 1051 (1996),” April 11, 2003, p. 9, available at <http://www.iraqwatch.org/un/IAEA/iaea-s-2003-041103.pdf>.

¹³⁵ David Kay, “Statement on the Interim Progress Report on the Activities of the Iraq Survey Group (ISG) Before the House Permanent Select Committee on Intelligence, The House Committee on Appropriations, Subcommittee on Defense, and the Senate Select Committee on Intelligence,” October 2, 2003, available at http://www.cia.gov/cia/public_affairs/speeches/2003/david_kay_10022003.html.

¹³⁶ David Kay, Interview on ABC News “This Week with George Stephanopoulos,” October 5, 2003.

¹³⁷ David Kay, “Statement on the Interim Progress Report on the Activities of the Iraq Survey Group (ISG) Before the House Permanent Select Committee on Intelligence, The House Committee on Appropriations, Subcommittee on Defense, and the Senate Select Committee on Intelligence,” October 2, 2003, available at http://www.cia.gov/cia/public_affairs/speeches/2003/david_kay_10022003.html.

Regarding this connection, Kay testified: “Starting around 2000, the senior Iraqi Atomic Energy Commission (IAEC) and high-level Ba’ath Party official Dr. Khalid Ibrahim Sa’id began several small and relatively unsophisticated research initiatives that could be applied to nuclear weapons development.” Moreover, “According to documents and testimony of Iraqi scientists, some of the key technical groups from the pre-1991 nuclear weapons program remained largely intact, performing work on nuclear-relevant dual-use technologies within the Military Industrial Commission (MIC).” Furthermore, “Several scientists—at the direction of senior Iraqi government officials—preserved documents and equipment from their pre-1991 nuclear weapon-related research and did not reveal this to the UN/IAEA.” In addition, Kay said that “the ISG nuclear team has found indications that there was interest, beginning in 2002, in reconstituting a centrifuge enrichment program.”¹³⁸

During his October 5, 2003 appearance on ABC’s *This Week*, Kay stated:

What we have found is, indeed, there were indications in 1999 and 2000 of new money flowing into the nuclear program in a very nascent start-up of that program. We don’t know yet the full details of it. We’re continuing to investigate. As with regard to how long it would have taken, you know, the real difficulty in Iraq is quite different than North Korea or Iran. Here’s a country that in 1991 had a program, had solved all the secrets, knew how to make nuclear weapons. That makes it very difficult to estimate the restart time of the program.

Indeed, according to Kay:

...[I]f someone had given them the enriched material or the plutonium, I think it would have taken them a year or less to fabricate a weapon from that material. In nuclear weapons production, the [difficulty] has always been producing the fissile material. And that’s why all of us have been concerned about leakage material from the former Soviet Union...¹³⁹

Kay further testified to a Senate committee on January 28, 2004:

...Iraqi scientists who are talking to us, they have said: ‘The U.N. interviewed us. We did not tell them the truth; we did not show them this equipment; we did not talk about these programs; we couldn’t do it as long as Saddam was in power.’ I suspect regardless of how long they had stayed, that attitude would have been the same.¹⁴⁰

¹³⁸ Kay Statement, October 2, 2003.

available at www.cia.gov/cia/public_affairs/speeches/2003/david_kay_10022003.html.

¹³⁹ David Kay, Interview on ABC News “This Week with George Stephanopoulos,” October 5, 2003.

¹⁴⁰ David Kay, testimony before the Senate Armed Services Committee, January 28, 2004.

Testifying before a Senate committee, Duelfer stated that the ISG “found no evidence” of an active nuclear program. Furthermore, he concluded:

[D]espite Saddam's expressed desire to retain knowledge of his nuclear team and his attempts to retain some key parts of the program, during the course of the following 12 years, Iraq's ability to produce a weapon decayed steadily.

Duelfer continued:

Despite this decay, Saddam did not abandon his nuclear ambitions. He made clear his view that nuclear weapons were the right of any country that could build them....Those around Saddam seemed quite convinced that once sanctions were ended, and all other things being equal, Saddam would renew his efforts in this field.¹⁴¹

In his September 30, 2004 report, Duelfer also identified the following “limited number of post-1995 activities that would have aided the reconstitution of the nuclear weapons program once sanctions were lifted”:

The activities of the Iraqi Atomic Energy Commission (IAEC) sustained some talent and limited research with potential relevance to a reconstituted nuclear program.

Specific projects, with significant development, such as the efforts to build a rail gun and a copper vapor laser could have been useful in a future effort to restart a nuclear weapons program, but ISG found no indications of such purpose. As funding for the MIC and the IAEC increased after the introduction of the Oil-for-Food program, there was some growth in programs that involved former nuclear weapons scientists and engineers.

The Regime prevented scientists from the former nuclear weapons program from leaving either their jobs or Iraq. Moreover, in the late 1990s, personnel from both MIC and the IAEC received significant pay raises in a bid to retain

¹⁴¹ Charles Duelfer, testimony related to his September 30, 2004 report before the Senate Armed Services Committee, October 6, 2004. The Duelfer Report also declared (nuclear section, p. 79) that the survey of Iraq's main nuclear complex at Tawaitha was the “best that could be achieved with available resources and equipment. The Tuwaitha site occupies some 20 km, and there are plenty of places; e.g., under radioactive water in basements or damaged buildings where documents, electronic media, or equipment could be hidden by those determined and where some risk to personnel would be involved in order to retrieve them. Without sound supporting HUMINT, missions surveying hazardous locations would be speculative and difficult to justify....This mission has attempted to incorporate HUMINT support suggesting the presence of hidden documents and equipment. The strongest hints were regarding a Building 6, which has not been found, and in the basement of Building 42/43, which has been burned. If additional HUMINT is forthcoming, then a ground radar survey may be appropriate for the future or the use of other high-tech equipment in order to examine all the flooded basements and water tanks.”

them, and the Regime undertook new investments in university research in a bid to ensure that Iraq retained technical knowledge.¹⁴²

6. *In the spring of 2003, an Iraqi scientist turned over to Coalition forces parts and blueprints for a nuclear centrifuge that Iraqi government officials had told him to bury in his backyard back in 1991. What value would this material have been to Saddam's nuclear program?*

According to Corey Hinderstein, Assistant Director of the Institute for Science and International Security, a Washington, DC-based nonproliferation think tank: "If the order was given, these documents and materials could be used to restart the program....They would not have to start from scratch. Iraq would still have been years from making a weapon. But they would have saved themselves time, on the order of years."¹⁴³

7. *In the 2003 State of the Union speech, President Bush said "the British government has learned that Saddam Hussein recently sought significant quantities of uranium from Africa." Given the controversy surrounding this statement, has the British government officially reviewed the matter since the president made his comments?*

The British government released a July 2004 report titled "Review of Intelligence on Weapons of Mass Destruction," which, on pages 123 and 125, states:

...[W]e conclude that the statement in President Bush's State of the Union Address of 28 January 2003 that 'The British Government has learned that Saddam Hussein recently sought significant quantities of uranium from Africa' was well-founded.

And,

From our examination of the intelligence and other material on Iraqi attempts to buy uranium from Africa, we have concluded that:

- a. It is accepted by all parties that Iraqi officials visited Niger in 1999.
- b. The British Government had intelligence from several different sources indicating that this visit was for the purpose of acquiring uranium. Since Uranium constitutes almost three-quarters of Niger's exports, the intelligence was credible.

¹⁴² Duelfer Report, pp. 1-2 (nuclear section).

¹⁴³ "Global Security Newswire: Former Nuclear Scientist Provides U.S. Officials With Equipment, Documents," June 26, 2003, available at http://www.nti.org/d_newswire/issues/thisweek/2003_6_26_womd.html.

- c. The evidence was not conclusive that Iraq actually purchased, as opposed to having sought, uranium and the British Government did not claim this [emphasis in original].
- d. The forged documents were not available to the British Government at the time its assessment was made, and so the fact of the forgery does not undermine it.¹⁴⁴

¹⁴⁴ British government report, "Review of Intelligence on Weapons of Mass Destruction," July 14, 2004, available at www.fas.org/irp/world/uk/butler071404.pdf. It should be noted that the Duelfer Report stated (p. 7, nuclear section) that the Iraq Survey Group has "uncovered no information to support allegations of Iraqi pursuit of uranium from abroad in the Post-Operation Desert Storm era."

V

Questions & Answers: Iraq's Missile and UAV Programs

“There has been a surge of activity in the missile technology field in the past four years.”

— UNMOVIC Report, March 6, 2003

“If I can speak of what we have found in addition to intent, we have found a large body of activities and equipment that were not declared to the UN inspectors when they returned in November of last year. This includes substantial equipment and activities in the chemical and biological area; [and] a much more substantial activity in the missile area. The Iraqis were engaged in a very full-scale program that would have extended their delivery systems out beyond 1,000 kilometers. That is enough to reach Ankara, Cairo, Abu Dhabi, Riyadh. And these were both ballistic missiles and land attack cruise missiles, the refit Chinese Silkworm.”

— David Kay, October 2, 2003

1. *Is it true that by the mid-1990s UN inspectors had accounted for 817 of the 819 proscribed missiles in Saddam's arsenal and had forced the regime to destroy a range of proscribed equipment that could be used to produce missiles?*

Yes. UNSCOM reported to the UN Security Council in November 1997 that it had accounted for 817 of the 819 proscribed missiles. But this number referred only to the Scuds that Saddam Hussein imported from the Soviet Union during the Iran-Iraq War and did not address the question of Iraq's indigenous missile production.¹⁴⁵

Thus, the same November 1997 UNSCOM report, after noting its success in accounting for Saddam's *imported* Scuds, explicitly warned: “However, priority requirements are: clarification of and accounting for Iraq's indigenous production of proscribed missiles, including seven missiles claimed to have been for training, and conventional warheads and warheads for biological and chemical agents, and major missile parts.”¹⁴⁶

¹⁴⁵ United Nations Special Commission, Report of the Emergency Session of UNSCOM, November 24, 1997, available at www.un.org/Depts/unscom/s97-922.htm.

¹⁴⁶ United Nations Special Commission, Report of the Emergency Session of UNSCOM, November 24, 1997.

As Ken Pollack explained in *The Threatening Storm*: “Although virtually all the Soviet-supplied Scuds have been accounted for, because Iraq was able to produce Scud-type missiles indigenously there is no way to know just what its actual Scud inventory consisted of or how many it now has left.” Pollack further explained: “UNSCOM discovered a secret Iraqi Scud engine plant still in operation in 1995, leading it to conclude that Iraq may have been building new missiles even as UNSCOM destroyed its old ones. Consequently, UNSCOM personnel concluded that Iraq had at least a dozen al-Husseins [Scuds] when it ceased cooperation with the inspectors in 1998.”¹⁴⁷

Indeed, uncertainty about the “baseline” figures for Iraq’s missile force persisted until the eve of Operation Iraqi Freedom, when UNMOVIC issued its March 6, 2003 report on the status of Iraq’s disarmament:

In order to address the broader question of the existence of a possible Scud-type missile force, Iraq should provide specific documentation in support of its declarations. An example would be the two reports written by the missile force commander on 30 January 1991 and in May 1991 that, on the basis of Iraq’s own declarations and outside information, are known to exist. The first report could help clarify the state of the combat missile force at the end of the Gulf War. The second report could allow clarification of the status of the missile force just after the adoption of resolution 687 (1991).¹⁴⁸

The same report also declared: “The lack of evidence to support Iraq’s declarations on its destruction of...indigenously produced ‘training’ engines, as well as on the key engine components, such as turbo-pumps, raises the question whether they were all destroyed as declared.”¹⁴⁹

2. *What about warheads for Iraq’s missiles? Did UN inspectors account for most of Iraq’s chemical and biological warheads?*

UN inspectors were never sure of the total number of “special” warheads produced for Iraq’s missiles. While inspectors had accounted for 73 of the 75 warheads Iraq had declared, doubts remained that Iraqi officials were telling the truth about how many missiles had been produced.

On this point, UNMOVIC’s March 6, 2003 report stated the following:

¹⁴⁷ Kenneth M. Pollack, *The Threatening Storm* (New York: Random House, 2002), p. 169.

¹⁴⁸ “Unresolved Disarmament Issues: Iraq’s Proscribed Weapons Programmes,” March 6, 2003, p. 25, available at <http://www.un.org/Depts/unmovic/documents/UNMOVIC%20UDI%20Working%20Document%206%20March%202003.pdf>.

¹⁴⁹ *Ibid.*, 24.

Although UNSCOM verified the destruction of 73 to 75 of the 75 special warheads that Iraq declared, a number of discrepancies and questions remain, which raise doubts about the accounting of the special warheads, including the total number produced: statements by some senior Iraqi officials that Iraq had possessed 75 chemical and 25 biological Scud-type warheads; the finding that, at a minimum, 16 to 30 structural rings remain unaccounted for; Iraq's numerous changes to its declarations on these matters; Iraq's admitted action taken to mislead UNSCOM on the location and number of special warheads; the physical evidence which conflicts with Iraq's account of its destruction of biological warheads; and the fact that no remnants of biological warheads were found by UNSCOM until after Iraq's admission in 1995 that it had had an offensive biological weapons programme.

As a consequence of the accounting questions above, uncertainty remains concerning the types and numbers of chemical and biological agents it filled into the special warheads. The finding of degradation products related to nerve agents on some warhead remnants suggests that its declaration may not be complete.¹⁵⁰

In addition, UNMOVIC requested that Iraq

...provide documents to support its assertion that it had only produced 75 special warheads and provide an explanation for the evidence UNSCOM found which contradicts Iraq's assertion that it had simultaneously destroyed 15 biological warheads at Nibai.¹⁵¹

3. *What conclusions did UN inspectors reach about the status of Iraq's missile force based on the inspections conducted in the months before Coalition forces entered Iraq?*

Inspectors did not uncover any Scud missiles but reported that a small, covert force of missiles may exist. Their March 6, 2003 report stated:

...[T]he lack of documentation to support the destruction of a significant amount of Scud-B liquid propellant, and the fact that approximately 50 warheads were not accounted for among the remnants of unilateral destruction, suggest that these items may have been retained for a proscribed missile force. After investigating Iraq's statement that, due to the limited storage lifetime, the propellants would now be useless, UNMOVIC has assessed that the propellants

¹⁵⁰ Ibid., 43.

¹⁵¹ Ibid., 43.

would in fact still be usable and would therefore need to be verified as destroyed.¹⁵²

Additionally, the report expressed concern related to proscribed guidance and control systems for missiles.

Questions also arise with respect to activities related to proscribed guidance and control systems that Iraq had conducted from 1992 to 1995. It is difficult to accept Iraq's statement that they were for non-proscribed missiles....The concern is that Iraq may have been conducting reverse engineering of proscribed guidance and control systems as part of its missile activities even after the adoption of resolutions 687 (1991) and 715 (1991). Furthermore, it cannot be excluded that Iraq has retained such guidance and control equipment."¹⁵³

The March 6 report also offered further evidence for a "reconstituted Scud-type missile force," stating that:

Another indication of possible proscribed activity is the offer that Iraq said it received from a middleman for five disassembled TELs [transporter-erector launchers]....Although Iraq said that it had rejected the offer, no evidence has been provided in support. These parts might have allowed the assembly of one or two TELs, which would have been another piece for a reconstituted Scud-type missile force. In this connection, Iraq has, so far, been unable to locate a 50-tonne trailer that it declared it had imported for the indigenous production of the Al Nida mobile launcher and which it claims had been stolen. Iraq also did not provide UNSCOM with the parts of an imported Scud TEL, which it states it had disassembled."¹⁵⁴

4. *What were the assessments of David Kay and Charles Duelfer on Saddam's missile programs? Was Iraq in compliance with UN resolutions regarding these programs?*

In comments made in October, 2003 Kay remarked, "no detainee has admitted any actual knowledge of plans for unconventional warheads for any current or planned ballistic missile."¹⁵⁵ But what Kay did find was an extensive Iraqi missile program that had not been detected by UNMOVIC. Speaking with reporters on October 2, 2003, Kay said: "The Iraqis were engaged in a very full-scale program that would have extended their delivery systems out beyond 1,000 kilometers. That is enough to reach Ankara, Cairo,

¹⁵² Ibid., 24.

