An hourglass-shaped graphic with a globe inside. The top bulb is dark blue, and the bottom bulb is light blue. The globe is centered in the narrow neck of the hourglass. The text is centered within the hourglass.

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Iraq: Debate over U.S. Policy

Richard P. Cronin, Foreign Affairs, Defense, and Trade Division

Updated February 27, 2003

Abstract. This report provides information and analysis concerning a number of basic issues in the debate over whether and under what conditions, the United States should launch a preemptive attack on Iraq. Some of the issues are potentially resolvable by the introduction of new and persuasive evidence; others tend to involve fundamental differences in perspective. The focus of debate is likely to shift, over time, especially in response to how the U.S.-Iraq confrontation plays out during the late winter and early spring of 2003.

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Report for Congress

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Iraq: The Debate Over U.S. Policy

Updated February 27, 2003

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Iraq: The Debate Over U.S. Policy

Summary

The passage of H.J.Res. 114 (P.L. 107-243) in both the House and Senate on October 11, 2002, appeared to reflect a consensus on giving the President the authority, subject to several important conditions, to use United States' Armed Forces to eliminate Iraq's weapons of mass destruction (WMD). At the same time, the debate over the Iraq war resolution also reflected continuing divisions in Congress regarding how to deal with the challenge posed by Saddam Hussein's WMD programs and capabilities, and the Administration's handling of this issue. These divisions continue and in some ways have sharpened as the President decides how much time to give the United Nations Security Council to agree to a resolution supporting the use of military force, or for other diplomatic initiatives to bear fruit, while retaining the option to launch a preemptive attack with a "coalition of the willing."

This report provides information and analysis concerning a number of basic issues in the debate over whether and under what conditions, the United States should launch a preemptive attack on Iraq. These include: (1) how serious and urgent is the threat; (2) whether the threat could be addressed by containment; (3) the possible effects of a conflict with Iraq on the war on terrorism; (4) the appropriate role for the United Nations; (5) the potential human and material cost of a war; (6) the prospects for containing ethnic and religious-based separatism and reconstructing a stable and democratic government; (7) the possible effects on Middle East stability; (8) the implications for broader U.S. foreign policy interests and global leadership; (9) issues concerning international law; and (10) moral issues pertaining to the use of preemptive warfare. Some of these issues are potentially resolvable by the introduction of new and persuasive evidence; others tend to involve fundamental differences in perspective. The focus of debate is likely to shift, over time, especially in response to how the U.S.-Iraq confrontation plays out in during the late winter and early spring of 2003.

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Contents

Status of the Issues After Enactment of the Iraq War Resolution	1
Continuing Broad Issues in the Debate	2
Degree and Urgency of the Threat	3
Containment Versus Military Action Leading to “Regime Change”	7
Implications for the War on Terrorism	10
Role for the United Nations	13
Prospects for Creating a Post-Hussein Government	18
Potential Casualties and Economic Cost	21
Implications for Middle East Stability	24
Broader Foreign Policy Interests	24
Issues Related to International Law	27
Moral Issues	28
Conclusions: Future Issues Driven by Future Developments	31

Iraq: The Debate Over U.S. Policy

Status of the Issues After Enactment of the Iraq War Resolution

The passage of H.J.Res. 114 (P.L. 107-243)¹ in both the House and Senate on October 11, 2002, appeared to reflect a consensus on giving the President the authority, subject to several important conditions, to use United States Armed Forces against Iraq. At the same time, the debate also reflected continuing divisions in Congress regarding how to deal with the challenge posed by Saddam Hussein's weapons of mass destruction (WMD) programs and capabilities, and the Administration's handling of this issue. The final text of the war resolution featured four areas of consensus:

(1) Congress agreed broadly that Iraq's WMD programs and activities, and Saddam Hussein's possible hostile intentions, threatened the security of the United States and its regional allies, or, at a minimum, the threat was sufficiently serious that the President should be given the benefit of the doubt until more information was forthcoming;

(2) Congress specifically limited the scope of the President's authority to Iraq, and not the wider Middle East region, as in the original White House draft resolution;

(3) Congress insisted that the Administration should first seek a peaceful diplomatic resolution through the U.N. Security Council (UNSC) before using the powers conferred in the resolution; and,

(4) Congress also reaffirmed its constitutional responsibilities with regard to war powers under the Constitution and as adopted in the War Powers Resolution (P.L. 93-148), which was adopted over President Nixon's veto in 1973.²

Then-Senate Majority Leader Tom Daschle called the resolution "a beginning, not an end," to the role of Congress in the process of formulating U.S. policy towards Iraq. This view reflected the expectation that despite passage of the resolution by strong bipartisan majorities in both Houses, Congress would remain engaged in Iraq-

¹ CRS Report RL31596, *Iraq: Authorization of Use of U.S. Armed Forces – Side-By-Side Comparison of Public Law 107-243 and Selected Legislative Proposals*, by Dianne Rennack. The title of the resolution is "Authorization for Use of Military Force Against Iraq Resolution."

² For additional background and analysis, see CRS Report RL31185, *The War Powers Resolution: After 28 Years*, by Richard F. Grimmett; and IB81050, *War Powers Resolution: Presidential Compliance*, by Richard F. Grimmett.

related issues. Indeed, in early 2003, some Members of Congress from both parties – including Members who voted for the Iraq war resolution – have continued or strengthened their criticism of the Administration’s handling of the issue. Other Members have indicated that their support for the Administration’s position has grown in response to the release of more detailed intelligence information.

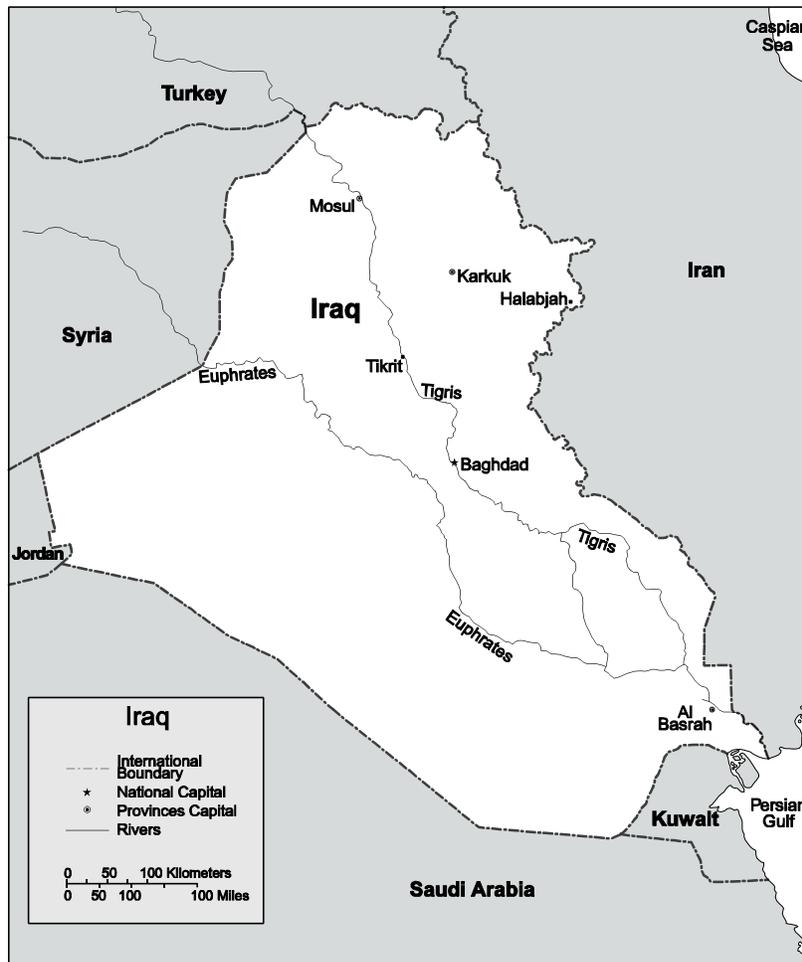
In addition to maintaining dialogue with the Administration on policy issues regarding Iraq, Members of Congress address these issues via their legislative oversight responsibilities and appropriations powers, and by consulting with and explaining their positions to their constituents. In all of these functions, significant areas of policy difference concerning Iraq are likely to continue, both within the Congress and between the Congress and the Administration, and in the wider public debate.

Continuing Broad Issues in the Debate

Congress broadly shares the concern of the Administration that Iraq under Saddam Hussein presents a threat to American interests and security and to U.S. regional allies. This consensus arises from Iraq’s well-documented pursuit of chemical, biological, and nuclear weapons, and its demonstrated willingness to employ horrific weapons against both the Iraqi population and its neighbors. Congress also shared concerns that these capabilities might be put into the hands of al Qaeda or other terrorist groups.

Widely shared American objectives, as reflected in the congressional debate, include eliminating the WMD threat from Iraq, foreclosing any possible Iraqi support to terrorists, promoting stability in the oil-rich and politically volatile Middle East region, and promoting acceptance of U.S. political and economic values of human rights, democracy, and free markets. The appropriate ranking of these objectives, their degree of urgency, the best and most appropriate means for dealing with them, and the likely consequences of several policy options for pursuing them remain highly contested matters.

The issues addressed below that have been raised and shaped by the Congressional and wider public debate. Some have taken on new aspects since passage of the House Joint Resolution 114 (P.L. 107-243) authorizing the use of United States Armed Forces against Iraq, and the adoption by the U.N. Security Council of Resolution 1441, on November 8, 2002, providing for the return of weapons inspectors under strict terms. If war with Iraq should occur, the saliency and hierarchy of these issues likely will change again in response to how the conflict plays out on the battlefield and in the international arena.



Source: Map Resources. Adapted by CRS. (M.Chin 02/03)

Degree and Urgency of the Threat

Increasing circumstantial evidence of Iraq's WMD activities and its efforts to withhold vital information from U.N. inspectors in early 2003 has tended to promote general acceptance that Iraq does indeed represent a serious threat to American and allied security interests. Nonetheless, the question "Why now?" continues to be heard, especially in view of the still on-going campaign against al Qaeda terrorists in Afghanistan and elsewhere, and the recent emergence of serious nuclear proliferation threat in North Korea—another "axis of evil" country. After reciting a long list of Iraq's domestic and international transgressions during an interview on September 5, 2002, National Security Advisor Condoleezza Rice, rhetorically posed the counter-question, "why later?" given his [Saddam Hussein's] history."³

³ Global Viewpoint, "Condi Rice: Bush Open to U.N. Action on Iraq," *New Perspectives Quarterly*, Fall 2002. [http://www.digitalnpq.org/global_services/global%20viewpoint/09-06-02.html].

The Administration's answer to the "why now?" question would appear to hinge particularly on its assessment of the threat posed by Iraq's WMD programs. On February 5, 2003, Secretary of State Colin Powell provided intelligence evidence to the U.N. Security Council indicating that Iraq is hiding ongoing WMD activities and capabilities from the U.N. inspectors, and has extensive connections with terrorist groups, including al Qaeda. The Administration regards the Iraqi WMD threat and support to terrorist groups as having acquired higher importance since the September 11, 2001, attacks on U.S. soil and fears of a possible Iraqi connection with al Qaeda. NSC Advisor Rice revealed in an interview with *Frontline*, a Public Broadcasting System (PBS) news program, aired on July 12, 2002, that within days of the terrorist attacks the Administration had considered and rejected attacking Iraq. Rice said that in discussions at Camp David, where the President had gone after the terrorist attacks, senior policymakers considered the question what to do about "states with which we had hostile relations, that, even if they weren't directly supporting al Qaeda, were clearly part of the insecurity we were now feeling?" They concluded, she said, that "Iraq fell into that category," but the day after these discussions the President decided to adopt a policy of "first things first."⁴

Despite criticisms of the Administration's handling of the issue, most Members of Congress appear convinced that Iraq is a serious threat. Some, however, remain unpersuaded about the urgency of the threat. Evidence concerning Iraq's WMD programs provided in briefings to Members of Congress, allied governments, and the United Nations International Atomic Energy Agency (IAEA) in the early Fall 2002 reportedly was not deemed persuasive by some of the recipients. Some of them characterized the information as "nothing new."⁵ These doubts have led to calls for giving the U.N. inspectors more time to find clear evidence of Iraq's violations and to declare Baghdad in "material breach." Members of Congress and others taking this position maintain that giving the inspectors more time to reach and report this conclusion, which they appear to see as inevitable, will make it easier to gain more international support and allow the Administration to launch an attack with a clear U.N. Security Council mandate. This approach is widely favored – in fact insisted on – by U.S. allies, including Britain.⁶ Polling data indicate a jump in support for the Administration's policy towards Iraq after the President's January 27, 2003, State of the Nation address to a Joint Session of Congress, but reportedly as many as 49 percent of the poll respondents still prefer going to war with the support of the Security Council.⁷

⁴ Campaign Against Terror, Interview: Condoleezza Rice, *Frontline*, conducted July 12, 2002.

⁵ Roula Khalaf, "Attempts to Provide Evidence of Nuclear Threat Face Uphill Task." *Financial Times*, Sept. 9, 2002:3.

⁶ Peter Slevin, "In Europe, Powell Seeks Support for War." *Washington Post*, Jan. 26, 2003: A17.

⁷ A *CNN/USA Today/Gallup* poll after the President's State of the Union speech found that 50 percent of Americans wanted to give the U.N. inspectors more time, while an ABC news poll found 58% willing to give the inspectors more time. An *ABC News/Washington Post* poll found similar results, including a 66% majority in favor of going to war with Iraq, but also a strong 87% majority in favor of giving the U.N. inspectors from a few weeks (41%)

(continued...)

Thus far, the most clear-cut indication that Iraq still maintains chemical and biological capabilities is the fact that it has not provided evidence concerning the disposition of weapons and materials discovered by the U.N. inspection team which operated in Iraq from 1992 to 1998. The team located and destroyed large quantities of WMD and related facilities and materials, but not all these items had been destroyed as of December 1998, when the inspectors had left Iraq out of frustration with Iraqi obstructionism. These known weapons systems and precursor materials reportedly were not accounted for as required in Iraq's December 8, 2002 declaration. In his January 27, 2003, interim report to the Security Council, which the *New York Times* characterized as "grim," the chief U.N. weapons inspector Hans Blix declared that "Iraq appears not to have come to 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 live in peace."⁸ In addition to facilities found by the UNSOM inspectors prior to 1998 which clearly had WMD purposes, Iraq has numerous "dual-use" facilities such as plants producing industrial machinery, agricultural pesticides, and pharmaceuticals.⁹

The threat posed by Iraq's presumed nuclear program has been more difficult for the Administration to establish. The main evidence appears substantially circumstantial and inferential – notably that more than four years have passed since the withdrawal of the U.N. inspectors, during which time, the Administration argues, Iraq has had ample opportunity to restart its nuclear program. The Administration, its supporters in Congress, and some regional specialists and nuclear experts have expressed particular concern about three factors: the conclusion of the earlier U.N. inspectors that Iraq may have been as little as two years away from achieving a nuclear weapons capability prior to the 1991 Gulf War; evidence that a core team of scientists and technicians has been reassembled since 1998; and indications of renewed activity in several programs, including a suspected effort to obtain nuclear weapons material via uranium enrichment.¹⁰

Some critics argue that the Administration is relying on "worst case" analysis that does not take into account the difficulty of developing nuclear weapons. Some

⁷ (...continued)

to a few months (33% or even more (10%) to complete their mission. *PollingReport.com* [<http://www.pollingreport.com/iraq.htm>]. A *Gallup Poll* released on February 4, 2003, did not ask questions about the role of the United Nations but Secretary of State Collin Powell, long identified with efforts to gain international support for an invasion, reportedly was given more credibility than President Bush by a margin of 63% to 24%, although 58% of the respondents still favored invading Iraq with U.S. ground troops. "Powell's U.N. Appearance Important to Public," *The Gallup Organization*, Feb. 4, 2003.

⁸ Julia Preston, "UN Inspector Says Iraq Falls Short on Cooperation." *New York Times*, Jan. 28, 2003: A1, A8.

⁹ UK, *Iraq's Weapons of Mass Destruction—Assessment of the British Government*. Released Sept. 24, 2002. Part 1, Chapter 3, "The Current Position, 1998-2002," p. 21-22. [<http://www.number-10.gov.uk/output/Page6117.asp>].