¹⁵³ Ibid., 24.

¹⁵⁴ Ibid., 24.

¹⁵⁵ David Kay, "Statement on the Interim Progress Report on the Activities of the Iraq Survey Group (ISG) Before the House Permanent Select Committee on Intelligence, The House Committee on Appropriations, Subcommittee on Defense, and the Senate Select Committee on Intelligence," October 2, 2003, available at http://www.cia.gov/cia/public_affairs/speeches/2003/david_kay_10022003.html.

Abu Dhabi, Riyadh. And these were both ballistic missiles and land-attack cruise missiles, the refit Chinese silkworm.”¹⁵⁶

On October 3, 2003, during a second interview session, he spoke again of Iraq’s missile programs: “These [were] all hidden. They were much more than paper studies; there was actual physical work taking place on several of these. [They were] not discovered by the inspectors because the Iraqis prevented them....”¹⁵⁷

Kay also assessed Iraq’s missile programs during his October 2, 2003 Congressional testimony:

Detainees and co-operative sources indicate that beginning in 2000 Saddam ordered the development of ballistic missiles with ranges of at least 400 km and up to 1000 km and that measures to conceal these projects from UNMOVIC were initiated in late-2002, ahead of the arrival of inspectors.¹⁵⁸

He further stated:

Work was also underway for a clustered engine liquid propellant missile, and it appears the work had progressed to a point to support initial prototype production of some parts and assemblies...[S]everal sources contend that Saddam’s range requirements for the missiles grew from 400-500 km in 2000 to 600-1000 km in 2002.¹⁵⁹

And:

ISG has obtained testimony from both detainees and cooperative sources that indicate that proscribed-range solid-propellant missile design studies were initiated, or already underway, at the time when work on the clustered liquid-propellant missile designs began. The motor diameter was to be 800 to 1000 mm, i.e. much greater than the 500-mm Ababil-100. The range goals cited for this system vary from over 400 km up to 1000 km, depending on the source and the payload mass.¹⁶⁰

Kay also reported on the development of two cruise missile programs. The first concerned the upgrade of the HY-2 cruise missile from its 100 km range to 150-180 km range. The second program, called the Jenin, aimed to develop a cruise missile that could fly 1,000 km. Speaking on the latter program, Kay testified: “To prevent discovery by the UN, Iraq halted engine development and testing and disassembled the test stand in

¹⁵⁶ “David Kay Holds Media Availability Following Meeting with Senate Armed Services Committee,” October 2, 2003.

¹⁵⁷ Ibid.

¹⁵⁸ Kay Statement, October 2, 2003.

¹⁵⁹ Ibid.

¹⁶⁰ Ibid.

late 2002 before the design criteria had been met.”¹⁶¹ However, it is also worthwhile to note that, while Iraqis apparently halted development of the Jenin when UNMOVIC returned to the country, they were successful in hiding the missile program from UNMOVIC, as the inspectors did not cite uncovering evidence of this clandestine project anywhere in their reports to the UN Security Council.

Additionally, while work was suspended on the Jenin cruise missile, David Kay testified:

ISG has gathered testimony from missile designers at Al Kindi State Company that Iraq has reinitiated work on converting SA-2 Surface-to-Air Missiles into ballistic missiles with a range goal of about 250km. Engineering work was reportedly underway in early 2003, despite the presence of UNMOVIC. This program was not declared to the UN.

He added:

A second cooperative source has stated that the program actually began in 2001, but that it received added impetus in the run-up to OIF, and that missiles from this project were transferred to a facility north of Baghdad. This source also provided documentary evidence of instructions to convert SA-2s into surface-to-surface missiles.¹⁶²

Duelfer, in his September, 2004 report, stated:

ISG has substantial documentary evidence and source reporting indicating that the Regime intentionally violated various international resolutions and agreements in order to pursue its delivery systems programs. Sources with direct access have described missile projects with design ranges well beyond UN limits and ISG has research documents to corroborate these claims. Additionally, ISG has exploited documents that confirm Iraq circumvented UN sanctions by illicitly importing components for use in its missile programs....

ISG has uncovered numerous examples of Iraq’s disregard for UN sanctions and resolutions in an effort to improve its missile and UAV capabilities. These violations repeatedly breached UNSCR 687, 707, 715, 1051, 1284, 1441 and pursuant annexes and enabled Iraq to develop more robust delivery system programs.¹⁶³

¹⁶¹ David Kay, “Statement on the Interim Progress Report on the Activities of the Iraq Survey Group (ISG) Before the House Permanent Select Committee on Intelligence, The House Committee on Appropriations, Subcommittee on Defense, and the Senate Select Committee on Intelligence,” October 2, 2003, available at http://www.cia.gov/cia/public_affairs/speeches/2003/david_kay_10022003.html.

¹⁶² Kay Statement, October 2, 2003.

¹⁶³ “Comprehensive Report of the Special Advisor to the DCI on Iraq’s WMD (Duelfer Report),” September 30, 2004, pp. 70-71 (delivery systems section), available at

He concluded:

Given Iraq's investments in technology and infrastructure improvements, an effective procurement network, skilled scientists, and designs already on the books for longer range missiles, ISG assesses that Saddam clearly intended to reconstitute long-range delivery systems and that the systems potentially were for WMD.¹⁶⁴

Furthermore, Duelfer reported, the "period from 1998 to the start of OIF showed an increase in Iraq's procurement activities, and it is in this period that ISG believes Baghdad made its most serious attempts at reconstituting delivery system capabilities similar to those that existed prior to 1991."¹⁶⁵ To this end, "Iraq used covert procurement methods to acquire material that was either banned or controlled under [UN Security Council resolutions]...to reestablish or support Iraq's delivery systems programs."¹⁶⁶

5. *Did Kay or Duelfer find evidence of foreign assistance to Iraq's delivery system programs?*

Yes. Highlights of Kay's October, 2003 testimony included the following:

Documents found by ISG describe a high level dialogue between Iraq and North Korea that began in December 1999 and included an October 2000 meeting in Baghdad. These documents indicate Iraqi interest in the transfer of technology for surface-to-surface missiles with a range of 1300 km (probably No Dong) and land-to-sea missiles with a range of 300 km. The document quotes the North Koreans as understanding the limitations imposed by the UN, but being prepared "to cooperate with Iraq on the items it specified..."

At the time of OIF [Operation Iraqi Freedom], these discussions had not led to any missiles being transferred to Iraq. A high-level cooperating source has reported that in late 2002 at Saddam's behest a delegation of Iraqi officials was sent to meet with foreign export companies, including one that dealt with missiles. Iraq was interested in buying an advanced ballistic missile with 270-km and 500-km ranges.

Kay further stated:

A group of foreign experts operating in a private capacity were helping to develop Iraq's liquid propellant ballistic missile RDT&E and production

http://www.foia.cia.gov/duelfer/Iraqs_WMD_Vol2.pdf.

¹⁶⁴ Ibid., 2.

¹⁶⁵ Ibid., 56.

¹⁶⁶ Ibid., 56.

infrastructure. They worked in Baghdad for about three months in late 1998 and subsequently continued work on the project from abroad. An actual contract valued at \$10 million for machinery and equipment was signed in June 2001, initially for 18 months, but later extended. This cooperation continued right up until the war.¹⁶⁷

Similarly, Duelfer found that “the Iraqi missile and UAV programs benefited from Iraq’s defiance of UN sanctions because they were able to obtain material and technical expertise they otherwise could not have developed. Several sources and documentary evidence confirm that Iraq participated in such activities. The measures taken to conceal these activities from the UN are evidence that Iraq was well aware these activities were illegal.”¹⁶⁸

Iraq, for example, had “hired outside expertise to assist its [missile] development program..., had entered into negotiations with North Korean and Russian entities for more capable missile systems..., [and] also imported missile guidance and control systems....”¹⁶⁹

6. In the 2002 National Intelligence Estimate (NIE) section on Iraq’s Unmanned Aerial Vehicle (UAV) program, the Air Force offered a dissenting opinion on the NIE’s judgment on the status of Iraq’s UAV program. What was the nature of its dissent?

To begin, nowhere in the declassified NIE did the U.S. Air Force claim that Iraq’s UAV program did not pose a threat to states or U.S. forces in the Middle East, or that Iraq’s UAV aircraft were incapable of delivering chemical or biological warfare agent.

The two-sentence dissent expressed by the Air Force Director of Intelligence, Surveillance, and Reconnaissance was limited to skepticism as to whether “Iraq is developing UAVs *primarily* intended to be delivery platforms for chemical and biological warfare (CBW) agents. The small size of Iraq’s new UAV strongly suggests a primary role of reconnaissance, although CBW delivery is an inherent capability.” (Emphasis in original) The NIE stated that Iraq was developing a UAV “probably intended to deliver biological warfare agent.”¹⁷⁰

7. *Other than the 2002 NIE, are there other examples of publicly available U.S. government documents that discussed Saddam Hussein’s missile and UAV capabilities?*

¹⁶⁷ Kay Statement, October 2, 2003.

¹⁶⁸ Duelfer Report, p. 74 (delivery systems section).

¹⁶⁹ *Ibid.*, 2.

¹⁷⁰ “Key Judgments [From October 2002 National Intelligence Estimate],” available at <http://www.fas.org/irp/cia/product/iraq-wmd.html>.

Yes. As early as February 1998, the U.S. government—in a White Paper on “Iraq’s Weapons of Mass Destruction”—expressed the view that: “Unmonitored unilateral destruction and discrepancies in Iraqi accounting suggest that Baghdad could still have a small force of Scud-type missiles and an undetermined number of warheads and launchers.”¹⁷¹

The CIA’s January-June 2000 “Unclassified Report to Congress on the Acquisition of Technology Relating to Weapons of Mass Destruction and Advanced Conventional Munitions” stated that “Iraq probably retains a small, covert force of Scud-type missiles.” The report also indicated that Iraq was working on a UAV program—based on a “refurbished trainer aircraft” that was “believed to have been modified for delivery of chemical or, more likely, biological warfare agents.” This language was reiterated in subsequent CIA reports in 2000, 2001, and 2002.¹⁷²

Furthermore, the CIA report for July-December 2001 cited specific evidence of a resurgent missile program.

Two new solid-propellant ‘mixing’ buildings at the al-Mamoun plant...appear especially suited to house large, UN-prohibited mixers of the type acquired for the Badr-2000 program. In fact, we can find no logical explanation for the size and configuration of these mixing buildings other than an Iraqi intention to develop longer range, prohibited missiles (that is, to mix solid propellant exclusively geared for such missiles). In addition, Iraq has begun reconstructing the ‘cast and cure’ building at al-Mamoun, which contains large and deep casting pits that were specifically designed to produce now-proscribed missile motors.¹⁷³

8. *What did David Kay conclude regarding the status of Iraq’s UAV program?*

In his October 2003 Congressional testimony, Kay cited “a line of UAVs not fully declared at an undeclared production facility and an admission that they had tested one of their declared UAVs out to a range of 500 km, 350 km beyond the permissible limit.”

Kay further testified:

¹⁷¹ U.S. Government White Paper, “Iraqi Weapons of Mass Destruction, February 13, 1998,” available at http://www.state.gov/www/regions/nea/iraq_white_paper.html.

¹⁷² CIA’s “Unclassified Report to Congress on the Acquisition of Technology Related to Weapons of Mass Destruction and Advanced Conventional Munitions,” 2000-2002, available at <http://www.cia.gov/cia/reports/>.

¹⁷³ CIA’s “Unclassified Report to Congress on the Acquisition of Technology Related to Weapons of Mass Destruction and Advanced Conventional Munitions, July-December 2001,” available at http://www.cia.gov/cia/reports/721_reports/july_dec2001.htm#4.

Iraq was continuing to develop a variety of UAV platforms and maintained two UAV programs that were working in parallel, one at Ibn Farnas and one at al-Rashid Air Force Base. Ibn Farnas worked on the development of smaller, more traditional types of UAVs in addition to the conversion of manned aircraft into UAVs. This program was not declared to the UN until the 2002 CAFCD.... The al-Rashid group was developing a competing line of UAVs. This program was never fully declared to the UN and is the subject of on-going work by ISG.

Kay also addressed the question of the UAV's program purpose in his testimony: "Given Iraq's interest before the Gulf War in attempting to convert a MIG-21 into an unmanned aerial vehicle to carry spray tanks capable of dispensing chemical or biological agents, attention is being paid to whether any of the newer generation of UAVs were intended to have a similar purpose. This remains an open question."¹⁷⁴ And, in testimony on January 28, 2004 before the Senate Armed Services Committee, Kay stated that Iraq had

a very large UAV program, and discoveries are being made really in the last two months with regard to that program. The Iraqis acknowledged that at least one of those families of UAVs was a direct descendant from an earlier one that had a spray tank on it....My judgment, having looked at that evidence of the UAV program, is that it was an active program. It's one of these...WMD program elements that continued.

He added, however, that the program was "not at fruition" and was not capable of mounting "any sort of systematic military attack, but certainly [could be used] as a terrorist action."¹⁷⁵

Indeed, the March 6, 2003 UNMOVIC report stated that "even though some UAVs are small and can only carry a few tens of kilogrammes as payload, this could be significant if that payload is a BW agent such as anthrax." The report also noted that in 1990 "Iraq developed a remotely piloted MIG possibly to be equipped with a spray tank for the delivery of a BW agent...."¹⁷⁶

Similarly, Duelfer noted that while evidence "concerning the UAV programs active at the onset of OIF indicates these systems were intended for reconnaissance and electronic warfare...this evidence does not rule out the future possibility of adapting these UAVs for CBW delivery if the Iraqi Regime had made a strategic decision to do so. While the Al Musayara-20 UAV and, if fully developed, the Al Quds UAVs had the capabilities required—range, payload, and programmable autonomous guidance—to be used as CBW delivery systems, ISG has not found evidence the Iraqis intended to use them for this

¹⁷⁴ David Kay, "Statement on the Interim Progress Report on the Activities of the Iraq Survey Group (ISG) Before the House Permanent Select Committee on Intelligence, The House Committee on Appropriations, Subcommittee on Defense, and the Senate Select Committee on Intelligence," October 2, 2003.

¹⁷⁵ David Kay, testimony before Senate Armed Services Committee, January 28, 2004.

¹⁷⁶ "Unresolved Disarmament Issues," p. 13.

purpose. ISG has obtained indirect evidence that the L-29 RPV may have been intended for CBW delivery, but this program ended in 2001.”¹⁷⁷

¹⁷⁷ Duelfer Report, p. 42 (delivery systems section).

VI

Questions & Answers: Iraq's Chemical and Biological Weapons Programs

“The long list of proscribed items unaccounted for and as such resulting in unresolved disarmament issues was neither shortened by the inspections, nor by Iraqi declarations and documents.”

— Hans Blix, June 2, 2003

“I am convinced that he has them. I saw evidence back in 1998 when we would see the inspectors being barred from gaining entry into a warehouse for three hours with trucks rolling up and then moving those trucks out. I am absolutely convinced that there are weapons. We will find them.”

— Former Defense Secretary William Cohen, April 20, 2003

1. *What was on the “long list” of unaccounted for weapons referred to by chief U.N. weapons inspector Hans Blix?*

The “long list” of weapons and weapons-related material that was “unaccounted for” on March 19, 2003, the day coalition forces entered Iraq, included:

- up to 3.9 tons of VX nerve agent¹⁷⁸
- 6,526 aerial chemical bombs, containing about one thousand tons of chemical agent (primarily Mustard but also Sarin and Tabun)¹⁷⁹
- 550 mustard gas shells¹⁸⁰

¹⁷⁸ Kenneth Katzman, *Iraq: Weapons Programs, U.N. Requirements, and U.S. Policy*, Congressional Research Service (CRS), September 2, 2002, p. 7, available at <http://www.fas.org/man/crs/IB92117.pdf>.

¹⁷⁹ “Unresolved Disarmament Issues: Iraq’s Proscribed Weapons Programmes,” March 6, 2003,” p. 77, available at <http://www.un.org/Depts/unmovic/documents/UNMOVIC%20UDI%20Working%20Document%206%20March%202003.pdf>.

¹⁸⁰ *Ibid.*, 54.

- 2,062 tons of Mustard precursors that could produce “limited quantities of high quality Mustard”¹⁸¹
- 15,000 chemical munitions¹⁸²
- 8,445 liters of anthrax¹⁸³
- Growth media that could produce “3,000 - 11,000 litres of botulinum toxin, 6,000 – 16,000 litres of anthrax, up to 5,600 litres of *Clostridium perfringens*, and a significant quantity of an unknown bacterial agent.”¹⁸⁴
- at least 15 biological warheads¹⁸⁵

2. *Saddam Hussein’s Iraq denied that it had successfully weaponized the nerve agent VX for military use. What did UN inspectors believe?*

In January 2003, Hans Blix stated to the Security Council that there were “indications that the [VX] agent was weaponised.”¹⁸⁶ He reported:

Iraq has declared that it only produced VX on a pilot scale, just a few tonnes and that the quality was poor and the product unstable. Consequently, it was said that the agent was never weaponised. Iraq said that the small quantity of agent remaining after the Gulf War was unilaterally destroyed in the summer of 1991.

UNMOVIC, however, has information that conflicts with this account. There are indications that Iraq had worked on the problem of purity and stabilization and that more had been achieved than has been declared....There are also indications that the agent was weaponised.¹⁸⁷

The 1998 UNSCOM report on Iraq’s VX program stated:

The existence of VX degradation products conflicts with Iraq's declarations that the unilaterally destroyed special warheads had never been filled with any chemical warfare agents. The findings by all three laboratories of chemicals known to be degradation products of decontamination compounds also do not

¹⁸¹ Ibid., 77.

¹⁸² Ibid., 54.

¹⁸³ Ibid., 96.

¹⁸⁴ Ibid., 124.

¹⁸⁵ Ibid., 43.

¹⁸⁶ Hans Blix, “Statement to the Security Council: An Update on Inspection,” January 27, 2003, available at <http://www.un.org/Depts/unmovic/Bx27.htm>.

¹⁸⁷ Ibid.

support Iraq's declarations that those warhead containers had only been in contact with alcohols.¹⁸⁸

Finally, the September 2004 Duelfer report concluded that:

Iraq had not adequately addressed VX production and weaponization activities—a point on which Iraq's denials were contradicted by UNSCOM findings. ISG investigations into Iraq's work with VX reveals that Iraq did weaponize VX in 1988, and dropped 3 aerial bombs filled with VX on Iran. The bombs, originally declared to be part of a storage stability trial, were in fact dropped on an undisclosed Iranian location in 1988.¹⁸⁹

3. *Is it true that in March 2003 Iraq provided evidence to the UN inspectors that accounted for its missing VX and provided other VX-related material as well?*

UNMOVIC stated that Iraq's proposal to prove it had unilaterally destroyed the VX in 1991 would not “would not address all of the unresolved issues” regarding VX. Its May 30, 2003 report stated:

UNMOVIC pointed out to Iraq that the primary concern with regard to VX was not simply the quantity unilaterally destroyed in 1991 but rather the retention of precursors, know-how and the extent of the development of the program in 1990. Therefore, Iraq's sampling and quantification effort, even if successful, would not address all of the unresolved issues identified by UNMOVIC.¹⁹⁰

UNMOVIC's March 6, 2003 report stated that the “documentation available to UNMOVIC suggests that Iraq, at least, had far reaching plans to weaponize VX.”¹⁹¹

The report assessed that:

Iraq's VX programme included extensive efforts in a number of areas such as synthetic routes, stabilizers, and binary munitions. Given Iraq's history of concealment with respect to its VX programme it cannot be excluded that it has retained some capability with regard to VX.¹⁹²

¹⁸⁸ “1998 Report of the Group of International Experts on VX,” UNSCOM, October 23, 1998, available at http://www.fas.org/news/un/iraq/s/981026vx/vx_repor.htm.

¹⁸⁹ “Comprehensive Report of the Special Advisor to the DCI on Iraq's WMD (Duelfer Report),” September 30, 2004, p. 33 (chemical section), available at http://www.foia.cia.gov/duelfer/Iraqs_WMD_Vol3.pdf.

¹⁹⁰ “S/2003/580 – UNMOVIC Thirteenth Quarterly Report,” May 30, 2003, pp. 25-26, available at www.fas.org/news/un/iraq/unmovic/S-2003-580.pdf.

¹⁹¹ “Unresolved Disarmament Issues,” p. 82.

¹⁹² *Ibid.*, 82.

And:

The major remaining issue relating to Iraq's production capability is the fact that there are significant discrepancies in the accounting for all the key precursors... required to produce VX. A few other chemicals are required to produce VX... these are however readily available [to Iraq].¹⁹³

4. *How important was the VX program to Saddam Hussein?*

The importance the Iraqi government placed on its VX program was reflected in a letter written by a senior Iraqi official in 1987. According to UNMOVIC's March 6, 2003 report,

[i]n a top secret letter, written in 1987 by the Director-General of Al Muthanna [a large chemical weapons production and storage facility near Baghdad] to senior government officials, the importance of the agent to Iraq was recognized. In the letter, VX was compared to a nuclear weapon: "*two tons carried by an aircraft compare with a medium nuclear bomb of 20 kilotons.*" The letter continued that its possession "*...ushers us into the [field] of armament of advanced countries.*"¹⁹⁴

Additionally, according to the Congressional Research Service, Iraq was forced, by 1995, "to admit to producing about 4 tons of VX, but UNSCOM believed that Iraq had imported enough precursor—about 600 tons—to produce 200 tons of the agent."¹⁹⁵

5. *When inspectors were in Iraq in the months prior to the March 2003 invasion, did they find chemical munitions or ongoing chemical weapons production, and did they locate any underground chemical weapons production facilities?*

Inspectors did not find actual chemical weapons production and discovered only a tiny handful of chemical munitions, including 122-mm chemical warheads. Nonetheless, as Hans Blix stated to the Security Council on January 27, 2003:

The discovery of a number of 122 mm chemical rocket warheads in a bunker at a storage depot 170 km southwest of Baghdad was much publicized. This was a relatively new bunker and therefore the rockets must have been moved there in the past few years, at a time when Iraq should not have had such munitions.... They could also be the tip of a submerged iceberg. The discovery of a few

¹⁹³ Ibid., 83.

¹⁹⁴ Ibid., 143.

¹⁹⁵ Kenneth Katzman, *Iraq: Weapons Programs, U.N. Requirements, and U.S. Policy*, Congressional Research Service (CRS), September 2, 2002, p. 7.

rockets does not resolve but rather points to the issue of several thousands of chemical rockets that are unaccounted for.¹⁹⁶

UNMOVIC also noted the difficulties in locating underground chemical facilities, stating in its March 6, 2003 report:

The result, so far, is that no underground facility of special interest has been found. Although they may be easier to find than mobile facilities, they are still a difficult target and it is always possible that inspectors have missed a hidden entrance. Like mobile facilities, any dedicated underground CW or BW facility could also have been dismantled prior to inspection. UNMOVIC does not dismiss the possibility that such facilities exist and will continue to investigate reports as appropriate. Given the vast number of potential underground “sites” capable of hosting CW or BW production or storage facilities in Iraq, inspections in this area will have to be dynamic and rely on specific intelligence information.¹⁹⁷

6. *Did the fact that there were 550 mustard gas shells unaccounted for in March 2003 really matter in terms of Iraq’s disarmament since the mustard inside the shells was quite old and presumably less potent and dangerous?*

Yes. According to the May 30, 2003 UNMOVIC report, tests on mustard gas shells determined that the more than fifteen year-old mustard agent inside “was still of high quality -- 97 percent purity.”¹⁹⁸

UNMOVIC’s March 6, 2003 report stated that

Iraq has provided a number of explanations regarding the disposition of approximately 550 unaccounted for Mustard filled 155-mm projectiles. UNSCOM, having determined that the Mustard contained in Iraq’s 155-mm projectiles was likely to remain stable for a long period, treated this issue as a serious matter. The high purity of Sulphur Mustard contained in artillery shells, after over 12 years of storage, was recently confirmed by UNMOVIC.¹⁹⁹

Finally, the March 6 report also observed that 2062 tons of mustard precursors that could produce “limited quantities of high quality Mustard” remained unaccounted for, as well as the fate of 1,000 tons of chemical agents.²⁰⁰

¹⁹⁶ Hans Blix, “Statement to the Security Council: An Update on Inspection,” January 27, 2003, available at <http://www.iraqwatch.org/un/unmovic/unmovic-blix-012703.htm>.

¹⁹⁷ “Unresolved Disarmament Issues,” p. 13.

¹⁹⁸ “S/2003/580 – UNMOVIC Thirteenth Quarterly Report” p. 30.

¹⁹⁹ “Unresolved Disarmament Issues,” p. 54. The Duelfer Report (pp. 32-33, chemical section) also stated that the mustard shells remain unaccounted for.

²⁰⁰ *Ibid.*, 77.

7. *Although Iraq Survey Group (ISG) heads David Kay and Charles Duelfer found no chemical or biological weapons stockpiles in Iraq, did their investigations lead them to conclude that Iraq had completely abandoned its chemical and biological weapons related activities?*

No. In Kay's October 2003 Congressional testimony, he stated that the Iraq Survey Group discovered "a clandestine network of laboratories and safehouses within the Iraqi Intelligence Service that contained equipment subject to UN monitoring and suitable for continuing CBW research." And, "in addition to the discovery of extensive concealment efforts, we have been faced with a systematic sanitization of documentary and computer evidence in a wide range of offices, laboratories, and companies suspected of WMD work."²⁰¹

Regarding Iraq's biological warfare program in particular, Kay testified:

ISG teams are uncovering significant information -- including research and development of BW-applicable organisms, the involvement of Iraqi Intelligence Service (IIS) in possible BW activities, and deliberate concealment activities. All of this suggests Iraq after 1996 further compartmentalized its program and focused on maintaining smaller, covert capabilities that could be activated quickly to surge the production of BW agents.²⁰²

Kay further noted that ISG teams

are starting to survey parts of Iraq's chemical industry to determine if suitable equipment and bulk chemicals were available for chemical weapons production. We have been struck that two senior Iraqi officials volunteered that if they had been ordered to resume CW production Iraq would have been willing to use stainless steel systems that would be disposed of after a few production runs, in place of corrosive-resistant equipment which they did not have.²⁰³

Kay cited "multiple sources that indicate that Iraq explored the possibility of CW production in recent years, possibly as late as 2003," but then went on to explain that

[w]hen Saddam had asked a senior military official in either 2001 or 2002 how long it would take to produce new chemical agent and weapons...he responded it would take six months for mustard. Another senior Iraqi chemical weapons expert in responding to a request in mid-2002 from Uday Husayn for CW for the

²⁰¹ David Kay, "Interim Progress Report on the Activities of the Iraq Survey Group (ISG)," Testimony before the House Permanent Select Committee on Intelligence, the House Committee on Appropriations, Subcommittee on Defense, and the Senate Select Committee on Intelligence, October 2, 2003, available at http://www.cia.gov/cia/public_affairs/speeches/2003/david_kay_10022003.html.

²⁰² Ibid.

²⁰³ Ibid.

Fedayeen Saddam estimated that it would take two months to produce mustard and two years for Sarin.²⁰⁴

All of which led Kay to conclude:

Saddam, at least as judged by those scientists and other insiders who worked in his military-industrial programs, had not given up his aspirations and intentions to continue to acquire weapons of mass destruction. Even those senior officials we have interviewed who claim no direct knowledge of any on-going prohibited activities readily acknowledge that Saddam intended to resume these programs whenever the external restrictions were removed. Several of these officials acknowledge receiving inquiries since 2000 from Saddam or his sons about how long it would take to either restart CW production or make available chemical weapons.²⁰⁵

In his September 30, 2004 report, Charles Duelfer concluded that “Saddam pursued a strategy to maintain a capability to return to WMD production after sanctions were lifted by preserving assets and expertise. In addition to preserved capability, we have clear evidence of his intent to resume WMD production as soon as sanctions were lifted.”²⁰⁶

Duelfer continued:

Based on an investigation of facilities, materials, and production outputs, ISG also judges that Iraq had a break-out capability to produce large quantities of sulfur mustard CW agent, but not nerve agents....

Iraq retained the necessary basic chemicals to produce sulfur mustard on a large-scale, but probably did not have key precursors for nerve agent production. With the importation of key phosphorus based precursors, Iraq could have produced limited quantities of nerve agent as well. Mustard production could have started within days if the necessary precursor chemicals were co-located in a suitable production facility; otherwise production could have started within weeks. Nerve agent production would have taken much longer.²⁰⁷

He also noted that the ISG “identified several suspect clandestine laboratories that reportedly supported biologically related research” but “has not been able to determine whether these laboratories were part of a clandestine BW effort.” However,

The tactic of using IIS and covert laboratories has historical precedence dating back to the programs origins in the 1970s. Reverting to this practice would

²⁰⁴ Ibid.

²⁰⁵ Ibid.

²⁰⁶ Duelfer Report, p. 13 (chemical section).

²⁰⁷ Ibid., 25.

minimize the evidence available to inspectors. It would also leave the known and acknowledged BW workers free to deal with the UN inspection regime. However, it would require another cadre of scientists other than ones known to the UN to conduct this kind of research. The discovery of multiple clandestine laboratories after OIF lends some credence to this assessment.²⁰⁸

Duelfer further reported:

ISG also has evidence that, possibly as recently as 1994, an IIS chemist who immigrated to Iraq from Egypt, Dr. Muhammad ‘Abd-al-Mun’im Al Azmirli (now deceased), experimented on prisoners with ricin resulting in their deaths.

In the chemical field, ISG learned that, in the 1970s, the former IIS Directorate of Science and Technology, M9 (which later transformed into M16) used this approach for research into lethal agents. The IIS used a succession of four clandestine laboratories in At Taji and Baghdad between 1996 and 2003 to research and develop chemicals. It also included testing of chemicals on small animals like mice, rabbits and rats.²⁰⁹

Additionally, the ISG remains “concern[ed]” about “the fate of Iraq’s stock of bulk BW agents remaining after Desert Storm...the fate of the missing bulk agent storage tanks, the fate of a portion of Iraq’s seen-stocks [and] the nature, purpose and who was involved in the secret biological work in the small IIS laboratories...” as they “relate to the possibility of a retained BW capability or the ability to initiate a new one.”²¹⁰

8. *How did UN inspectors characterize the status of Saddam’s biological warfare program prior to March 2003?*

On January 25, 1999, UNSCOM assessed the status of Iraq’s biological warfare program and expressed “no confidence” that the entire program had been dismantled.

On technical, industrial and scientific developments of Iraq’s BW programme, it has not been possible to compile a comprehensive assessment because Iraq has not been transparent in its FFCD [Full, Final and Complete Disclosures] nor in its clarifications of the account of its BW programme....The Commission has

²⁰⁸ Ibid., 69.

²⁰⁹ Duelfer Report, p. 16-17 (biological section), available at http://www.foia.cia.gov/duelfer/Iraqs_WMD_Vol3.pdf. Duelfer also noted (p.16, biological section) that “[a]dditional reporting, though unconfirmed, indicates that M16 also conducted BW related research at two covert laboratories. In the early 1990s, Saddam tasked the IIS to do small-scale BW work in covert laboratories concealed within legitimate facilities. Further unconfirmed reports indicated the IIS conducted BW and CW experiments and stored WMD precursor materials in residences and warehouses around Baghdad until at least April 2003.”