¹⁰ UK, *Iraq's Weapons of Mass Destruction—Assessment of the British Government*. Released Sept. 24, 2002. Part 1, Chapter 3, "The Current Position, 1998-2002," p. 21-22. [<http://www.number-10.gov.uk/output/Page6117.asp>].

note that while a British “Dossier” released on September 24, 2002, provides ample reason for serious concern about Iraq’s chemical and biological weapons programs and possible advances in its ballistic missile programs, it also expresses doubt that Iraq is close to a nuclear weapons capability unless it has obtained a supply of fissile material from outside. The document deems this unlikely, despite some reported but apparently unsuccessful Iraqi attempts to obtain significant quantities of uranium from unnamed African countries.¹¹ A September 2002 report by the International Institute of Strategic Studies, in London, came to a similar conclusion about Iraq’s progress towards developing nuclear weapons.¹²

Some critics who agree that Iraq poses a serious threat have questioned, nonetheless, whether Iraq should be the highest priority country. They note that the absence of clear evidence that Iraq is close to acquiring nuclear weapons contrasts with the case of another “axis of evil” country, North Korea, which in late September 2002 admitted to having a covert uranium enrichment program, in apparent violation of its obligations under the 1994 U.S.-DPRK Agreed Framework. In apparent response to the DPRK’s actions to reactivate a nuclear power plant that had been deactivated, sealed, and monitored by the IAEA under the terms of another provision of the same accord, the Administration has chosen to employ only diplomacy, and has thus far ruled out the use of military force.¹³

Some Members of Congress and other observers also warn that the indirect threat to U.S. interests in the Middle East and South Asia by North Korea’s nuclear weapons program and its sales of ballistic missiles and chemical and biological weapons may pose a greater threat than that from Iraq. Some point to the high-seas boarding and inspection of a North Korean cargo ship by U.S. and Spanish patrol forces on December 9, 2002, which revealed that Pyongyang was shipping missiles to Yemen. These observers say that sales of missiles and missile technology to Pakistan are a particular worry, since that country not only has nuclear weapons but also remains locked into a tense military confrontation with nuclear-armed India.¹⁴

Congress appears still to be divided about the strength of the Administration’s evidence. Some Members who initially had expressed skepticism about the

¹¹ The British dossier estimates, based on intelligence information, that acquiring a nuclear weapons capability would take at least five years, starting *after* the removal of existing international trade sanctions, unless it has obtained fissile material from abroad. (Iraq does not have any operating nuclear reactors to provide spent fuel that can be turned into weapons-grade uranium or plutonium.) UK, *Iraq’s Weapons of Mass Destruction—Assessment of the British Government*. Released Sept. 24, 2002. Part 1, Chapter 3, para 29, “Nuclear Weapons: Timelines,” [http://www.number-10.gov.uk/output/Page6117.asp].

¹² Alex Nicoll, “Production of Nuclear Weapons ‘Seems the Furthest from Iraq’s Grasp,’ Says Study.” *Financial Times*, Sept. 10, 2002: 2. A summary of the IISS Dossier can be found at [http://www.iiss.org/news-more.php?itemID=88].

¹³ Don Kirk, “North Korea to Reopen Nuclear Plant Over Oil Cutoffs by U.S.” *New York Times*, Dec. 12, 2002 (internet edition).

¹⁴ David E. Sanger and Thom Shanker, “Reluctant U.S. Gives Assent for Missiles to Go to Yemen.” *New York Times*, Dec. 12, 2002: A1, A20.

Administration's claims subsequently have said that newer information provided in early 2003 was more persuasive.¹⁵ The Associated Press reported in late January 2003 that Senator Joseph Biden, Ranking Member of the Senate Foreign Relations Committee, had stated that the Administration possessed highly classified and sensitive evidence "that can change people's minds," and, although the evidence was circumstantial, it would be sufficient for conviction "if there were a jury trial."¹⁶

Overall, some analysts judge that the continuation of the bipartisan support reflected in the strong majorities behind the October 11, 2002, Iraq war resolution may now depend on whether the Administration gains Security Council support before launching a preemptive attack.¹⁷ The possibility that the issue could become more contentious in Congress is suggested by the strong criticisms of the Administration's handling of the Iraq issue leveled by the Senate Minority Leader, Sen. Thomas A. Daschle, and House Minority Leader, Rep. Nancy Pelosi, on January 27, 2003.¹⁸ The President appears to enjoy substantial support from both sides of the aisle, as evidenced by the generally favorable reception given to his State of the Union address, but sentiment also appears to remain strong among many Members that, if war is necessary, the most desirable course is to obtain a second Security Council resolution or otherwise gain the maximum international support.

Containment Versus Military Action Leading to "Regime Change"

The option of containing Iraq's WMD activities instead of going to war may be moot in view of President Bush's reiteration on several occasions that in his judgment containment was not a viable option, and one that did not even merit consideration. In view of the massive American and British build-up of military forces in the region, poised for attack, all signs point to a military attack in the near future unless some radical change occurs in Iraq.¹⁹

Despite the President's dismissal of containment, a number of Members of Congress, former policymakers, analysts, and commentators have maintained that war with Iraq is not immediately necessary, at least not in the near term, and containment could work if given a chance. These arguments continue to be made

¹⁵ David Firestone with David E. Sanger, "Congress Now Promises to Hold Hearings About Iraq." *New York Times*, Sept. 6, 2002.

¹⁶ Barry Schweid, "Administration plans disclosure of intelligence on weapons; Democrat says it will change minds." *Associated Press*, January 28, 2003, 22:27.

¹⁷ Alison Mitchel and Carl Hulse, "Congress Authorizes Bush to Use Force Against Iraq." *New York Times*, Oct. 11, 2002.

¹⁸ Helen Dewar and Mike Allen, "Democrats Assail Bush on War, His Credibility." *Washington Post*, Jan. 28, 2003: A4.

¹⁹ Karen DeYoung, "Bush Begins 'Final Phase' on Iraq." *Washington Post*, Jan.30, 2003: A1, A17.

even as war appears ever more imminent.²⁰ Proponents of containment argue that even an inspection regime that is less than totally satisfactory would be adequate for the time being, especially since Iraq's military power and industrial capabilities are by most accounts only a shadow of what they at the time of the invasion of Kuwait.

Some argue, in fact, that containment already had worked with regard to Iraq's nuclear program, even during the period between the departure of the U.N. inspectors in December 1998 and their return in November 2002. They assert that inspections can continue to contain Iraq, especially if the inspectors remain in place and trade sanctions are strengthened or refocused. This position draws support from the above noted British intelligence dossier, which concluded that even in the absence of inspectors the existing U.N. sanctions had prevented Iraq from acquiring the necessary materials and technology for producing fissile material (plutonium or highly enriched uranium).²¹

The Administration and its supporters counter in part by citing Iraq's violations of its obligations under the terms of the 1991 agreement with the United Nations and various subsequent U.N. resolutions. They argue that economic sanctions, patrols over northern and southern "No Fly" zones, and periodic air strikes against military targets have demonstrably failed thus far to contain Iraq's WMD activities,²² and that evidence of Iraq's efforts to reconstitute its WMD programs confirms that even "containment-plus," including renewed U.N. inspectors will not suffice. Proponents of military action contend that even with relatively unimpeded access to suspicious sites, Iraq could still hide important elements of its WMD program in remote areas.²³

The issue of containment versus military force as the best means to deal with WMD proliferation appear to be put into bold relief by the Administration's decision to rely on diplomacy and containment in response to North Korea's decision in late December 2002 to expel IAEA inspectors and restart a small nuclear plant at Yongbyon.²⁴ Opponents of using military force against Iraq contend that if the Administration can deal with North Korea's transgressions by diplomacy and sanctions, then the same approach ought to be sufficient for dealing with Iraq, which does not yet have nuclear weapons. Some note also that Administration officials reportedly say they intend to use diplomacy, and not threats of military action, in response to intelligence information that Iran, the third "axis of evil" country, may

²⁰ Michael Dobbs, "On Iraq, Chorus of Criticism Is Loud But Not Clear." *Washington Post*, Feb. 3, 2003: A20.