²¹⁰ Ibid., 56.

little or no confidence in Iraq's accounting for proscribed items for which physical evidence is lacking or inconclusive, documentation is sparse or nonexistent, and coherence and consistency is lacking. These include, for example: quantities and types of munitions available for BW filling; quantities and types of munitions filled with BW agents; quantities and type of bulk agents produced; quantities of bulk agents used in filling; quantities of bulk agents destroyed; quantities of growth media acquired for the programme; and quantities of growth media used/consumed. In addition the Commission has no confidence that all bulk agents have been destroyed; that no BW munitions or weapons remain in Iraq; and that a BW capability does not still exist in Iraq.²¹¹

The 1999 report added that:

None of the subcomponents of the *Clostridium botulinum* toxin material balance (production, filling, losses and destruction) could be verified.

None of the subcomponents of the *Bacillus anthracis* spores material balance (production, filling, losses and destruction) could be verified.

None of the subcomponents of the aflatoxin material balance (production, filling, losses and destruction) could be verified.

None of the subcomponents of the *Clostridium perfringens* spores material balance (production, losses and destruction) could be verified.

None of the subcomponents of the wheat smut material balance (production, losses and destruction) could be verified.

None of the subcomponents of the media material balance (acquisition, consumption, losses and destruction) could be verified.

On March 19, 2002, the assistant secretary of state for intelligence and research, Carl W. Ford, testified to the Senate Foreign Relations Committee that

Iraq has also rebuilt a plant that produces castor oil, allegedly for brake fluid. The mash left over from this production, however, could be used to produce ricin, a biological toxin....

Since the full scope and nature of Iraq's BW program was not verified, UNSCOM has reported that Iraq maintains a knowledge base and industrial infrastructure that could be used to produce quickly a large amount of BW agents at any time. Iraq also has continued dual-use research that could improve

²¹¹ "S/1999/94 UNSCOM Report: Disarmament," January 25, 1999, available at <http://www.un.org/Depts/unscom/s99-94.htm>.

BW agent R&D capabilities. With the absence of a monitoring regime and Iraq's growing industrial self-sufficiency, we remain concerned that Iraq may again be producing biological warfare agents.²¹²

On November 27, 2002, inspectors returned to Iraq after a four-year absence. On March 6, 2003, an UNMOVIC report again assessed Iraq's ability to produce biological weapons:

Iraq currently possesses the technology and materials, including fermenters, bacterial growth media and seed stock, to enable it to produce anthrax. Many of the skilled personnel familiar with anthrax production have been transferred to civilian industries. There does not appear to be any choke points, which would prevent Iraq from producing anthrax on at least the scale of its pre-1991 level.²¹³

And:

Since Iraq produced more botulinum toxin than other agents and it still possesses the expertise and possibly the seed stock, material inputs (such as growth media), and equipment (fermenters), then production at least at the scale of its pre-1991 level could be rapidly recommenced.²¹⁴

²¹² Assistant Secretary of State for Intelligence and Research Carl W. Ford, testimony to Senate Foreign Relations Committee, March 19, 2002.

²¹³ "Unresolved Disarmament Issues," p. 98.

²¹⁴ *Ibid.*, 101. Regarding Iraq's BW production capability, the Duelfer Report (p. 42, biological section) noted:

ISG judges the movable assets at the Al Dawrah FMDV Plant could provide the core of an alternative break-out capability at any other suitable site in Iraq, perhaps within 2 to 3 weeks after the decision to do so. The 1 cubic meter tanks or fermentors presently unaccounted for are other important assets that, if indeed still exist, could, when combined with the Al Dawrah FMDV assets, exceed the capacity Iraq possessed in 1990. In this case media and personnel are also movable assets.

- Iraq had shown the ability to move fermentor assets pre-1990 era. Iraq had also shown its ability to utilize small cadres of skilled personnel to lead clusters of less skilled personnel in the production process.
- Iraq gained additional production and development know-how during the post-1991 era.
- Iraq has developed the capacity to produce indigenously, substitute media for the production of some agents, such as corn and milk byproduct media for anthrax spores.

ISG judges that *Bacillus anthracis* (anthrax) would likely be the agent of choice for breakout production.

- It represented the single strategic BW agent that Iraq had in its historical arsenal.
- Iraq has a previous track record in large-scale growth, processing, testing and weaponization of anthrax spores.
- Corn byproduct medium, indigenously manufactured for Bt production, would also be suitable for the growth of *B. anthracis*.

9. *In August 1995 Iraqi General Hussein Kamal defected to Jordan. What was the importance of that defection with respect to the UN's judgment about the status of Iraq's weapons program and its own standards for verification?*

Kamal's defection had a profound impact on the inspection process because, thereafter, Iraq's claims regarding its weapons of mass destruction would no longer be accepted at "face value." According to UNSCOM, the defection of Kamal highlighted the need for Iraq to provide "verifiable evidence" that it had unilaterally destroyed its weapons stocks.²¹⁵ It was the defection of General Kamal that fully exposed the massive concealment campaign conducted by the Iraqi government of its weapons programs.

During the spring of 1995, Iraq was pushing the UN to lift economic sanctions. At the same time, UNSCOM wanted more information from Iraq on its biological warfare program—a program UNSCOM believed Iraq had pursued and had concealed despite Iraqi denials. By the end of May, Iraq offered a deal. According to UNSCOM, Iraq would provide information on its biological programs, but Baghdad would first require "statements from the Commission that the chemical weapons and missile files were closed...and from the IAEA that the nuclear file was closed. If Iraq received such assurances and thus judged the prospects for reintegration to be positive, it would, in late June, address the one outstanding issue of significance, the biological issue."²¹⁶ On June 20, 1995, UNSCOM issued its report and noted that "in the ballistic missile and chemical weapon areas, the Commission is now confident that it has a good overall picture of the extent of past programmes...."²¹⁷

On June 30, 1995, UNSCOM reported, Iraq "concluded that positive elements [contained in UNSCOM's June 20, 1995 disarmament report] were such that Iraq would now address the issue of its biological weapons programme." So on July 1, Iraq acknowledged to having "an offensive biological weapons programme."²¹⁸ However, according to UNSCOM head Richard Butler, Iraq's subsequent biological declaration "minimized the program" and declared "deceptively, that Iraq never weaponized the agents and destroyed all agents before the Gulf War."²¹⁹

It was the defection of Lieutenant General Hussein Kamal in August of 1995 that led Baghdad to turn over to UNSCOM crates of WMD-related documents that had been stashed at the Haidar Chicken Farm owned by Kamal. The crates, which Butler believed

²¹⁵ "UNSCOM Report on Disarmament," January 25, 1999, available at <http://www.un.org/Depts/unscom/s99-94.htm>.

²¹⁶ S/1995/864, 8th Report to the Security Council under UNSCR 715, October 11, 1995, available at <http://www.un.org/Depts/unscom/sres95-864.htm>.

²¹⁷ S/1995/494, 9th Report to the Security Council under UNSCR 687, June 20, 1995, available at <http://www.fas.org/news/un/iraq/s/s1995-0494.htm>

²¹⁸ "S/1995/864 8th Report Under Resolution 715," October 11, 1995, available at <http://www.un.org/Depts/unscom/sres95-864.htm>.

²¹⁹ Richard Butler, Statement to the Security Council, June 3, 1998, available at <http://www.fas.org/news/un/iraq/s/980603-unscom.htm>.

may “have been cleansed” by Iraqi intelligence before UNSCOM took custody, nevertheless contained material that further exposed the size and scope of Iraq’s WMD programs and the Iraqi government’s extensive concealment campaign to thwart UN inspectors.²²⁰

10. *Didn’t UN inspectors prove their effectiveness by uncovering Iraq’s secret biological weapons complex at Al Hakam, in April 1995, and subsequently destroying its facilities and equipment in 1996?*²²¹

To a degree, yes. But as the April 10, 1995 UNSCOM report observed, the detection of Al Hakam as a BW production facility by UNSCOM in fact demonstrated Iraq’s lack of full cooperation with the inspection process.²²² This, in turn, impacted UNSCOM’s ability to monitor Iraq’s biological program in its entirety. The report stated:

By pursuing interim monitoring as a means of obtaining the baseline data required for monitoring, the Commission was relying less on Iraq’s openness and more on inspection findings than originally intended. This approach required a greater outlay of resources and so could only be applied to a few sites. The interim monitoring process did not obviate the need for Iraq to report accurately all its biological activities which required declaration under the plan for ongoing monitoring and verification....

Monitoring and verification protocols have now been completed for all the key biological sites in Iraq identified to date and monitoring of them is now

²²⁰ Ibid.

²²¹ Regarding Al Hakam, the Duelfer Report noted (pp. 32,57, biological section) that “in mid-1991, Al Hakam shifted its focus from *Bacillus anthracis* production to *Bacillus thuringiensis*, a biopesticide and a simulant for *B. anthracis*, as a mechanism to preserve a key segment of Iraq’s BW production base. This shift...allowed Iraq the opportunity to continue the pursuit of relevant technologies and processes—such as the development of an entirely indigenous growth media and the drying of biopesticide—that could further achieve its desire for self-sufficiency in BW.” In addition, “the UN deemed Iraq’s accounting of its production and use of BW agent simulants—specifically *Bacillus subtilis*, *Bacillus lichenformis*, *Bacillus megaterium* and *Bacillus thuringiensis* to be inadequate. ISG remains interested in simulant work because these items may be used not only to simulate the dispersion of BW agents, develop production techniques, and optimize storage conditions, but also the equipment used for their manufacture can also be quickly converted to make BW agent. It permits maintenance of techniques and provides continuing familiarity with the process to preserve skill levels. Iraq continued its work on *Bacillus thuringiensis* as a bio-pesticide carried on bentonite, at Tuwaitha after the destruction of Al Hakam. As a result of interviews with the former staff of Al Hakam and principal researchers at IAEC, ISG has discovered that this research also included investigations of bentonite not only as a carrier but also as means of enabling the speedy production of slurry from the stored dried biopesticide.”

²²² In fact, Al Hakam was never targeted during the bombing campaign of Desert Storm in 1991. As with Iraq’s pre-Desert Storm nuclear weapons program, the size and scope of which went undetected by western intelligence agencies and the IAEA, U.S. intelligence was also unaware of Al Hakam’s existence as a major BW production facility. See “The world’s Deadliest Woman? ‘Dr. Germ’ headed Iraq’s biological warfare program,” NBC News investigative report, September 23, 2004, available at <http://www.msnbc.msn.com/id/3340765/>.

proceeding. However, the failure of Iraq to disclose fully all aspects of its past biological military research programme means that the Commission cannot be certain that its monitoring programme in the biological area is covering all the sites, facilities and capabilities that require monitoring under the terms of the plan approved by the Security Council.²²³

Al Hakam's destruction also reinforced the urgency of accounting for the large quantities of anthrax Iraq admitted to having produced and the significant amount of growth media. In his June 3, 1998 statement to the Security Council, Richard Butler said, "Iraq's actions in concealing and denying the [Al Hakam] program, including the planning and issuance of orders to individuals to take actions to hide the program from discovery, raise serious doubts about Iraq's assertion that the BW program was truly obliterated in 1991."²²⁴

In fact, a central question related to Iraq's anthrax program was whether the regime had been successful in drying biological warfare agents, particularly turning liquid bulk anthrax into a dried form, which "could be stored indefinitely."²²⁵

Although the Al Hakam BW facility had the necessary dryers to dessicate liquid anthrax, Iraq claimed it did not dry the agent due to technical problems. Nonetheless, "UNSCOM assessed that Iraq had not fully reported its work on the drying of BW agents and that Iraq's expertise in drying was greater than declared. However, it concluded that it was not possible to determine if BW agents had been dried."²²⁶ In addition, while three spray dryers were destroyed at Al Hakam in 1996, "elsewhere in Iraq," UNMOVIC stated in its March 6, 2003 report, "there were other dryers including industrial spray dryers, drum dryers and freeze-dryers, that may have been suitable for the drying of BW agents; Iraq's interest, however, appears to have been in spray dryers."²²⁷

²²³ S/1995/284 Report of the Secretary-General on the status of the implementation of the Special Commission's plan for the ongoing monitoring and verification of Iraq's compliance with relevant parts of section C of Security Council resolution 687 (1991), April 10, 1995, available at <http://www.un.org/Depts/unscom/Semiannual/srep95-284.htm>.

²²⁴ Richard Butler, Statement to the Security Council, June 3, 1998.

²²⁵ "Unresolved Disarmament Issues," p. 98. Regarding the *B. thuringiensis* research and production at Al Hakam from 1991 to 1996, the Duelfer Report (p. 37, biological section) noted that the "...ISG has not been provided with a good explanation as to why an advanced capability to dry agents in a particle size too small for efficient biopesticide use was established. An UNMOVIC document from March 2003 on Iraq's Unresolved Disarmament Issues says that the particle size would have had little use in agriculture and that UNSCOM determined the *B. thuringiensis* strain used did not produce biopesticidal proteins, so it would not have had any utility as a biopesticide. ISG judges that this work advanced Iraq's expertise and knowledge in large-scale drying of *B. anthracis* even if the agent itself was not produced and dried." The report also noted (p. 33, biological section) that the "TABRC (Tuwaitha Agricultural and Biological Research Center) became the primary facility continuing *B. thuringiensis* research after Al Hakam's destruction in 1996, but ISG lacks evidence that this research was intended as a simulation for *B. anthracis* research. However, undeclared pieces of equipment including fermentors were found at TABRC by ISG and an important former *B. anthracis* production expert was reported to have worked routinely at the facility from 2000 to 2003, which makes ISG suspicious of the true nature of the work done there."

²²⁶ *Ibid.*, 119.

²²⁷ *Ibid.*, 119.

The March 6, report also stated:

In December 1998, there were over 20 spray dryers and 70 freeze dryers under inventory control including some of these items that could be used for the drying of bulk BW agent. In addition, there was evidence that Iraq was developing the capability of indigenously manufacturing spray dryers. If bulk agent were available, Iraq would have had the capability after 1991 to process this using available equipment modified to reduce the risk of contamination.²²⁸

And:

UNMOVIC has no evidence that drying of anthrax or any other agent in bulk was conducted. But given Iraq's interest in drying, the existence of large quantities of liquid bulk agent in 1991, the availability of suitable dryers and the expertise that Iraq had developed, UNMOVIC cannot be certain that Iraq did not dry agent.²²⁹

And:

As a liquid suspension, anthrax spores produced 15 years ago could still be viable today if properly stored. Iraq experimented with the drying of anthrax simulants and if anthrax had been dried, then it could be stored indefinitely.²³⁰

On March 19, 2003, Iraq still had not accounted for at least 8,445 liters of anthrax.²³¹ Nor, for example, had it accounted for growth media that could produce "3,000 - 11,000 litres of botulinum toxin, 6,000 - 16,000 litres of anthrax, up to 5,600 litres of *Clostridium perfringens*, and a significant quantity of an unknown bacterial agent."²³²

In addition, the September 2004 Duelfer report stated:

²²⁸ Ibid., 120.

²²⁹ Ibid., 120.

²³⁰ Ibid., 98.

²³¹ Ibid., 95. It should be noted that the Duelfer Report (pp. 61-62, biological section) stated that "despite warnings about the consequences of not disclosing everything completely and truthfully from the UN, Iraq chose defiance. Iraq never disclosed the true amount of *B. anthracis* and probably other BW agents it had produced before 1992 as well as several locations where bulk BW agent was stored, and in one case, destroyed, according to multiple sources....Although ISG assesses there to be only a very small chance that Iraq kept some of this undeclared *B. anthracis* until OIF," the report continued, "ISG has been unable to obtain evidence to substantiate preservation or complete destruction of the agent." Regarding ISG's efforts to conclusively determine the fate "of at least some bulk BW agent," the Report noted a claim that an assistant of Dr. Rihab Rashida Taha, architect of Saddam's BW program (see footnote 45, NBC News report on "Dr. Germ" for profile of Rihab), dumped bulk anthrax at Ar Radwanayah but Rihab did not declare this disposal site to UN inspectors for "fear of informing Regime officials that Dr. Rihab's BW staff had deposited deactivated *B. anthracis* and probably one other agent in an area surrounded by Special Republican Guard (SRG) barracks and within site of the Ar Radwanayah Presidential Palace." As of April 12, 2005, this claim has not been verified.

²³² Ibid., 124.

In 1990, Iraq produced at least 39—possibly as many as 70—1,000-liter mobile tanks that could be readily converted into fermenters. Additionally, 8 mobile 800-liter tanks/fermentors were transferred from Al Kindi Vet Vaccine Facility to Al Hakam in 1987/88. Of the combined 1,000-liter and 800-liter mobile tanks, only 24 were cited as destroyed by Iraq. Evidence of such destruction of 24 units was provided to UNSCOM and stored at the UN Headquarters in the Canal Hotel. Thus, 23 remained after the alleged unilateral destruction of BW weapons and agents by Iraq in 1991. ISG has determined that two more tanks were destroyed at Al ‘Aziziyah. Of those remaining, four are 800-liter imported tanks/fermentors.

- Rihab [Dr. Rihab Rashid Taha Al ‘Azzawi, head of Iraq’s bacterial program] stated that Iraq was able to produce one cubic meter model fermentors “with bad wheels.” Documentary evidence dated September 2000 recovered by ISG indicates that Iraq converted one cubic meter storage tanks into fermentors that are assessed to have been indigenously fabricated for Al Hakam under Rihab’s supervision. These storage tanks have been an unresolved issue for the UN. Rihab denied receiving mobile tanks/fermentors while at Al Hakam in 1994.
- ISG obtained a document that indicated 10 one cubic meter tanks were connected prior to 2000 to form a 10 cubic meter fermentation plant (location unknown). Another document indicates the delivery of an additional 13-14 such tanks in 1993.

A spray dryer—the second of two air freighted into Baghdad in 1989, model number 0142 was located in 1997 by UNSCOM in a warehouse in northern Iraq, the first model 0141 was at Al Hakam in 1991 and was destroyed in 1996. Before the two weeks it took to assemble a sampling team, Iraq again relocated the dryer, completely disassembled it to cleanse and sterilize it and then reassembled it. This dryer was under monitoring until 15 December 1998 by UNSCOM. Its present whereabouts is unknown.²³³

11. *Prior to March 19, 2003, did UN inspectors come to any conclusions regarding Iraqi claims made in 1995 that it had unilaterally destroyed large quantities of bulk anthrax in 1991 at its secret Al Hakam biological weapons facility?*

In July 1995, after years of denial, Iraq admitted that it had an offense biological warfare program that produced large quantities of *Clostridium botulinum* and anthrax bulk agent at Al Hakam but denied developing warheads, bombs or any other weapons to deliver the

²³³ Duelfer Report, p. 40 (biological section).

agent.²³⁴ In August, Kamal defected forcing Iraq to admit that it had produced stockpiles of weapons filled with biological agent and that it had produced more of the agent than it declared in July.²³⁵ Iraq then told UNSCOM that as part of their mid-1991 “unilateral destruction” activities they had destroyed “all bulk agent” remaining after the filling of weapons, including anthrax, at Al Hakam. But UNSCOM’s attempt to verify Iraq’s story raised more questions than answers. UNSCOM’s January 25, 1999 report stated that

...analysis of samples obtained at Al-Hakam has demonstrated the presence of viable *Bacillus anthracis* spores at an alleged bulk agent disposal site. Iraqi experts cannot explain adequately how viable *Bacillus anthracis* spores could have been present at this site. The inactivation procedures described by Iraq for the "excess" bulk agent would preclude any live agents remaining following that inactivation procedure. The explanation provided by Iraq, i.e., endemic contamination is not credible. An alternative explanation proposed by Iraq that the viable organisms came from material discarded during agent production operations in prior years was contradicted by earlier information provided by Iraq. Further, that explanation, if true, would preclude verification of the destruction of bulk agents. There is insufficient documentation to verify either the quantity of Agent B destroyed or whether remaining bulk agent was destroyed. Methodology employed in destruction and location of destruction, similarly, can not be determined.²³⁶

UNMOVIC’s March 6, 2003 report reiterated the conclusion reached by UNSCOM in 1999. It stated:

Iraq’s statement that all bulk BW agent remaining after the filling of weapons was stored at Al Hakam during the Gulf War, is not convincing....Indeed there is credible information...that indicates that bulk agent, including anthrax, was in fact deployed during the Gulf War. Based on this information, UNMOVIC estimates that about 21,000 litres of BW agent was stored in bulk locations remote from Al Hakam; about half of this (about 10,000 litres) was anthrax....The question then arises as to what happened to it after the War....It, therefore, seems highly probable that the destruction of bulk agent, including anthrax, stated by Iraq to be at Al Hakam in July/August 1991, did not occur. Based on all available evidence, the strong presumption is that about 10,000 litres of anthrax was not destroyed and may still exist.²³⁷

²³⁴ Iraq also produced other agents and had other BW production facilities. For example, according to the Duelfer Report (p. 10, biological section), Iraq also “produced anthrax” at its Foot and Mouth Disease Vaccine plant at Al Daura—something Iraqi officials had repeatedly denied.

²³⁵ R. Jeffrey Smith, “Iraq Admits Working on Biological Weapons Systems,” *Washington Post*, August 19, 1995.

²³⁶ “S/1999/94 UNSCOM Report: Disarmament,” January 25, 1999, available at <http://www.un.org/Depts/unscom/s99-94.htm>.

²³⁷ Unresolved Disarmament Issues,” pp. 95-98.

VII

Questions & Answers: Iraq's Ties To Terrorism and al Qaeda

“There was no question in our minds that there was a relationship between Iraq and al Qaeda.”

— Thomas Kean, 9-11 Commission, July 2004

“And while many al Qaeda leaders had been [in Afghanistan], others had sought sanctuary in Iraq. The question was: Had terrorism and WMD already joined? If not, how long could it be before they did?”

— Gen. Tommy Franks (Ret.), July 2004

1. *Don't the reports released since the end of the Iraq war show that there were no ties between Saddam's Iraq and bin Laden's al Qaeda?*²³⁸

²³⁸ To support the argument that the Bush Administration had overstated Iraq's ties to al Qaeda, the Carnegie Endowment for International Peace's report, “WMD in Iraq” (January 2004), states that the “UN Monitoring Group on al Qaeda released a draft report in June that found no link between Iraq and the terrorist group” (p. 44). The accompanying citation is to a BBC report, “Iraq ‘Had No Links to al-Qaeda,’” BBC News Online, June 27, 2003. But as the Monitoring Group's Chairman, Michael Chandler, pointed out the next day, the BBC report did not accurately represent the statements and findings of the Monitoring Group.

During a June 26, 2003 press conference associated with the release of the Monitoring Group's draft report, the chairman, Michael Chandler, was asked whether or not his committee had investigated the alleged link between al Qaeda and Iraq. Mr. Chandler responded by noting he had limited resources, only “five people on his team. Al Qaeda was a global network. There were many people dealing with Iraq. He was concentrating on what was going on in the rest of the world. So far, there was nothing to indicate a link between Iraq and al Qaeda.”

Precisely because BBC and other news organizations pulled the last statement out of context in their reporting, Chairman Chandler felt it necessary to issue a statement the next day in which he stated that the Monitoring Group had not specifically addressed the issue of al Qaeda's ties to Iraq and had “reached no conclusions concerning these matters.” “Given the nature and intensity of the crisis surrounding Iraq during the reporting period, and attention being directed to such issues by the Security Council itself, an inquiry by the Monitoring Group into such issues was considered inappropriate.” See Joseph Cirincione, Jessica Matthews and George Perkovich, *WMD in Iraq: Evidence and Implications*, (Carnegie Endowment for International Peace, January 2004), p. 44.

No. Although U.S. intelligence has no evidence to confirm direct operational collaboration between Iraq and al Qaeda, both the report of the Senate Intelligence Committee on Intelligence and the report of the 9-11 Commission have cited repeated contacts between them throughout the 1990s. According to the 9-11 Commission report, bin Laden initially took the lead in exploring possible cooperation with Iraq. By the late 1990s, the Commission found “the situation reversed,” with Iraq taking the initiative in the relationship.²³⁹

In March 1998, after bin Laden’s public fatwa against the United States, two al Qaeda members reportedly went to Iraq to meet with Iraqi intelligence. In July, an Iraqi delegation traveled to Afghanistan to meet first with the Taliban and then bin Laden. Sources reported that one, perhaps both, of these meetings was apparently arranged through bin Laden’s Egyptian deputy, Zawahiri, who had ties of his own to the Iraqis.²⁴⁰

According to the commission, follow-up meetings might well have occurred the next year, leading to an offer from Baghdad to provide bin Laden with a safe haven in Iraq. Intelligence reports “describe friendly contacts,” with relations grounded in “both sides hatred of the United States.”²⁴¹

²³⁹ *The 9-11 Commission Report: Final Report of the National Commission on Terrorist Attacks Upon the United States* (New York: W.W. Norton & Co, 2004), p. 61 and p. 66. In this connection, the *New York Times* in June published a news story reporting on a recently discovered Iraqi intelligence document from the mid-1990s that provides a summary account of talks between bin Laden and Iraqi intelligence on future cooperation. The document discusses bin Laden’s interest in “joint operations against foreign forces” in Saudi Arabia, Iraq’s interest in “seeking other channels through which to handle the relationship” once bin Laden had left Sudan, and Iraqi intelligence’s judgment that “cooperation between the two organizations should be allowed to develop freely through discussion and agreement.” Thom Shanker, “Iraqis, Seeking Foes of Saudis, Contacted bin Laden, File Says,” *New York Times*, June 25, 2004.

²⁴⁰ *The 9-11 Commission Report*, p. 66. A key conduit between Iraq and al Qaeda appears to have been the Egyptian Ayman al Zawahiri. “According to a May 2003 debriefing of a senior Iraqi intelligence officer, Iraqi intelligence established a highly secretive relationship with Egyptian Islamic Jihad (headed by Zawahiri), and later with al Qaeda....The report claimed that Saddam insisted the relationship with al Qaeda be kept secret. After 9-11, the source said Saddam made a personnel change in the IIS for fear the relationship would come under scrutiny from foreign probes.” Stephen F. Hayes, “Case Closed: The U.S. government’s secret memo detailing cooperation between Saddam Hussein and Osama bin Laden,” *Weekly Standard*, November 24, 2003. The same source apparently stated that Iraq had provided Zawahiri with \$300,000 in support of his operations. See Hayes, “Cheney Speaks: Vice President Cheney on the Iraq-al Qaeda connection,” *Weekly Standard*, June 24, 2004 and Bruce B. Auster, Mark Mazzetti, Edward T. Pound, “Truth and Consequences: New Questions about U.S. intelligence regarding Iraq’s weapons of mass terror,” *U.S. News & World Report*, June 9, 2003.

²⁴¹ *The 9-11 Commission Report*, p. 66. In addition, intelligence reports of “varying reliability” also pointed to Iraq providing al Qaeda with various kinds of training during this period. As Director of Central Intelligence George Tenet testified in a closed session before the Senate Intelligence Committee in September 2002: “Although Saddam did not endorse al Qaeda’s overall agenda and was suspicious of Islamist movements in general, he was apparently not averse, under certain circumstances, to enhancing bin Laden’s operational capabilities.” Senate Select Committee on Intelligence, *Report on U.S. Intelligence Community’s Prewar Intelligence Assessments on Iraq*, (July 7, 2004), p. 329. Moreover, as the 9-11 Commission notes, the judgment that there was a connection between Iraq and al Qaeda was not new. The Clinton Administration’s Justice Department included the Iraq-al Qaeda connection in its spring 1998 indictment of Osama bin Laden. The indictment states: “Al Qaeda reached an understanding with the

Shared hatred also apparently played a role in Iraq's support for Ansar al Islam. According to the 9-11 Commission report, in the late 1990s, Islamist extremists operating in Iraq's Kurdistan "suffered major defeats by Kurdish forces. In 2001, with bin Laden's help they re-formed into an organization called Ansar al Islam. There are indications that by then the Iraqi regime tolerated and may even have helped Ansar al Islam against the common Kurdish enemy."²⁴²

Finally, one connection of particular note was senior al Qaeda terrorist planner Abu Musab Zarqawi and Iraqi intelligence. According to the Senate intelligence committee report, a captured senior al Qaeda trainer and recruiter "indicated he had heard" that Zarqawi "and others had good relationships with Iraqi intelligence."²⁴³ It is not surprising then that after the fighting in Afghanistan, Zarqawi found safe haven in Baghdad over the summer of 2002, and, according to General Tommy Franks, was subsequently "given safe passage into northern Iraq by Iraqi security forces."²⁴⁴ According to the Senate report, there was little doubt that Iraqi officials knew Zarqawi was in Baghdad.²⁴⁵

government of Iraq that al Qaeda would not work against that government and that on particular projects, specifically including weapons development, al Qaeda would work cooperatively with the government of Iraq" (p. 128). The Commission goes on to note "this language about al Qaeda's 'understanding' with Iraq had been dropped, however, when a superseding indictment was filed in November 1998." In testimony before the commission, Patrick J. Fitzgerald, a U.S. attorney who prosecuted many of the terrorism cases related to al Qaeda, stated that the language was dropped when the indictment was broadened in the fall of that year. The indictment was re-drafted in the wake of the August 7, 1998 car bombings of the U.S. embassies in Kenya and Tanzania, giving prosecutors more specific crimes with which to charge bin Laden.) "Transcript: 9-11 Commission Hearings for June 16, 2004,"

http://ctstudies.com/Document/911_Commission_June_16_2004_Testimony.html.

²⁴² *The 9-11 Commission Report*, p.61. Although not conclusive, Kurdish-captured Iraqis, who claimed to have been Iraqi intelligence officers, have provided information on the clandestine ties between Saddam Hussein and Ansar al Islam. See Jonathan Schanzer, "Saddam's Ambassador to al Qaeda: An Iraqi prisoner details Saddam's links to Osama bin Laden's terror network," *Weekly Standard*, March 1, 2004. In addition, Stephen F. Hayes has written that "A communications intercept included in a May 2002 report from the National Security Agency" indicates Iraqi intelligence providing financial support to the terrorist group. Hayes, "Cheney Speaks: Vice President Cheney on the Iraq-al Qaeda connection," *Weekly Standard*, June 24, 2004.

²⁴³ *Report on U.S. Intelligence Community's Prewar Intelligence Assessments on Iraq*, p. 324. Among those "others" it appears was bin Laden's deputy, Egyptian Ayman al-Zawahiri who, according to the report of the 9-11 Commission, "had ties of his own to the Iraqis." (p. 66).

²⁴⁴ Tommy Franks and Malcolm McConnell, *American Soldier* (ReganBooks, 2004), p. 332.

²⁴⁵ *Report on U.S. Intelligence Community's Prewar Intelligence Assessments on Iraq*, pp. 337-38. Although DCI George Tenet testified in February 2003 that the CIA was unable to confirm whether or not Zarqawi's network—a network responsible for the assassination of a U.S. State Department employee in Jordan and poison plots in Europe—was under the specific sponsorship or control of the Iraqis, he was confident that Iraq had provided him with safe haven. Testimony before Senate Select Committee on Intelligence, February 11, 2003. More recently, Jonathan Schanzer, a terrorism analyst for the Washington Institute for Near East Policy, has written—based on an interview with a captured Iraqi intelligence officer—that "Zarqawi...was al Qaeda's link to Iraq in the same way that Abu Wael," the captured intelligence officer's boss, "was the Iraqi link to al Qaeda." "Saddam's Ambassador to al Qaeda," *Weekly Standard*, March 1, 2004.