²¹ UK, *Iraq's Weapons of Mass Destruction—Assessment of the British Government*. Released Sept. 24, 2002. Part 1, Chapter 3, para 29: "Nuclear Weapons: Timelines," [<http://www.number-10.gov.uk/output/Page6117.asp>].

²² For more discussion of this issue see CRS Report RS21325, *Iraq: Divergent Views on Military Action*, by Alfred B. Prados.

²³ Frank Davies, "U.S. Scoffs at Iraq Inspections." [Albany, N.Y., *Times Union*] *timesunion.com* (first published by *Knight Ridder*, Sept. 3, 2002.)

²⁴ For additional information on the Agreed Framework and reciprocal commitments by the United States and North Korea see CRS Issue Brief IB91141, *North Korea's Nuclear Weapons Program*, by Larry Nicksch.

have a covert uranium enrichment program – possibly with aid from Russia, Ukraine, or China.²⁵

Senior Administration policymakers contend that the regional situation in Northeast Asia, the vulnerability of South Korea and possibly Japan to a North Korean counterattack, and calculations that North Korea already possesses two nuclear weapons create different situations requiring different responses. Those who insist on the necessity of disarming Iraq argue that once a “rogue” country acquires a nuclear capability, the military option becomes much less viable. Secretary of Defense Rumsfeld asked rhetorically in identical statements to the House and Senate Armed Services Committees in September 2002 whether it would be better to wait until Iraq was stronger and had more advanced WMD programs before acting.²⁶ In a speech to a reserve officer’s group on January 20, 2003, Rumsfeld reportedly also described North Korea as “a country teetering on the verge of collapse.”²⁷

Both the North Korean and Iranian programs have given rise to concerns that other countries which have the ability to produce nuclear weapons but heretofore lacked the incentive, may also decide to become nuclear powers. This prospect has sparked a renewed debate about the broader issue of how to combat proliferation. Some suggest the need for a new or strengthened multinational approach to stopping proliferation under U.N. auspices. Others maintain that dealing with nuclear and other WMD proliferation by multilateral treaties and agreements is inadequate, and emphasize a case-by-case approach, including—implicitly—a military preemption option if appropriate to the situation.²⁸

Ironically, many of the governments of countries closest to Iraq profess to be relatively unworried about Iraq’s WMD programs and capabilities. Whether these professions are true reflections of their views is uncertain. Some see these statements as genuine. Others suspect that popular sympathy and support for Saddam Hussein in the Arab world make it difficult for governments there to align publicly with the U.S. view of the threat posed by the Iraqi regime, although privately they may have no sympathy for him.

As for the respective risks of seeking to contain Iraq or going to war, some analysts conclude that the evidence is strong on either side of the argument. One veteran journalist and foreign policy commentator observed in mid-January 2003 that “Iraq is a close call because the risks are so evenly distributed.” He argued that “Either way, Iraq is a roll of the dice” and “a war of choice—not one that would be

²⁵ Nicholas Kralev, “U.S. Fears Iran Has ‘Pretext’ for Nukes.” *Washington Times*, Feb. 11, 2003.

²⁶ Prepared Testimony of U.S. Secretary of Defense Donald H. Rumsfeld Before the House and Senate Armed Services Committees Regarding Iraq,” September 18-19, 2002. Department of Defense, *Defense Link*.

²⁷ Department of State, International Information Programs, “Rumsfeld Says Iraq, North Korea, Require Different Approaches.” News Release, Jan. 20, 2003.

²⁸ Joby Warrick, “Iran, N. Korea Nuclear Plans Pose New Risk.” *Washington Post*, Dec. 24, 2002: A1, All.

imposed on the United States.”²⁹ Without an inspection breakthrough, the Administration appears to accept the rationale expressed by Vice President Cheney in late August 2002, that the risks of not acting are greater than the risks of acting.³⁰

Implications for the War on Terrorism

Among the most divisive issues in the Iraq policy debate has been that of the possible consequences of a military confrontation with Iraq for the war against terrorism. The Administration argues that destroying Iraq’s WMD capability is not only fully consistent with the war against terrorism, but is critically important, given the possibility that Iraq might give such weapons to al Qaeda or other terrorist groups. In any event, Administration officials contend that the campaigns against al Qaeda terrorists and against Iraq are all of a piece, and mutually supportive. Critics question the Administration’s priorities, arguing that even if Iraq poses a serious potential threat, the present danger posed by al Qaeda is more immediate. Some also contend that going to war with Iraq could unintentionally accomplish Osama bin Laden’s main goal of radicalizing the Middle East and expelling U.S. military forces from the region.

Efforts by the Administration to establish a link between Iraq and al Qaeda have been a special source of controversy. In late 2002, unnamed Administration officials reportedly provided intelligence information to the press that suggested that Iraq might be providing chemical or biological weapons to terrorists linked to al Qaeda. These claims were challenged by other unnamed intelligence analysts, who were said to have described the evidence as circumstantial or unverified.³¹

The Administration expanded its efforts to link Baghdad to al Qaeda and other terrorists in early 2003.³² The new claims focused on a possible connection between Iraq and a top al Qaeda operative, Abu Mussab al-Zarqawi, who U.S. officials say received medical treatment in Bagdad after fleeing from U.S. anti-terrorist operations in Afghanistan, and set up a cell that carried out the assassination of a U.S. diplomat in Jordan, Laurence Foley.³³ The full extent and significance of the connection between Zarqawi and the Iraqi regime remains unclear, but U.S. officials contend

²⁹ David Ignatius, “The Read On Wolfowitz.” *Washington Post*, Op Ed, Jan. 17., 2003: A23.

³⁰ “Cheney Cites Risks of Inaction,” *CNN*, Aug. 27, 2002, 1:48 EDT.

³¹ On December 12, 2002, the *Washington Post* reported that U.S. intelligence agencies possessed credible but uncorroborated information that a terrorist group affiliated with al Qaeda had obtained the ingredients for a chemical weapon, possibly the nerve agent VX in Northern Iraq and smuggled it out through Turkey. This assertion was downplayed almost immediately some unnamed intelligence officials as speculative and unsubstantiated. Barton Gellman, “U.S. Suspects Al Qaeda Got Nerve Agent from Iraqis.” *Washington Post*, Dec. 12, 2002: A1, A32-33; John King, “Officials: No Hard Evidence in Nerve Agent Report.” *CNN*, Dec. 12, 2002, 10:30 AM, EST.

³² “Terrorists: Man on the Run,” *Newsweek*, Feb. 3, 2003 (as carried on *MSNBC* internet site.)

³³ Report by Mike Boettcher, *CNN American Morning with Paula Zann*. Jan. 27, 2003, 07:00.

that Baghdad may be helping al Qaeda set up a terrorist headquarters in the Kurdish region of Northern Iraq, in an area controlled by an anti-regime Kurdish militia group, Ansar al-Islam. This group is said to be contesting for territorial control and political influence with a much larger secular Kurdish group, the Patriotic Union of Kurdistan (PUK), which shares governing power in the North with a rival (but also secularist) party. The PUK has been a defacto U.S. ally since the “no-drive” and no-fly” zones were established in Northern Iraq in mid-1991.