2. *But didn't administration officials go further, saying Iraq had operational ties to al Qaeda, would give terrorism weapons of mass destruction to use against the United States, and imply that Saddam Hussein was linked to the attacks on September 11?*²⁴⁶

No. The administration consistently spoke about contacts between Iraq and al Qaeda, possible weapons training by Iraqis of al Qaeda members, Iraq's history of involvement with terrorists and terrorist organizations, and the fact that some al Qaeda personnel had found refuge in Iraq after their expulsion from Afghanistan. It never claimed that Iraq had operational ties to al Qaeda.²⁴⁷

Nor did the administration say that Iraq had specific plans to give weapons of mass destruction to al Qaeda. What the administration argued was that given Iraq's ties to terrorism in the past, its contacts with al Qaeda, and Saddam's and bin Laden's mutual interest in harming the United States and its allies in the region, this was a possibility that had to be taken seriously. As President Bush stated in his 2003 State of the Union address:

Before September 11th, many in the world believed that Saddam Hussein could be contained. But chemical agents, lethal viruses and shadowy terrorist networks are not easily contained. Imagine those 19 hijackers with other weapons and other plans—this time armed by Saddam Hussein.

Finally, the administration never argued that Saddam Hussein was behind 9-11. Senior administration officials consistently stated that there was no specific evidence to connect Saddam Hussein to the attacks. As NSC Advisor Condoleeza Rice remarked one year after the attacks in a "NewsHour" interview, "No one is trying to make an argument at this point that Saddam Hussein somehow had operational control of what happened on September 11."²⁴⁸ Similarly, only two months before the Iraq war, President Bush, in response to a reporter's question as to whether Iraq was involved with the attacks, stated simply: "I cannot make that claim."²⁴⁹

Among senior administration officials, Vice President Cheney has been quoted the most often as calling attention to reports of ties between Iraq and al Qaeda and taking

²⁴⁶ See Joseph Cirincione, Jessica Matthews and George Perkovich, *WMD in Iraq: Evidence and Implications*, (Carnegie Endowment for International Peace, January 2004), p. 43.

²⁴⁷ See, for example, the text of President Bush's 2003 State of the Union address, as well as the PBS interview with National Security Advisor Condoleeza Rice (September 25, 2002). See also the testimony of George Tenet, Director of Central Intelligence, before the Senate Select Committee on Intelligence (February 11, 2003) and Senate Armed Services Committee (February 12, 2003).

²⁴⁸ "NewsHour with Jim Lehrer," September 25, 2002. Earlier in the month, in an interview with Wolf Blitzer of CNN, Ms. Rice, in response to reports of a meeting between one of the hijackers and an Iraqi intelligence officer in Prague, said "there may well have been contacts between al Qaeda and Saddam Hussein's regime.... And we will be laying out the case. But I don't think that we want to try and make the case that he directed the 9-11 events. That's not the issue here." "Wolf Blitzer Reports," September 8, 2002.

²⁴⁹ *Newsweek*, Jan. 31, 2003.

note of reports that suggest the possibility of a link between Iraq and the 9-11 attacks. Nevertheless, the vice president never argued that the administration had concluded that Iraq was behind the 9-11 attacks. At most, he has stated: “We don’t know.”

Meet the Press, September 16, 2001

Tim Russert: “Do we have any evidence linking Saddam Hussein or Iraqis to this operation?”

Vice President Cheney: “No.”

Meet the Press, September 8, 2002

Tim Russert: “Do we have any evidence linking Saddam Hussein or Iraqis to [9-11]?”

Vice President Cheney: “No.”

Tim Russert: “Has anything changed, in your mind?”

Vice President Cheney: “Well, I want to be very careful about how I say this. I’m not here today to make a specific allegation that Iraq was somehow responsible for 9/11. I can’t say that.”

Tim Russert: “Anything else?”

Vice President Cheney: “I want to separate out 9/11, from the other relationships between Iraq and the al Qaeda organization.”

Tim Russert: “But no direct link?”

Vice President Cheney: “I can’t — I’ll leave it right where it’s at. I don’t want to go beyond that. I’ve tried to be cautious and restrained in my comments, and I hope that everybody will recognize that.”

Meet the Press, September 14, 2003

Tim Russert: “The Washington Post asked the American people about Saddam Hussein, and this is what they said: 69 percent said he was involved in the September 11 attacks. Are you surprised by that?”

Vice President Cheney: “No, I think it’s not surprising that people make that connection.”

Tim Russert: “But is there a connection?”

Vice President Cheney: “We don’t know.”

Capital Report, June 17, 2004

Gloria Borger: “Was Iraq involved?”

Vice President Cheney: “We don’t know.”²⁵⁰

3. *Why don’t we know? Or, more precisely, why don’t we know more?*

As successive government reports to date have made clear, U.S. intelligence had no high-level, clandestine human assets in either the ranks of al Qaeda or Saddam’s inner circle.

- “The U.S. Intelligence Community was not able to penetrate al Qaeda’s inner circle successfully before September 11, despite the fact that human penetration of that organization was considered a priority.”
- “According to senior CTC [Counterterrorist Center] officials, CIA had no penetrations of al Qaeda’s leadership and never obtained intelligence that was sufficient for action against Usama bin Laden.”
- “CIA acknowledged the poor intelligence collection on both the Iraqi regime and al Qaeda leadership.”
- “CIA stated it did not have specific intelligence reports that revealed Saddam Hussein’s personal opinion about dealing with al Qaeda.”
- “There was no robust HUMINT collection capability targeting Iraq’s links to terrorism until the fall of 2002.”

²⁵⁰ Perhaps the most interesting piece of data suggesting a possible tie between Iraq, al Qaeda, and 9-11 is the case of Ahmed Hikmat Shakir, an Iraqi national who worked as a facilitator in Malaysia’s Kuala Lumpur airport in 1999-2000. Shakir, who got his job through a help of Iraq’s embassy, escorted at least one of the 9-11 hijackers on January 5, 2000 through the passport and customs process to a location at which the 9-11 plot was apparently planned. The meeting lasted three days. Two days later, Shakir left his job. Arriving in Doha, Qatar on September 17, 2001, authorities found contact information on him for several senior al Qaeda terrorists, including individuals tied to the 1993 and 2001 attacks on the World Trade Center. He subsequently was released and flew to Amman, Jordan on his way back to Baghdad. Shakir was held in Jordan for 3 months, during which time CIA officials interrogated him. Apparently, adroitly evasive, his interrogators concluded that Shakir had received training in counter-interrogation techniques. At the same time, the Iraqi government began to pressure Jordan to release Shakir, which they did in late January 2002. The Senate Intelligence Committee report notes that, lacking specific intelligence and CIA’s assumed understanding of Iraqi intelligence, the CIA’s “reluctance to draw a conclusion with regard to Shakir was reasonable.” *Report on U.S. Intelligence Community’s Prewar Intelligence Assessments on Iraq*, p. 340. The 9-11 Commission’s report does not directly address the question of Shakir’s possible links to Iraqi intelligence, al Qaeda and the attacks on 9-11. The commission only notes (referencing a *Washington Post* article) that reports that Shakir was a colonel in the Iraqi Fedayeen — and hence perhaps a trusted figure by Iraqi intelligence — were based on the fact that a colonel in the Fedayeen had a similar name. (*The 9-11 Commission Report*, p. 502, n. 49.) Of course, the fact that there was confusion over a name on a list is not dispositive regarding Shakir’s possible role in the 9-11 attacks.

- “Despite four decades of intelligence reporting on Iraq, there was little useful intelligence collection that helped analysts determine the Iraqi regime’s possible links to al Qaeda.”
- “The CIA had no...sources on the ground in Iraq providing reporting specifically on terrorism.”²⁵¹

4. *Is there evidence that Iraq and al Qaeda cooperated in the area of chemical and biological weapons?*

According to a report issued by the CIA in September 2002, “the general pattern that emerges is of al Qaeda’s enduring interest in acquiring chemical, biological, radiological and nuclear (CBRN) expertise from Iraq.” And while the evidence is not conclusive, according to the Senate intelligence committee, the CIA also reported that a “dozen or so reports of varying reliability” mention “the involvement of Iraq or Iraqi nationals in al Qaeda’s efforts to obtain CBW training. In a similar vein, British intelligence noted reports of possible Iraqi chemical experts traveling to Afghanistan in 2000.”²⁵²

What is known is that bin Laden was successful in acquiring non-conventional weapons. As Lord Butler in his review of British intelligence performance leading up to the war in Iraq points out, in addition to finding “numerous [al Qaeda] training manuals” on CBW in Afghanistan after the war there, a video was found “showing chemical experiments being carried out on animals.” And, indeed, the “judgment that al Qaeda was developing biological weapons was confirmed by the discovery in Afghanistan of the Kandahar laboratory, and evidence that scientists had been recruited.” Moreover, al Qaeda-linked facilities in Northern Iraq, while ostensibly outside Baghdad’s direct control, “were involved in the production of chemical and biological agents.”²⁵³

5. *Wouldn’t the fact that Saddam Hussein was the head of a secular Baathist regime and bin Laden the head of a radical Islamic terrorist organization preclude cooperation?*

²⁵¹ Senate Select Committee on Intelligence and House Permanent Select Committee on Intelligence, *Joint Inquiry into Intelligence Community Activities before and after the Terrorist Attacks of September 11, 2001* (December 2002), pp. 90, 91 and, *Report on U.S. Intelligence Community’s Prewar Intelligence Assessments on Iraq*, pp. 322, 323, 351, 355.

²⁵² *Report on U.S. Intelligence Community’s Prewar Intelligence Assessments on Iraq*, pp. 330, 329. *Review of Intelligence Weapons of Mass Destruction*, Report of a Committee of Privy Counsellors, July 2004, p. 119. The report states that, by “some accounts,” “Iraqi chemical experts may have been in Afghanistan during 2000.” The report goes on to note that British intelligence concluded that “there is no evidence that these contacts led to practical co-operation” (119).

²⁵³ *Review of Intelligence Weapons of Mass Destruction*, pp. 32, 35, 36, 119. According to not-fully confirmed statements of a captured Iraqi intelligence officer, Saddam provided the terrorist group (Ansar al Islam) with weapons and money. See Schanzer, “Saddam’s Ambassador to al Qaeda.”

As noted above, Saddam and bin Laden had a mutual enemy in the United States, a fact publicly confirmed by bin Laden's 1998 fatwa in support of Iraq's conflict with the United States. Moreover, as government reports indicate, both Saddam Hussein and bin Laden showed a willingness to be tactically flexible if it served their larger strategic interests. In the case of bin Laden, the 9-11 Commission notes that the cooperation between al Qaeda, a radical Sunni organization, and Iran, a state governed by radical Shiite clerics, "demonstrated that Sunni-Shia divisions did not necessarily pose an insurmountable barrier to cooperation in terrorist operations." And, indeed, with an eye toward putting aside divisions between Shiites and Sunnis in the name of working "against the common enemy," Sudanese Islamist leader Hassan al-Turabi brokered meetings and agreements between bin Laden and Iraqi intelligence.²⁵⁴

For his part, Saddam Hussein also indicated a willingness to work with non-secular terrorist organizations. In addition to whatever contacts Iraqi intelligence had with al Qaeda, according to the Senate intelligence committee, the CIA provided several reports on Saddam's effort to reach out to both Hamas and Hizballah.²⁵⁵ Finally, the fact that Abu Musab Zarqawi—a major al Qaeda figure—would flee to Iraq for medical treatment and safe haven after the war in Afghanistan strongly suggests that he and others did not consider Saddam's Iraq to be an unfriendly state.²⁵⁶ Of course, none of the above should be taken as suggesting that bin Laden and Saddam Hussein would have fully trusted the other; on the other hand, the record indicates that both men were more than willing to cooperate with others not strictly in tune with their own particular ideology if it served their ultimate goals.

²⁵⁴ *The 9-11 Commission Report*, p. 61.

²⁵⁵ *Review of Intelligence Weapons of Mass Destruction*, p. 320. It should be noted that the 1991 Gulf War disarmament resolution, UN Resolution 687, also declared that Iraq "not commit or support any act of international terrorism or allow any organization directed towards commission of such acts to operate within its territory and to condemn unequivocally and renounce all acts, methods and practices of terrorism." UN Resolution 687, available at <http://www.iraqwatch.org/un/unsresolutions/s-res-687.htm>.

²⁵⁶ See also February 1999 comments of Richard Clarke and Bruce Riedel on bin Laden, *The 9-11 Commission Report*, p. 134.

Appendix

The Right War for the Right Reasons

By Robert Kagan & William Kristol

Weekly Standard

(February 23, 2004)

WITH ALL THE TURMOIL SURROUNDING David Kay's comments on the failure to find stockpiles of biological and chemical weapons in Iraq, it is time to return to first principles, and to ask the question: Was it right to go to war?

Critics of the war, and of the Bush administration, have seized on the failure to find stockpiles of weapons of mass destruction in Iraq. But while his weapons were a key part of the case for removing Saddam, that case was always broader. Saddam's pursuit of weapons of mass destruction was inextricably intertwined with the nature of his tyrannical rule, his serial aggression, his defiance of international obligations, and his undeniable ties to a variety of terrorists, from Abu Nidal to al Qaeda (a topic we will not cover in detail here, rather referring readers to Stephen F. Hayes's reporting in this magazine over the past year). Together, this pattern of behavior made the removal of Saddam desirable and necessary, in the judgment of both the Clinton and Bush administrations. That judgment was and remains correct.

I

IT IS FASHIONABLE TO SNEER at the moral case for liberating an Iraqi people long brutalized by Saddam's rule. Critics insist mere oppression was not sufficient reason for war, and in any case that it was not Bush's reason. In fact, of course, it was one of Bush's reasons, and the moral and humanitarian purpose provided a compelling reason for a war to remove Saddam. It should certainly have been compelling to those (like us) who supported the war on Slobodan Milosevic a few years ago. In our view--and here we disagree with what Paul Wolfowitz said to Vanity Fair a few months ago--liberating the Iraqi people from Saddam's brutal, totalitarian dictatorship would by itself have been sufficient reason to remove Saddam.

Such a rationale is not "merely" moral. As is so often the case in international affairs, there was no separating the nature of Saddam's rule at home from the kinds of policies he conducted abroad. Saddam's regime terrorized his own people, but it also posed a threat to the region, and to us. The moral case for war was linked to strategic considerations related to the peace and security of the Middle East.

Saddam was not a "madman." He was a predator and an aggressor. He achieved through brute force total dominance at home, and it was through force and the threat of force that he sought dominance in his region, as well. He waged war against Iran throughout the 1980s. He invaded Kuwait in 1990. He spent tens of billions of dollars on weapons, both conventional and unconventional. His clear and unwavering ambition, an ambition nurtured and acted upon across three decades, was to dominate the Middle East, both economically and militarily, by attempting to acquire the lion's share of the region's oil and by intimidating or destroying anyone who stood in his way. This, too, was a sufficient reason to remove him from power.

The last time we restated the case for war in Iraq (in October 2003), we quoted extensively from a speech delivered by President Clinton in February 1998. This time we quote extensively from another speech, delivered ten months later, in December 1998, by President Clinton's national security adviser, Sandy Berger. Like President Clinton, Berger did a masterful job of laying out the case for removing Saddam Hussein. And Berger's argument extended beyond the issue of weapons.

Yes, Berger acknowledged, America's "most vital national interest in dealing with Iraq" was to "prevent Saddam from rebuilding his military capability, including weapons of mass destruction, and from using that arsenal to move against his neighbors or his own people." But the threat Saddam posed, by his "continued reign of terror inside Iraq and intimidation outside Iraq," was broader than that. The future course of the Middle East and the Arab world were at stake in Iraq.

"The future of Iraq," Berger argued, "will affect the way in which the Middle East and the Arab world in particular evolve in the next decade and beyond." Those peoples were engaged in a "struggle between two broad visions of the future." One vision was of "political pluralism" and "economic openness." The other vision fed on discontent and fear; it stood for "violent opposition to liberalizing forces." So long as Saddam remained "in power and in confrontation with the world," Berger argued, Iraq would remain "a source of potential conflict in the region," and perhaps more important, "a source of inspiration for those who equate violence with power and compromise with surrender."

In the end, Berger explained, containment of Saddam would not be enough. The "immediate military threat" might be held at bay for the moment. "But even a contained Saddam" was "harmful to stability and to positive change in the region." And in fact, containment was probably not "sustainable over the long run." It was "a costly policy, in economic and strategic terms." The pattern of the previous years--"Iraqi defiance, followed by force mobilization on our part, followed by Iraqi capitulation"--had left "the international community vulnerable to manipulation by Saddam." The longer the standoff continued, Berger warned, "the harder it will be to maintain" international support. Nor was there any question what Saddam would do if and when containment collapsed. "Saddam's history of aggression, and his recent record of deception and defiance, leave

no doubt that he would resume his drive for regional domination if he had the chance. Year after year, in conflict after conflict, Saddam has proven that he seeks weapons, including weapons of mass destruction, in order to use them."

For this reason, Berger continued, the Clinton administration had concluded it would be necessary at some point to move beyond containment to regime change. At stake was "our ability to fight terror, avert regional conflict, promote peace, and protect the security of our friends and allies." Quoting President Clinton, Berger suggested "the best way to address the challenge Iraq poses is 'through a government in Baghdad--a new government--that is committed to represent and respect its people, not repress them; that is committed to peace in the region.'"

We made substantially the same argument in a January 1998 letter to President Clinton, a letter whose signatories included Donald Rumsfeld, Paul Wolfowitz, Richard Armitage, and Robert Zoellick. In our letter, we argued that

The policy of "containment" of Saddam Hussein has been steadily eroding over the past several months. As recent events have demonstrated, we can no longer depend on our partners in the Gulf War coalition to continue to uphold the sanctions or to punish Saddam when he blocks or evades U.N. inspections. Our ability to ensure that Saddam Hussein is not producing weapons of mass destruction, therefore, has substantially diminished. Even if full inspections were eventually to resume, which now seems highly unlikely, experience has shown that it is difficult if not impossible to monitor Iraq's chemical and biological weapons production. The lengthy period during which the inspectors will have been unable to enter many Iraqi facilities has made it even less likely that they will be able to uncover all of Saddam's secrets. As a result, in the not-too-distant future we will be unable to determine with any reasonable level of confidence whether Iraq does or does not possess such weapons.

That last prediction turned out to be better than we knew at the time. But we did note that uncertainty itself was a danger, because it meant that the United States would have difficulty knowing whether or how fast the risk from Saddam was increasing. The uncertainty of the situation would, we argued, "have a seriously destabilizing effect on the entire Middle East." It now appears that this uncertainty about Iraq's actual capabilities was perhaps what Saddam aimed to achieve.

II

SO THE THREAT of Saddam's weapons of mass destruction was related to the overall political and strategic threat his regime posed to the Middle East. Still, there is no question that Saddam's history with and interest in weapons of mass destruction made his threat distinctive. The danger was not, however, that Iraq would present a direct threat to the physical security of the United States or, in the current popular phrase, pose an

"imminent" threat to the American homeland. Our chief concern in 1998, like Berger's, was the threat Saddam posed to regional security and stability, the maintenance of which was in large part the responsibility of the United States. If Saddam "does acquire the capability to deliver weapons of mass destruction," we argued, which eventually he was "almost certain to do if we continue along the present course," American troops in the region, American allies, the stability of the Middle East, and the world's supply of oil would all be put at risk. The threat to the United States was that we would be compelled to defend our allies and our interests in circumstances made much more difficult and dangerous by Saddam's increasingly lethal arsenal.

That was why Saddam's weapons of mass destruction programs, both what we knew about them and what we did not know about them, gave the situation a special urgency. It was urgent in 1998, and it was urgent four years later. There was no doubt in 1998--and there is no doubt today, based on David Kay's findings--that Saddam was seeking both to pursue WMD programs and to conceal his efforts from U.N. weapons inspectors. After 1995, when the defection of Saddam Hussein's son-in-law and chief organizer of the weapons programs, Hussein Kamal, produced a wealth of new information about Iraqi weapons programs and stockpiles--information the Iraqis were forced to acknowledge was accurate--the U.N. weapons inspections process had become an elaborate cat-and-mouse game. As President Clinton recalled in his speech three years later, Kamal had "revealed that Iraq was continuing to conceal weapons and missiles and the capacity to build many more." The inspectors intensified their search. And they must have been having some success, for as they drew closer to uncovering what the Iraqis were hiding, Saddam grew less and less cooperative and began to block their access to certain facilities.

Finally, there was the famous confrontation over the so-called "presidential palaces"--actually vast complexes of buildings and warehouses that Saddam simply declared off-limits to inspectors. Clinton intelligence officials observed the Iraqis moving equipment that could be used to manufacture weapons out of the range of video cameras that had been installed by U.N. inspectors. By the end of 1997, the New York Times reported, the U.N. inspection team could "no longer verify that Iraq is not making weapons of mass destruction" and specifically could not monitor "equipment that could grow seed stocks of biological agents in a matter of hours."

President Clinton declared in early 1998 that Saddam was clearly attempting "to protect whatever remains of his capacity to produce weapons of mass destruction, the missiles to deliver them, and the feed stocks necessary to produce them." The U.N. inspectors believed, Clinton continued, that "Iraq still has stockpiles of chemical and biological munitions . . . and the capacity to restart quickly its production program and build many, many more weapons." Meanwhile, a February 13, 1998, U.S. government White Paper on Iraq's weapons of mass destruction stated that "in the absence of UNSCOM inspectors, Iraq could restart limited mustard agent production within a few weeks, full-

production of sarin within a few months, and pre-Gulf War production levels--including VX--within two or three years."

It was President Clinton who, in February 1998, posed the critical question: "What if [Saddam] fails to comply and we fail to act, or we take some ambiguous third route, which gives him yet more opportunities to develop this program of weapons of mass destruction. . . . Well, he will conclude that the international community has lost its will. He will then conclude that he can go right on and do more to rebuild an arsenal of devastating destruction. And some day, some way, I guarantee you he'll use this arsenal." "In the next century," Clinton predicted, "the community of nations may see more and more of the very kind of threat Iraq poses now--a rogue state with weapons of mass destruction, ready to use them or provide them to terrorists . . . who travel the world among us unnoticed."

Over the course of 1998, the U.N. inspections process collapsed. Attempts to break the stalemate with Saddam and allow the U.N. inspectors access to the prohibited sites came to naught. About a week after Berger gave his speech warning of the limitations of containment, the Clinton administration launched Operation Desert Fox, a four-day missile and bombing strike on Iraq aimed at destroying as much of Saddam's weapons capabilities as possible. Based on American intelligence, the Clinton administration targeted suspected weapons production facilities throughout Iraq. The Air Force and intelligence agencies believed the bombing had destroyed or degraded a number of Iraqi weapons of mass destruction facilities, but they never knew the extent of the damage, because, of course, there were no inspectors left to investigate.

Saddam expelled the U.N. inspectors in response to the attack, and they did not return until November 2002. As Clinton this past summer recalled, "We might have gotten it all; we might have gotten half of it; we might have gotten none of it. But we didn't know." Clinton went on to say about President Bush's actions in the fall of 2002, "So I thought it was prudent for the president to go to the U.N. and for the U.N. to say you got to let these inspectors in, and this time if you don't cooperate the penalty could be regime change, not just continued sanctions."

The situation as it stood at the beginning of 1999 was troubling to all concerned, and not just to American officials. A report to the U.N. Security Council in January 1999 by Richard Butler, head of the U.N. weapons inspections team, warned that much was not known about the Iraqi program but that there was ample reason to believe a significant weapons of mass destruction program still existed in Iraq. Butler recounted a seven-year history of Iraqi deception and concealment of proscribed weapons and activities. During the first four years of inspections, Butler noted, the inspectors "had been very substantially misled by Iraq both in terms of its understanding of Iraq's proscribed weapons programs and the continuation of prohibited activities, even under the [U.N.'s] monitoring." Only the defection of Hussein Kamal had revealed that the inspectors had been wrong in their "positive conclusions on Iraq's compliance." But even after Kamal's

defection, the Iraqis had continued to conceal programs and mislead the inspectors. The Iraqis were caught lying about whether they had ever put VX nerve agent in so-called "special warheads." Scientific examinations proved that they had.

The Iraqis were also caught lying about their biological weapons program. First they denied having one; then, when that falsehood was exposed, they denied weaponizing their biological weapons agents. Eventually they were forced to admit that they "had weaponized BW agents and deployed biological weapons for combat use." The U.N. inspectors reported that hundreds of shells filled with mustard agent had been declared "lost" by Iraq and remained unaccounted for. There were some 6,000 aerial bombs filled with chemical agent that were unaccounted for. There were also some "special warheads" with biological weapons agent unaccounted for. Butler's report concluded that, in addition, "it needs to be recognized that Iraq possesses an industrial capacity and knowledge base, through which biological warfare agents could be produced quickly and in volume, if the Government of Iraq decided to do so."

The inspectors left, and for the next four years, Saddam's activities were shrouded in darkness. After all, many prohibited Iraqi activities had escaped detection even while the inspectors were trying to monitor them. Without the inspectors, the task of keeping track of Saddam's programs was well-nigh impossible.

III

WHEN THE BUSH ADMINISTRATION CAME TO OFFICE, therefore, it had no less reason to worry about Saddam's potential capabilities than the Clinton administration. And it had no more reason to believe that containment would be sustainable. In the early months of the administration, Bush officials began to contemplate some increased support for Iraqi opposition forces, pursuant to legislation passed overwhelmingly in 1998, which was supported by the Clinton administration. (The Iraq Liberation Act chronicled Saddam's use of chemical weapons and declared that Iraq "has persisted in a pattern of deception and concealment regarding the history of its weapons of mass destruction programs." It continued: "It 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.") Meanwhile, Secretary of State Colin Powell was trying to prevent the collapse of the international sanctions regime and to staunch the hemorrhaging of consensus at the U.N. Security Council by instituting a more streamlined effort, the so-called "smart sanctions."

Then came the terrorist attacks of September 11, 2001. September 11 shocked the nation, and it shocked the president. Its effect was to make many both inside and outside the administration take a closer look at international threats, because it was clear that all of us had been too sanguine about such threats prior to September 11. Nor was it in the least surprising that the issue of Iraq arose immediately. True, neither candidate in the 2000

election had talked much about Iraq. But that was not because anyone believed it had ceased to be an urgent and growing problem. The Clinton administration didn't want to talk about it because it felt it had run out of options. The Bush campaign didn't talk about it because Bush was running a campaign, ironic in retrospect, which promised a less active, more restrained American role in the world. But that did not mean the Iraq issue had gone away, and after September 11, it returned to the fore. After all, we had a decade-long history of confrontation with Iraq, we were flying military missions in Iraqi air space, President Clinton had declared Saddam the greatest threat to our security in the 21st century, Clinton officials like Sandy Berger and Madeleine Albright had concluded that Saddam must eventually be removed, and U.N. weapons inspectors had written one alarming report after another about Saddam's current and potential weapons capabilities.

So the Bush administration concluded that it had to remove the Saddam Hussein regime once and for all, just as Clinton and Berger had suggested might someday be necessary. For all the reasons that Berger had outlined, Saddam's regime itself was the problem, above and beyond his weapons capabilities. It was an obstacle to progress in the Middle East and the Arab world. It was a threat to the Iraqi people and to Iraq's neighbors. But a big part of the threat involved Saddam's absolute determination to arm himself with both conventional and unconventional weapons.

September 11 had added new dimensions to the danger. For as Bush and many others argued, what if Saddam allowed his weapons capabilities to be shared with terrorists? What if, someday in the future, terrorists like those who crashed airplanes into the World Trade Center and the Pentagon had nuclear, chemical, or biological weapons? Would they hesitate to use them? The possible nexus between terrorism and Iraq's weapons program made Iraq an even more urgent issue. Was this concern far-fetched? If so, it was exactly the same far-fetched concern that had preoccupied President Clinton in 1998, when he warned, in his speech on Iraq, about a "rogue state with weapons of mass destruction, ready to use them or provide them to terrorists," and when he had spoken of an "unholy axis" of international terrorists and outlaw states as one of the greatest threats Americans faced.

Nor was it surprising that as President Bush began to move toward war with Iraq in the fall and winter of 2002, he mustered substantial support among Democrats as well as Republicans. A majority of Democratic senators--including, of course, John Kerry and John Edwards--voted for the resolution authorizing the president to use force against Iraq. And why not? The Bush administration's approach to Iraq was fundamentally in keeping with that of the Clinton administration, except that after September 11, inaction seemed even less acceptable. The majority of the Democratic party foreign policy establishment supported the war, and not because they were misled by the Bush administration's rhetorical hype leading up to the war. (Its hype was appreciably less than that of Clinton secretary of defense William Cohen, who appeared on national television in late 1997 holding a bag of sugar and noting that the same amount of anthrax "would destroy at least half the population" of Washington, D.C. At a Pentagon press briefing on Iraq's WMD,

Cohen also noted that if Saddam had "as much VX in storage as the U.N. suspects," he would "be able to kill every human being on the face of the planet.") Nor did they support the war because they were fundamentally misled by American intelligence about the nature and extent of Saddam's weapons programs. Most of what they and everyone else knew about those programs we had learned from the U.N. inspectors, not from U.S. intelligence.

IV

SOME OF THAT INTELLIGENCE has now turned out to be wrong. Some of it has turned out to be right. And it is simply too soon to tell about the rest. The press has focused attention almost entirely on David Kay's assertion that there were no stockpiles of chemical and biological weapons when the United States and its allies invaded Iraq last March. We'll address that assertion in a moment. But what about the rest of Kay's testimony?

The key question for more than a decade, for both the Clinton and the Bush administrations, was not only what weapons Saddam had but what weapons he was trying to obtain, and how long it might be before containment failed and he was able to obtain them. The goal of American policy, and indeed of the U.N. Security Council over the course of the dozen years after the end of the Gulf War in 1991, was not primarily to find Saddam's existing stockpiles. That was subsidiary to the larger goal, which was to achieve Iraq's disarmament, including the elimination not only of existing prohibited weapons but of all such weapons programs, to ensure that Iraq would not possess weapons of mass destruction now or in the future. As Richard Butler and other weapons inspectors have argued, this task proved all but impossible once it became clear that Saddam was determined to acquire such weapons at some point. As Butler repeated time and again in his reports to the Security Council, the whole inspections regime was premised on Saddam's cooperation. But Saddam never cooperated, not in the 1990s and not in 2003.

It is important to recall that the primary purpose of Security Council Resolution 1441, passed on November 8, 2002, was not to discover whether Saddam had weapons and programs. There was little doubt that Saddam had them. The real question was whether he was ready to make a clean breast of everything and give up not only his forbidden weapons but also his efforts to acquire them once and for all. The purpose was to give Saddam "one final chance" to change his stripes, to offer full cooperation by revealing and dismantling all his programs and to forswear all such efforts in the future.

After all, what would be accomplished if Saddam turned over stockpiles and dismantled programs, only to restart them the minute the international community turned its back? Saddam might be slowed, but he would not be stopped. This was the logic that had led the Clinton administration to conclude that someday, somehow, the only answer to the

problem would be Saddam's removal from power. Not surprisingly, the Bush administration was even more convinced that Saddam's removal was the only answer. That the administration went along with the inspections process embodied in Resolution 1441 was a concession to international and domestic pressure. No senior official, including Secretary Powell, believed there was any but the smallest chance Saddam would comply with the terms of Resolution 1441.

Resolution 1441 demanded that, within 30 days, Iraq provide "a currently accurate, full, and complete declaration of all aspects of its programs to develop chemical, biological, and nuclear weapons, ballistic missiles, and other delivery systems such as unmanned aerial vehicles and dispersal systems designed for use on aircraft, including any holdings and precise locations of such weapons, components, sub-components, stocks of agents, and related material and equipment, the locations and work of its research, development and production facilities, as well as all other chemical, biological, and nuclear programs, including any which it claims are for purposes not related to weapon production or material." Administration officials doubted Saddam would do this. They hoped only that, once Saddam's noncompliance became clear, they would win unanimous support for war at the U.N. Security Council.