In his February 5, 2003, address to the U.N. Security Council Secretary of State Powell revealed that the interrogation of a Zarqawi deputy, who recently had been captured in Turkey, confirmed not only the existence of an al Qaeda cell in Iraq, but also that the cell had carried out Laurence Foley’s assassination. According to the Secretary of State, the Zarqawi deputy was captured as a result of making a satellite phone call to Foley’s assassins while driving through northern Iraq, during which conversation he congratulated the killers and made arrangements to meet them. Secretary Powell also displayed a declassified satellite photograph that purported to show the Ansar al-Islam terrorist training camp in territory near the Iraq-Iran border, which reportedly had been visited by Zarqawi for the purposes of giving training in the use of chemical weapons.³⁴

Many in Congress and among the American public appear to be persuaded that the possibility that terrorists could obtain Iraqi WMD or related materials is a legitimate justification for launching a preventive war, preferably with the support of the U.N. and U.S. allies, if the threat cannot be addressed by other means. A number of Members of Congress have deemed the evidence displayed by the Secretary of State as still circumstantial, but convincing.³⁵ Some Members of Congress and commentators, however, have continued to express doubts about the relative importance of the Iraq-al Qaeda connection, in comparison with the wider threat from al Qaeda. On February 12, 2003, CIA Director George Tenet reportedly faced sharp questioning on this issue in testimony before the Senate Armed Services Committee.³⁶ Differences of opinion have also emerged in Congress and elsewhere about the significance of a tape obtained by the Dubai-based *Al Jazeera* network, in which a speaker assumed to be Osama bin Laden encouraged “our Iraqi brothers” to resist the United States for the “sake of Allah,” but also linked Saddam Hussein and his “socialistic” Baath Party with other “infidel regimes” in the Middle East.³⁷

To some critics of the Bush Administration’s policy towards Iraq, the real issue is not the likelihood of some connection between Iraq and al Qaeda, which they do

³⁴ Patrick E. Tyler, “Intelligence Break Led U.S. to Tie Envoy Killing to Iraq Qaeda Cell.” *New York Times*, Feb. 6, 2003: A1, A12; Transcript of Secretary of State Powell’s February 5, 2003, address to the U.N. Security Council published in the *New York Times*, Feb. 6, 2003: A14.

³⁵ Michael Dobbs, “Now, the Essential Question: Is War the Answer?”. *Washington Post*, Feb. 9, 2003: A25.

³⁶ Dana Priest and Walter Pincus, “Bin Laden-Hussein Link Hazy” *Washington Post*, Feb. 13, 2003: A20-21.

³⁷ “Jazeera: Bin Laden Urges Muslims to Defend Iraq.” Reuters, Feb. 11, 2003, 4:25 P.M.

not contest, but the risk that the focus on Iraq may be detracting from the war on terrorism. Among other concerns, some observers have called attention to a number of instances in which the need to maintain the cooperation of some regional allies for a military campaign against Iraq may have caused the Administration not to act as forcefully as it could have in cases where regional governments and private parties have given support to senior al Qaeda operatives. Some have called attention to reports that a member of the royal family in Qatar, who does not hold a government post, is believed by the CIA to have provided passports and \$1 million in a bank account to aid Abu Musab Al-Zarqawi's movements in and out of Afghanistan. Information that a well-connected non-official Qatari also may have sheltered for two weeks the suspected mastermind of the September 11, 2001, attacks, Khalid Sheik Mohammad, reportedly "is a sensitive issue that is said to infuriate George J. Tenet, the director of central intelligence." U.S. action is alleged to have been restrained because Qatar's role as host to the main U.S. air operations center for action against Iraq."³⁸ A number of observers have also noted that Zarqawi and other al Qaeda terrorists have spent much more time in Iran than in Iraq, but that the goal of gaining tacit support and cooperation from Teheran for military action against Iraq may have deterred the Administration from publicly challenging Iran over this issue.³⁹

A number of critics, including former senior military commanders, also have expressed concern that organizing and carrying out a preemptive war with Iraq will undermine the anti-terrorist campaign by over-stretching U.S. intelligence, policymaking, and material resources.⁴⁰ This view has been argued particularly by a number of academic specialists who characterize themselves as defense-minded "Realists" who otherwise support the exercise of U.S. military power in support of its interests. Some critics have cited reported interviews with unnamed officials who have asserted that U.S. intelligence analysts and senior policymakers in particular are so overwhelmed that the decisionmaking process has been seriously affected. Although officials with planning responsibilities are said to concede that some intelligence collection and analysis resources can be reallocated or reinforced, they reportedly argue nonetheless that the comparative handful of senior officials who make the key policy decisions can only handle one or two highest priority issues at one time, and other important policy issues are not being dealt with adequately.⁴¹ Likewise, some military analysts and, reportedly, uniformed military leaders, have

³⁸ Patrick E. Tyler, "Intelligence Break Led U.S. to Tie Envoy Killing to Iraq Qaeda Cell." *New York Times*, Feb. 6, 2003: A1, A12.

³⁹ "U.S. Quietly Courts Iran as Hedge Against Iraq." *Tribune Newspapers*, Dec. 2, 2002; "Rumsfeld Stakeout at the Hart Senate Building." *DOD Defense Link*, News Transcript, Feb. 5, 2002.

⁴⁰ John J. Mearshiemer and Stephen M. Walt, "An Unnecessary War," *Foreign Policy*, January/February 2003 [<http://www.foreignpolicy.com/wwwboard/walts.html#forum>].

⁴¹ Patricia Davis and Maria Glod, CIA Shooter Kasi Harbinger of Terror Set to Die Tonight. *Washington Post*, Nov. 14, 2002: A1, A13. Among other points, the article asserted "As the search for bin Laden remained inconclusive, and as talk of war with Iraq took center stage within the Bush Administration, the Pentagon reduced the number of Special Forces and others assigned to find the Saudi-born militant."

expressed concern about stretching U.S. forces too thin to cope with other potential military challenges, such as from North Korea.⁴²

Role for the United Nations

The appropriate role for the U.N. Security Council is one policy question which has been considerably re-framed since August and early September, 2002, when the issue was the subject of heated debate within the Administration and in the OpEd pages of major newspapers. At present, this issue may be the most pressing and most important one for both the Administration and its critics.

As of the end of February 2003, two alternative approaches for the Security Council have been informally proposed. A draft second resolution proposed by the United States, Britain and Spain, does not threaten Iraq explicitly with military action, but only declares that “Iraq has failed take the final opportunity afforded to it in resolution 1441,” and that the Security Council “Decides to remain seized of the matter.”⁴³ Although the language of the draft contains no specific statements to which exception is likely be taken, the context makes clear that its approval would be tantamount to authorizing military action. Reportedly, the Administration has set mid-March 2003 as the date for a decision on whether to launch a preemptive attack on Iraq.⁴⁴

The competing approach is contained in a French, German, Russian memorandum that proposes a plan of action that would give a reinforced inspection team the “necessary time and resources” to carry out their work within a fixed time limit. Rather than rejecting the use of force, the memorandum argues that “The combination of a clear program of action, reinforced inspections, a clear timeline and the military build up provide a realistic means to reunite the Security Council and to exert maximum pressure on Iraq.” Reportedly, this approach would give the inspectors as 120 days to make a final determination regarding Iraq’s compliance, after which, by implication, the Security Council would determine whether to authorize military force.⁴⁵

Congress has long emphasized the importance of acting within United Nations framework if at all possible. Indeed, from the outset of negotiations on the Administration’s draft war resolution, some congressional leaders reportedly had insisted that a genuine effort gain a diplomatic solution before resorting to military force was a necessary condition for their support. In the final version of H. J. Res. 114/P.L. 107-243, which reportedly was adopted only after heated negotiations between the White House and the congressional leadership, the President agreed to language that stressed the importance of first seeking a negotiated settlement but

⁴² Michael Dobbs, “On Iraq, Chorus of Criticism is Loud but Not clear.” *Washington Post*, Feb. 3, 2003: A20.

⁴³ AP, “Raw Data: Text of Draft Resolution on Iraq.” *FOXNews.com*, Feb. 24, 2003.

⁴⁴ James Harding and Mark Turner, “US Seeks Moral Mandate in Call for Second Resolution.” *Financial Times*, Feb. 25, 2003.

⁴⁵ *Ibid.*

which did not actually forbid him from taking military action without U.N. Security Council support.⁴⁶

As passed into law, Section 2 of the resolution expressed congressional support “for the efforts by the President” to enforce all relevant U.N. resolutions and “to obtain prompt and decisive action by the Security Council to ensure that Iraq abandons its strategy of delay, evasion and noncompliance and promptly and strictly complies with all relevant Security Council resolutions regarding Iraq.” Section 3, the binding part of the resolution, authorizes the use of military force only if the President determines that it is “necessary and appropriate in order” to defend U.S. national security and enforce the relevant Security Council resolutions. Moreover, the President must notify Congress no later than 48 hours after the beginning of military action that “further diplomatic or other peaceful means alone either (A) will not adequately protect the national security of the United States against the continuing threat posed by Iraq or (B) is not likely to lead to enforcement of all relevant United Nations Security Council resolutions regarding Iraq.”⁴⁷

Initially, the debate among senior officials and their respective supporters among the ranks of former officials, policy analysts, commentators, and the wider public, was whether the U.N. should have any role at all. As of the end of February 2003, the issue has become whether to launch a preemptive attack on Iraq without obtaining a second Security Council resolution that explicitly authorizes military action.