And it was pretty clear at the time that Saddam was not complying. In his May 30, 2003, report to the Security Council, Hans Blix reported that the declared stocks of anthrax and VX remained unaccounted for. And he elaborated: "Little progress was made in the solution of outstanding issues. . . . The long list of proscribed items unaccounted for and as such resulting in unresolved disarmament issues was not shortened either by the inspections or by Iraqi declarations and documentation."

Now, of course, we know more definitively that Saddam did not comply with Resolution 1441. That is a part of Kay's testimony that has been widely ignored. What Kay discovered in the course of his eight-month-long investigation was that Iraq had failed to answer outstanding questions about its arsenal and programs. Indeed, it had continued to engage in an elaborate campaign of deception and concealment of weapons activities throughout the time when Hans Blix and the UNMOVIC inspectors were in the country, and right up until the day of the invasion, and beyond.

As Kay told the Senate Armed Services Committee last month, the Iraq Survey Group "discovered hundreds of cases, based on both documents, physical evidence and the testimony of Iraqis, of activities that were prohibited under the initial U.N. Resolution 687 and that should have been reported under 1441, with Iraqi testimony that not only did they not tell the U.N. about this, they were instructed not to do it and they hid material." Kay reported, "We have had a number of Iraqis who have come forward and said, 'We did not tell the U.N. about what we were hiding, nor would we have told the U.N.,' because the risks were too great. And what were the Iraqis hiding? As Kay reports, "They maintained programs and activities, and they certainly had the intentions at a point to resume their programs. So there was a lot they wanted to hide because it showed what

they were doing was illegal." As Kay reported last October, his survey team uncovered "dozens of WMD-related program activities and significant amounts of equipment that Iraq concealed from the U.N. during the inspections that began in late 2002." Specifically, Kay reported:

*A clandestine network of laboratories and safehouses within the Iraqi Intelligence Service that contained equipment suitable for research in the production of chemical and biological weapons. This kind of equipment was explicitly mentioned in Hans Blix's requests for information, but was instead concealed from Blix throughout his investigations.

*A prison laboratory complex, which may have been used in human testing of biological weapons agents. Iraqi officials working to prepare for U.N. inspections in 2002 and 2003 were explicitly ordered not to acknowledge the existence of the prison complex.

*So-called "reference strains" of biological organisms, which can be used to produce biological weapons. The strains were found in a scientist's home.

*New research on agents applicable to biological weapons, including Congo Crimean Hemorrhagic Fever, and continuing research on ricin and aflatoxin--all of which was, again, concealed from Hans Blix despite his specific request for any such information.

*Plans and advanced design work on new missiles with ranges up to at least 1,000 kilometers--well beyond the 150-kilometer limit imposed on Iraq by the U.N. Security Council. These missiles would have allowed Saddam to threaten targets from Ankara to Cairo.

Last month Kay also reported that Iraq "was in the early stages of renovating the [nuclear] program, building new buildings."

As Kay has testified repeatedly, Iraq was "in clear material violation of 1441." So if the world had known in February 2003 what Kay says we know now--that there were no large stockpiles of weapons, but that Iraq continued to pursue weapons of mass destruction programs and to deceive and conceal these efforts from the U.N. inspectors led by Blix during the time allocated by Resolution 1441--wouldn't there have been at least as much, and probably more, support for the war? For Saddam would have been in flagrant violation of yet another set of commitments to disarm. He would have demonstrated once again that he was unwilling to abandon these programs, that he was unwilling to avail himself of this "last chance" and disarm once and for all. Had the world discovered unambiguously in February 2003 that Saddam was cheating on its commitments in Resolution 1441, surely even the French would have found it difficult to block a U.N. resolution authorizing war. As Dominique de Villepin acknowledged in the

contentious months before the war, "We all realize that success in the inspections presupposes that we get full and complete cooperation from Iraq." What if it were as clear then as it is now that Saddam was engaged in another round of deceit and concealment?

If Kay is right, Saddam had learned a lesson at some point in the 1990s, perhaps after the Kamal defection, perhaps before or after Operation Desert Fox in 1998. But it was not the lesson the United States or the rest of the world wanted him to learn. At some point, Saddam may have decided that instead of building up large stockpiles of weapons, the safer thing would be to advance his covert programs for producing weapons but wait until the pressure was off to produce the weapons themselves. By the time inspectors returned to Iraq in 2002, Saddam was ready to be a little more forthcoming, because he had rejiggered his program to withstand somewhat greater scrutiny. He had scaled back to a skeletal program, awaiting the moment when he could breathe life back into it. Nevertheless, even then he could not let the inspectors see everything. Undoubtedly he hoped that if he could get through that last round, he would be home free, eventually without sanctions or further inspections. We now know that in early 2003, Saddam assumed that the United States would once again launch a bombing campaign, but not a full scale invasion. So he figured he would survive, and, as Kay concluded, "They maintained programs and activities, and they certainly had the intentions at a point to resume their programs."

Was this a satisfactory outcome? If this much had been accomplished, if we had succeeded in getting Saddam to scale back his programs in the hope of eventually turning them on again, was that a reason not to go to war? Kay does not believe so. Nor do we. If the United States had pulled back last year, we would have placed ourselves in the trap that Berger had warned about five years earlier. We would have returned to the old pattern of "Iraqi defiance, followed by force mobilization on our part, followed by Iraqi capitulation," followed by a new round of Iraqi defiance--and the wearing down of both the international community and the United States.

There was an argument against going to war last year. But let's remember what that argument was. It had nothing to do with whether or not Saddam had weapons of mass destruction and WMD programs. Everyone from Howard Dean to the New York Times editorial board to Dominique de Villepin and Jacques Chirac assumed that he had both. Most of the arguments against the war concerned timing. The most frequent complaint was that Bush was rushing to war. Why not give Blix and his inspectors another three months or six months?

We now know, however, that giving Blix a few more months would not have made a difference. Last month Kay was asked what would have happened if Blix and his team had been allowed to continue their mission. Kay responded, "All I can say is that among an extensive body of Iraqi scientists who are talking to us, they have said: The U.N. interviewed us; we did not tell them the truth, we did not show them this equipment, we

did not talk about these programs; we couldn't do it as long as Saddam was in power. I suspect regardless of how long they had stayed, that attitude would have been the same." Given the "terror regime of Saddam," Kay concluded, he and his team learned things after the war "that no U.N. inspector would have ever learned" while Saddam was still in power.

So it is very unlikely that, given another three months or six months, the Blix team would have come to any definitive conclusion one way or another. Nor, therefore, would there have been a much greater probability of winning a unanimous vote at the Security Council for war once those additional six months had passed. Whether the United States could have kept 200,000 troops on a permanent war footing in the Persian Gulf for another six months is even more doubtful.

V

DID THE ADMINISTRATION CLAIM the Iraqi threat was imminent, in the sense that Iraq possessed weapons that were about to be used against the United States? That is the big charge leveled by the Bush administration's critics these days. It is rather surprising, given the certainty with which this charge is thrown around, how little the critics have in the way of quotations from administration officials to back it up. Saying that action is urgent is not the same thing as saying the threat is imminent. In fact, the president said the threat was not imminent, and that we had to act (urgently) before the threat became imminent. This was well understood. As Senate Democratic leader Tom Daschle said on October 10, 2002, explaining his support for the legislation authorizing the president to go to war, "The threat posed by Saddam Hussein may not be imminent, but it is real, it is growing and it cannot be ignored."

One reason critics have been insisting that the administration claimed the threat from Iraq was imminent, we believe, is that it is fairly easy to prove that the danger to the United States was not imminent. But the central thesis of the antiwar argument as it was advanced before the war asserted that the threat from Iraq would not have been imminent even if Saddam had possessed every conceivable weapon in his arsenal. Remember, the vast majority of arguments against the war assumed that he did have these weapons. But those weapons, it was argued, did not pose an imminent threat to the nation because Saddam, like the Soviet Union, could be deterred. Indeed, the fact that he had the weapons, some argued, was all the more reason why the United States should not go to war. After all, it was argued, the likeliest scenario for Saddam's actually using the weapons he had was in the event of an American invasion. The current debate over "imminence" is an ex post facto attempt to relitigate the old argument over the war. The non-discovery of weapons stockpiles has not changed the contours of that debate.

VI

ON "MEET THE PRESS" ON FEBRUARY 8, Tim Russert asked the president whether the war in Iraq was "a war of choice or a war of necessity." The president paused before responding, asking Russert to elaborate, as if unwilling to accept the dichotomy. He was right.

After all, fighting a "war of choice" sounds problematic. But how many of our wars have been, strictly speaking, wars of necessity? How often did the country face immediate peril and destruction unless war was launched? Was World War I a war of necessity? Was World War II before the attack on Pearl Harbor, or afterwards with respect to fighting Germany in Europe? Was the Spanish-American War a war of necessity? Was the Korean War? Never mind Vietnam, the Dominican Republic, Grenada, Panama, Somalia, Haiti, Bosnia, and Kosovo. And what about the first Gulf War? Many argued that Saddam could be (indeed, was) contained in Kuwait, and that he could eventually have been forced to retreat by economic sanctions.

In some sense all of these wars were wars of choice. But when viewed in the context of history and international circumstances, they were all based on judgments about the costs of inaction, the benefits of action, and on strategic calculations that action then would be far preferable to action later in less favorable circumstances. In other words, war was necessary to our national interest, if not absolutely necessary to the immediate protection of the homeland.

In this case, we believe that war would have come eventually because of the trajectory that Saddam was on--assuming the United States intended to continue to play its role as guarantor of peace and security in the Middle East. The question was whether it was safer to act sooner or later. The president argued, convincingly, that it was safer--it was necessary--to act sooner. Sanctions could not have been maintained; containment, already dubious, was far less persuasive after September 11; and so the war to remove Saddam was, in the broad strategic sense, in the sense relevant to serious international politics, necessary. This is of course a legitimate subject of debate--but it would be almost as much so even if large stockpiles of weapons had already been recovered.

VII

SO WHAT ABOUT THOSE STOCKPILES? The failure to find them, and now David Kay's claim that they did not exist at the time of the invasion last year (a claim reported by an astonishing number of journalists as meaning they never existed at all), has led many to maintain that the entire war was fought on false pretenses. We have addressed that claim. But we also want to address Kay's assertion.

We are prepared to believe that the large stockpiles of anthrax, ricin, VX, and other biological and chemical weapons that once existed were at some point destroyed by the Iraqis. But we do not understand why Kay is so confident he knows what happened to those stockpiles, or to other parts of Saddam's weapons programs that have not been found.

According to Kay's testimony before the Senate (and since he has provided no written report and no documentation to support his recent claims, this is all anyone has to go on), Kay and his team "went after this not in the way of trying to find where the weapons are hidden." When the Survey Group did not find the weapons in "the obvious places," presumably meaning the places that had been identified by intelligence and other sources, Kay explains, he tried other means of discovering the truth. His principal method appears to have been interviews with scientists who would have known what was produced and where it might be stored, as well as a search through a portion of the documents uncovered after the war. Kay acknowledges that stockpiles may, in fact, still be hidden somewhere. But he does not believe they are.

Under questioning from the senators, however, Kay admitted a few areas of uncertainty. The first concerns his interviews with Iraqi scientists. On some occasions Kay has claimed that, with Saddam out of power, it could be assumed that scientists once fearful of telling the truth would now be willing to speak. Therefore, their testimony that no weapons stockpiles exist could be trusted. But when asked whether people involved in Iraqi weapons programs might now fear prosecution for war crimes, Kay said, "Absolutely. And a number of those in custody are worried about that greatly," which is "one reason they're not talking." So it turns out there are scientists who are not talking. This produces, Kay suggests, "a level of unresolvable ambiguity" about Saddam's weapons programs. But is the ambiguity truly "unresolvable," or was it just unresolvable within the limited time of Kay's investigation? Is it possible that when all the scientists feel safe enough to talk, we may learn more?

The same question might be asked about the physical searches Kay did not conduct. When Kay delivered his interim report in October 2003, he noted that there were approximately 130 ammunition storage areas in Iraq, some of them spanning an area of about 50 square miles, and including some 600,000 tons of artillery shells, rockets, aviation bombs, and other ordnance. In the 1990s, U.N. inspectors learned that the Iraqi military stored chemical ordnance at the same ammunition depots where the conventional rounds were stored. As of October, only 10 of these ammunition depots had been searched by U.S. teams. Kay has not said how many were searched in the succeeding four months, but one suspects a great many still have not been examined. Surely this creates another level of ambiguity, which, in time, may be resolved.

Finally there is the question of Iraqi documents. We understand that thousands of pages of documents seized at the end of the war have still not been read. During the 1990s, U.N. inspectors frequently opened treasure troves of information simply with the

discovery of a single document in a mountain of paper. Is it possible that some of the unread documents contain useful information? In addition, according to Kay's October report and his most recent testimony, Iraqi officials undertook a massive effort to destroy evidence, burning documents and destroying computer hard-drives. The result, Kay acknowledged, is that "we're really not going to be able to prove . . . some of the positive conclusions that we're going to come to." Yet another level of ambiguity.

The truth is, neither Kay nor anyone else knows what happened to the weapons stockpiles that we know Iraq once had--because the Iraqis admitted having them. Again, we are willing to be persuaded that Saddam had no weapons stockpiles last year when the war began. But it is too soon, we believe, to come firmly to that conclusion. Nor do we find particularly persuasive the argument that Saddam was only pretending to have weapons of mass destruction, or that he was delusional and being deceived by all around him. These hypotheses are possible. It is also possible we will find stockpiles of weapons, or evidence of their destruction or removal just before the war.

Kay, oddly, has himself suggested in one press interview that the stockpiles or some portion of them may have been transferred to Syria before the war. If that were true, then it would not be the case, *pace* Kay, that "we were all wrong." This past week, moreover, another U.S. government report concerning Iraq's weapons surfaced in the press. Although widely misreported as confirming Kay's claim regarding the stockpiles, in fact the report casts doubt on it. In December 2002, according to USA Today, a team of U.S. intelligence analysts predicted it would be extremely difficult to find weapons of mass destruction in the aftermath of an invasion. The study had "considered but rejected the possibility that Iraq had no banned weapons." But it predicted that "locating a program that . . . has been driven by denial and deception imperatives is no small task." Efforts to find the arms after the war would be like "trying to find multiple needles in a haystack . . . against the background of not knowing how many needles may have been hidden."

It remains possible that new evidence will be found. We understand why some now want to declare the search over. But we can hardly see how it benefits the people of the United States or the world to declare it over prematurely.

VIII

WHATEVER THE RESULTS OF THAT SEARCH, it will continue to be the case that the war was worth fighting, and that it was necessary. For the people of Iraq, the war put an end to three decades of terror and suffering. The mass graves uncovered since the end of the war are alone sufficient justification for it. Assuming the United States remains committed to helping establish a democratic government in Iraq, that will be a blessing both to the Iraqi people and to their neighbors. As for those neighbors, the threat of Saddam's aggression, which hung over the region for more than two decades, has finally

been eliminated. The prospects for war in the region have been substantially diminished by our action.

It is also becoming clear that the battle of Iraq has been an important victory in the broader war in which we are engaged, a war against terror, against weapons proliferation, and for a new Middle East. Already, other terror-implicated regimes in the region that were developing weapons of mass destruction are feeling pressure, and some are beginning to move in the right direction. Libya has given up its weapons of mass destruction program. Iran has at least gestured toward opening its nuclear program to inspection. The clandestine international network organized by Pakistan's A.Q. Khan that has been so central to nuclear proliferation to rogue states has been exposed. From Iran to Saudi Arabia, liberal forces seem to have been encouraged. We are paying a real price in blood and treasure in Iraq. But we believe that it is already clear--as clear as such things get in the real world--that the price of the liberation of Iraq has been worth it.