One noteworthy aspect of the debate within the ranks of current and previous national security policymakers is that the positions taken by the protagonists have tended to track with their roles and policy views during the 1991 Gulf War. Leading proponents of “regime change” were on the losing end of the debate about going all the way to Baghdad in 1991. Similarly, the proponents of working through the U.N. Security Council and mobilizing a broad coalition include a number of former senior policymakers during the George H. W. Bush Administration who both then and now champion the merits of international support and coalition warfare.

Some of advocates of using force without U.N. or extensive allied support also have argued that the attempt to build a broad international coalition would itself impose unacceptably policy constraints. Some current and former senior officials reportedly maintain that the compromises necessary to maintain a coalition under the U.N. flag during the 1991 Gulf War contributed to the decision of President George H. W. Bush not to go all the way to Baghdad.⁴⁸ Some advocates of using military

⁴⁶ David Nather, with Gebe Martinez and Emily Pierce, “‘One Voice’ Lost in Debate Over Iraq War Resolution.” *CQ Weekly*, Sept. 28, 2002: 2496-2499.

⁴⁷ Sec.3(b)(2), H.J.Res 114. This is the form that passed both the House and Senate and was signed into Law as P.L. 107-243.

⁴⁸ Gerard Baker, “‘We counted 842 tanks destroyed...They Got Enough to Keep Saddam in Power.’” *Financial Times*, October 16, 2002: 11. The article, based on interviews with former senior officials during the 1991, cites the “acknowledgment” of these officials that “incomplete information, the constraints of working within a coalition, and, above all, a
(continued...)

force without Security Council approval also have maintained that any adverse international reaction will evaporate if American policy is vindicated by a successful outcome, which they maintain will be the case.

Opponents of a preemptive attack on Iraq without Security Council approval, base their position on a variety of philosophical and practical considerations. These include especially that the United States should act in accordance with a strict interpretation of the requirements of international law, and not appear to disregard the views of allies and other friendly countries. Some also stress the view that working through the United Nations might achieve U.S. goals peacefully and increase the likelihood of gaining allied and other international support both for military action, if it becomes necessary. Likewise, these critics suggest, the United States is more likely to get allied help with occupying and rebuilding Iraq after the war if they view it as a genuine multilateral effort and not one undertaken by the United States in disregard of international opinion.

The policy battle within the Administration was fought out publicly during late Summer 2002. In July and August 2002, several senior Administration officials, including Vice-President Dick Cheney and Secretary of Defense Donald Rumsfeld, questioned the utility of renewed U.N. inspections. Vice-President Dick Cheney asserted in a late August 2002 speech to a Veterans of Foreign Wars (VFW) national convention, that a return of the U.N. inspectors to Iraq “would provide no assurance whatsoever of ...[Saddam Hussein’s] compliance with U.N. resolutions.” To the contrary, he said, “there is a great danger that it would provide false confidence that Saddam was somehow ‘back in his box’.”⁴⁹ Subsequent press reports stated that the Vice-President’s speech had not been cleared by either the White House or the State Department, and that the President had by no means made up his mind on the issue.⁵⁰

At the beginning of September 2002 it became increasingly clear that the President was leaning towards taking the issue to the Security Council, assuming that a strong resolution could be obtained. In a BBC television interview recorded on September 1, 2002, Secretary of State Powell characterized the return of U.N. inspectors as a “first step” towards resolving the confrontation. “The president,” he emphasized, “has been clear that he believes weapons inspectors should return.”⁵¹ The President’s own speech to the U.N. General Assembly on September 12, 2002, offered further indication that the internal policy debate had been decided, at least in the short term, in favor of seeking Security Council support.

⁴⁸ (...continued)

flawed assessment of the political balance within Iraq prevented a stunning military victory from being a comprehensive strategic success.”

⁴⁹ “Vice President Speaks at VFW 103rd National Convention.” White House, Office of the Press Secretary, Aug. 26, 2002.

⁵⁰ Howard Fineman and Tamara Lipper, “Same as He Ever Was.” *Newsweek*, Sept. 9, 2002: 33.

⁵¹ *Reuters*, “Powell: Washington Wants Inspectors Back in Iraq.” Sunday, September 1, 2002; 10:32 AM.

Starting with the President's address to the nation on October 7, the Administration also shifted the description of U.S. policy from "regime change" (i.e., removal of Saddam Hussein), to an interpretation that implicitly made acceptable a change in the regime's *policies*. Press speculation suggested that this was a tactical move to enhance the prospect of gaining Security Council support for a tough resolution.⁵² Senior Administration officials have continued to make clear their expectation that the regime will not give up its WMD capabilities so long as the Saddam Hussein regime is in power.⁵³

The Administration's decision to seek a U.N. Security Council resolution with strict conditions regarding access for inspectors and a short time frame for testing Iraq's compliance also responded to the position of the British government, led by Prime Minister Tony Blair. Although Britain shared the Bush Administration's perspective on the need to disarm Iraq, it nonetheless insisted that passage of a Security Council resolution authoring military action was both a legal and practical necessity. In addition, Britain took the position that it could not support "regime change" unless an interim Iraqi administration was under the flag of the U.N.⁵⁴

Although U.S. negotiators eventually were able to overcome resistance from France and Russia and gain unanimous support for a resolution that the Administration deemed acceptable, the degree of its commitment to working through the Security Council remained in question, especially among European allies. A crucial element of the final negotiated text, from the Administration's point of view, was that the Security Council resolution left scope for member countries to maintain different positions regarding what additional Security Council action, if any, was required to authorize the use of force in the event that Iraq failed to comply fully with its provisions.

The Administration has continued to urge the inspectors to pursue their task aggressively—including extraordinary measures to interview Iraqi scientists and their families out of the country as a means of gaining information on the locations of facilities and programs that Iraq might be concealing. This proposal originally was rejected by Hans Blix, the U.N.'s chief weapons inspector, who said in a November 28, 2002, interview carried by CNN that he was willing to "facilitate" the voluntary departure of Iraqi scientists and their families, as provided for in the Security Council Resolution, but that his job was not to head "an abduction agency."⁵⁵ The Administration continued to insist that gaining access to Iraqi scientists, however it

⁵² Howard LaFranchi, "Subtle Shift on 'Regime Change'?" *Christian Science Monitor*, Oct. 10, 2002; Powell: Conflict May Be Handled 'Without War.' *USA Today*, Oct. 12, 2002.

⁵³ In an October 8, 2002, press conference, White House Press Secretary Ari Fleischer noted that the change in the President's formulation was tied to conditions that the Administration did not expect Saddam Hussein to fulfill. White House Press Release, Oct. 8, 2002.

⁵⁴ James Blitz and Peter Spiegel, "Tensions Over Plan for Iraq After Saddam." *Financial Times*, Oct. 21, 2002: 3.

⁵⁵ CNN Access, Nov. 28, 2002: 8:45 AM (Hong Kong).

is done, was absolutely vital.⁵⁶ In mid-January 2003 the inspectors interviewed an Iraqi nuclear scientist and examined files found in his home, but under the watchful eyes of Iraqi officials. Reportedly, the Iraqi government has made clear to scientists that it does not want them leaving the country to be interviewed, and has warned that they and their families would be killed if they attempted to do so.⁵⁷

Remarks by President Bush in his January 28, 2003, State of the Union address to a joint session of Congress, as well as comments by Secretary of State Powell and other senior officials, suggest that if the U.S. launches an invasion on Iraq without obtaining a new Security Council resolution the argument will be made that addressing the issue via the Security Council had been tried and had failed, and that the problem can only be solved by military action. The Administration has indicated, however, that it strongly prefers to obtain a new resolution if possible.

Given Iraq's failure thus far to comply substantially with its obligation to disarm and cooperate fully with the U.N. inspectors, the Administration faces three important time-related policy decisions: (1) how much time to give Iraq to come into full compliance with UNSC Resolution 1441, (2) how much time to give the chief U.N. inspector to declare Iraq to be in "material breach" of its obligations, and (3) how much time to give the Security Council to agree on a resolution authorizing military action or for diplomatic initiatives to play out before going to war with more limited support of a "coalition of the willing."

As of the end of February 2003, French President Jacques Chirac and Russian President Vladimir Putin, both of whose countries have veto power on the Security Council, continue to oppose any military action until such time as the U.S. inspectors conclude that Iraq is clearly in noncompliance with its obligations under UNSC Resolution 1441. Facing strong anti-war sentiment both in his own Labor Party and among the public, Britain's Prime Minister Blair, also has called for giving the inspectors some additional time to decide whether Iraq is in compliance, in exchange for a second resolution authorizing force if Iraq fails to do so. Blair also remains the strongest advocate of military action among U.S. NATO allies, but some British analysts have concluded that he could face a parliamentary revolt if he takes Britain to war without U.N. Security Council support.⁵⁸ German Chancellor Gerhard Schroeder has continued to maintain firm opposition to military force regardless of whether or what the inspectors report. Germany currently chairs the Security Council as part of the normal rotation, but as a non-permanent member it does not have veto power. Reportedly Blair and some other leaders of council member governments believe that the most the United States can hope for is the abstention of France,

⁵⁶ Karen DeYoung and Walter Pincus, "U.S. Sees Showdown Over Iraqi Scientists." *Washington Post*, Dec. 13, 2002: A1, A51.

⁵⁷ Rajiv Chandrasekaran, "Iraqi Scientists Not Likely to Be Interviewed Abroad." *Washington Post*, Jan. 10, 2003: A16.

⁵⁸ "The Nightmare for Tony Blair: War Without a U.N. Resolution Would Be a Political Disaster." Editorial, *Financial Times*, Feb. 13, 2003: 10.

Russia, and probably China on a U.S.-initiated resolution, and then only if the final draft declares Iraq in “material breach” but does not explicitly authorize force.⁵⁹

Many Members of Congress and others who support the Administration may deem unnecessary an explicit authorization for the use of force, accepting the Administration’s view that a second resolution is not necessary. Some Members of Congress and others who oppose the use of force against Iraq, on the other hand, continue to argue the importance if not the necessity of obtaining a resolution that explicitly authorizes military force. Some Members from both parties have expressed concern that the Administration seems rushing to war, and some Democrats have also called for a vote on a second war resolution before committing troops to action.⁶⁰ The continuing buildup of combat forces in the region suggests that the Administration may be determined to force the issue with the Security Council by mid-March 2003, and with Iraq by late March or early April, assuming that sufficient forces are in place by that time and there have been no diplomatic breakthroughs or complications.

Prospects for Creating a Post-Hussein Government

The Administration has asserted that if it decides that war is necessary, its intention is to create a stable and democratic Iraq that will generate a movement towards democracy elsewhere in the Middle East. The Administration acknowledges that if war results, the effort to construct a new Iraqi political system, provide humanitarian relief, and rebuild the Iraqi economy will be challenging, but not so much as to cause it to abandon its objectives. The Administration also has argued that creating a democratic political system in Iraq may also stimulate democratic change elsewhere in the Middle East, a line of argument that has been widely derided by critics of U.S. policy.⁶¹

Critics warn that if war ensues, creating a post-Saddam government may be more difficult, expensive, and dangerous than the Administration has acknowledged. No one can foresee with any confidence what situation may emerge if the United States attacks Iraq, they maintain. They warn of a possible quagmire stemming from several sources, including ethnic, religious and tribal tensions, deeply seated anti-western nationalism among the Sunni Arabs of Central Iraq, the long-term deterioration of Iraq’s infrastructure over two decades or more. Critics point especially to the widely reported divisiveness of the Iraqi exile groups and the absence of any obvious figure or group around whom even an interim government could be created.

In contrast with the Administration’s seeming optimism about Iraq’s future after Saddam Hussein is overthrown, opponents of preemptive war argue that the

⁵⁹ Karen DeYoung, “Iraq Action Depends on Powell Briefing.” *Washington Post*, Feb. 2, 2003: A18-A19.

⁶⁰ Deborah McGregor, “Democrats Demand Bush Seek Fresh Congress Vote.” *Financial Times*, Jan. 31, 2003: 3.

⁶¹ James Kitfield, “The *New World Order*.” *National Journal*, Nov. 11, 2002: 3192-3198.

legitimacy of any successor government will be in doubt as long as the American and allied troops remain. Pointing to the massacres of Baath party operatives and local officials in the Shia South following the collapse of the Iraqi army in the 1991 Gulf War, and the subsequent bloody counter retaliation by the regime, some caution that Iraq could descend into civil war and the loss of its national integrity. Even if a total collapse of government and widespread score-settling could be avoided, opponents of preemptive war warn of a struggle by Kurds in the North and Shia Arabs in the South to gain control of rich oil producing areas within their traditional territories that are currently controlled by Baghdad.⁶²

The Administration has acknowledged having its own concerns about the possible splintering of Iraq, but says it is committed not to let this happen.⁶³ With regard to the danger that Iraq would succumb to civil war, the Administration can point to divisions among regional analysts and Iraqi specialists about the degree of risk. Although some of these experts argue that fragmentation or chaos is almost inevitable, others contend that this possibility is less serious than it might seem. David Mack of the Middle East Institute, a Washington, D.C. “think tank,” reportedly has argued that because of the immense value of Iraq’s oil, the three main ethnic groups are likely to “compete for power in Baghdad instead of going separate ways.”⁶⁴ Other analysts who tend to downplay the risk of fragmentation contend that the Shia Arabs of southern Iraq fully consider themselves Iraqis, despite years of brutal repression. Hence, these and some other Iraqi specialists suggest that the Shias may seek greater autonomy and political participation rather than secession.⁶⁵

Analysts generally agree that the risks of Kurdish separatism are greater because of the long history of Kurdish nationalism in Iraq and elsewhere, but some are more optimistic than others. For instance, some analysts maintain that Turkey and Iran would strongly oppose Kurdish separatism, possibly by force, rather than allow pan-Kurdish impulses to affect their own Kurdish minorities.⁶⁶ Some also note that the Kurds in particular already have attained a significant measure of autonomy under the umbrella of the Northern “no-fly” and “no-drive” zones.” Freedom from Iraqi rule and a guaranteed share of the proceeds from the current “oil-for-food” program has allowed the Kurds to enjoy a revived and vibrant economy and political life. This experience might persuade the Kurds, some believe, that their best interests would be served by accepting a loose Iraqi federation rather than seeking independence.

⁶² Jeff Kunerth, “Iraq: A Proud Nation Braces for War.” *Orlando Sentinel*, Dec. 29, 2002.

⁶³ Kenneth R. Bazinet, “United States Wants to Protect Iraqi Oil Fields in Case of an Invasion.” *Daily News* (New York), Dec. 30, 2002.

⁶⁴ Jeff Kunerth, “Iraq: A Proud Nation Braces for War.” *Orlando Sentinel*, Dec. 29, 2002.

⁶⁵ This paragraph is drawn from an October 14, 2002, seminar for Members of Congress and staff organized by the Foreign Affairs, Defense, and Trade Division of CRS, “Iraq: Threat, Internal and Regional Dynamics, and Appropriate U.S. Response.”

⁶⁶ For several years Turkey has maintained a sizeable number of troops in Northern Iraq, presumably as a check on Kurdish separatism and to deter a spillover effect on Turkish Kurds. As of the Fall of 2002, some 5,000 Turkish troops reportedly are operating in Northern Iraq. For additional information, see CRS Report RS21336, *Iraq: The Turkish Factor*, by Carol Migdalovitz.

Although most analysts view Iraq's possible fragmentation along ethnic, tribal, and religious lines as the greatest risk, some contend that a prolonged U.S. and allied military occupation could, ironically, foster an Islamist counter-reaction.⁶⁷ Some also see a resurgence of Islamic groups which have suffered repression under Baath Party rule. An Iraqi scholar resident in Britain, Faleh A. Jabar, has described the current internal opposition as ranging from "Kurdish nationalists, radical Islamists of every strand, leftists and ex-Ba'thists (sic)." These groups, he claims have "clandestine networks, armed wings and wide constituencies."⁶⁸ Most analysts, however, have emphasized the divisions among anti-regime Iraqis, including Islamists, as being more important than any elements of possible common interest.

A number of alternative plans dealing with a post-conflict situation have been under active consideration at least since late Summer 2002. During the Fall of 2002, planners reportedly were considering two possible options. One was said to involve a post-war occupation and reconstruction administration loosely modeled on the U.S. occupation of Japan after World War II under General Douglas MacArthur, who headed a unified command involving both military and civilian members of the occupation administration. This plan reportedly also would include instituting war crimes trials, removing key regime supporters who have participated in human rights violations and WMD projects, and downsizing the Iraqi military. The other approach was said to involve the early installation of a provisional government headed by current Iraqi exiles. Both concepts were reported to envision a radical reconstruction of the Iraqi political system based on democracy and some form of federalism.⁶⁹

In early 2003 media reports asserted that military and civilian planners had settled on a third approach, one that envisions a two year military occupation aimed at holding the country together in the face of expected civil strife, restricting war crimes trials to a comparatively small number of the most senior Iraqi leaders, and taking immediate control of Iraq's oil and gas resources as a means to pay for reconstruction. Reportedly, U.S. and allied military forces would provide security and stability, while the formation of a new political system and humanitarian relief and reconstruction operations would be under the leadership of an American civilian administrator.⁷⁰

⁶⁷ At present the most significant Islamist forces are a number of militia groups operating in Kurdistan, near the border with Iran. Some of these groups, including Ansar al-Islam, cited by Secretary of State Powell in his February 5, 2003, address to the U.N. Security Council, are said to have connections to al Qaeda, and include Arabs and other fighters who escaped from Afghanistan. A leading secular Kurdish leader described the Islamists as a "time bomb" who will attack the secularist Kurds from behind as soon as they attempt to join an attack on Baghdad. Scott Peterson, "Islamists Escalate Fight in N. Iraq." *Christian Science Monitor*, Nov. 22, 2002.

⁶⁸ Faleh A. Jabar, "Assessing the Iraqi Opposition," Middle East Research and Information Project (MERIP) Press Information Note 51, March 23, 2001.

⁶⁹ David E. Sanger and Eric Schmitt, "U.S. Has a Plan to Occupy Iraq, Officials Report." *New York Times*, Oct. 11, 2002.

⁷⁰ James Dao, "American Officials Disclose 2-Year Plan to Rebuild Iraq." *New York Times*, Feb. 12, 2003.

How the plan would provide for a new political order has not been revealed, but it has been reported that U.S. planners have ruled out establishing an exile-led provisional government in advance of an attack. Instead, U.S. planners are said to expect that the political arrangements would depend on how a possible conflict began and how it ended.⁷¹ Implicitly, a short war followed by an early Iraqi surrender or even a coup against Saddam Hussein would lead to less sweeping political change than a long war that involved widespread destruction and the total collapse of the Iraqi state and governmental structure.

Both Administration officials and their critics agree on one thing: if Saddam Hussein is overthrown as a result of a war, U.S. military forces probably would have to remain in Iraq in significant numbers for a considerable period of time. Reportedly, the Pentagon anticipates that it will take a year or more to locate and eliminate all weapons of mass destruction, control separatist tendencies, and capture Saddam Hussein and/or his most senior officials and supporters.⁷²

Given these uncertainties, Secretary of Defense Rumsfeld and other senior officials have indicated that the removal of Hussein via a military coup or exile would be a desirable outcome. Despite the personal risks to coup plotters, overthrowing Hussein could be attractive to the Iraqi military leaders for three reasons: (1) the army would not be destroyed and its integrity would be retained; (2) the regular army's rival, the more politicized Republican Guard, would likely be broken up, leaving the regular army in full charge of national security; and (3) the dominant Sunni Arab minority centered on Baghdad would not have to face the imposition by the United States and its allies of a democratic process that would likely shift political power to the Shia Arabs and Kurds, who together constitute roughly three-quarters of the country's population. Against these eventualities, giving up Iraq's WMD capabilities may seem far more preferable.

One very large question mark is whether would-be coup planners could avoid detection and destruction, as appears not to have happened in past attempts against Saddam. Moreover, a coup would in all likelihood have to come from the Special Republican Guard or other security forces which alone would be in a position to act, since the regular army reportedly is never allowed into Baghdad. Some suggest, in fact, that if elite units fight rather than attempt to overthrow Saddam, the regular army would be a valuable asset in maintaining stability after the conflict. These analysts suggest, in fact, that U.S. military planners avoid targeting the poorly equipped regular army, which they say is unlikely to fight doggedly in any event.⁷³

Potential Casualties and Economic Cost

Because of uncertainties regarding questions such as the number of U.S. and allied troops needed for an invasion, the strategies that might be pursued by both

⁷¹ *Ibid.*

⁷² *Ibid.*

⁷³ Patrick Clawson (ed.), *How to Build a New Iraq After Saddam*. The Washington Institute, 2002. (Introduction, [<http://www.washingtoninstitute.org/pubs/intro/howtointro.htm>])

sides, the length of the war, and the extent and difficulty of a postwar occupation and economic reconstruction, estimates of the possible human and economic cost of war with Iraq vary widely. The Pentagon has offered little insight into its war plans and force sizing, which also may be influenced by how many countries provide bases. As of early 2003 the Office of the Secretary of Defense and the Joint Chiefs of Staff are reported to have settled on an attack plan that contains enough heavy armor and mechanized units to cope with unexpected Iraqi opposition, but a force still considerably smaller, perhaps half or less, than the more than 503,000 troops deployed to the area covered by the U.S. Central Command (CENTCOM), including Turkey, the Middle East and the Persian Gulf during the 1991 war.⁷⁴

Conflicting reports on the Pentagon's war planning underscore the uncertainties about the cost of a war. Estimates of U.S. forces required for the war range from 50,000 for a campaign similar to that waged in Afghanistan, to an estimate of 370,000 (including supporting forces in regional bases), for a "heavy ground option," one of the possible scenarios described in a CBO report.⁷⁵ Apart from Air Force and Navy attack aircraft and bombers, some military experts estimate that a war plan with adequate forces for unexpected contingencies would involve about four U.S. Army divisions (about 17,000 strong each), as well as one or two Marine divisions and special operations forces. As of late February 2003 the Pentagon was said to have close to 200,000 or more ground troops in place – the minimum reportedly deemed necessary by Pentagon war planners.⁷⁶

As for possible military and civilian casualties, much would depend on the tactics employed by both sides and especially on the strength and effectiveness of Iraqi resistance. Clearly a dogged Iraqi defense of Baghdad (population 4.5 million), Basra, and Mosul, coupled with a U.S. heavy bombing campaign and house-to-house fighting would involve larger military and civilian casualties than a conflict involving an early collapse of Iraqi resistance.

The financial cost of a war with Iraq cannot be predicted with any confidence, given the many unknowns concerning forces involved, the intensity and length of a conflict, if one occurs, and many other factors. Available estimates vary widely, partly because most estimates use somewhat different assumptions.

The Office of Management and Budget (OMB) has projected the costs as ranging from \$50-60 billion, based on the cost of the 1991 Gulf War. However, Budget Director Mitch Daniels also indicated that the ultimate cost of a new war

⁷⁴ For additional information on battle planning and force sizing issues, see CRS Report RL31701, *Iraq: Potential U.S. Military Options*, by Steve Bowman.

⁷⁵ *Estimated Costs of a Potential Conflict With Iraq*, Congressional Budget Office, September 2002.

⁷⁶ U.S. Forces in Gulf Region Top 200,000 as Turkey Nears Accord to Use of Territory," *AFP*, Feb. 22, 2003: 8:36 p.m. Stephen Fidler, "Countdown to War," *Financial Times*, Jan. 30, 2003.

against Iraq is impossible to foresee.⁷⁷ The Congressional Budget Office has estimated the costs under differing assumptions as ranging from \$21 to \$33 billion, assuming a conflict lasting one month. Each additional month of conflict would cost another estimated \$6-9 billion, including the direct costs of waging a war, returning troops to their bases, and a postwar occupation costing from \$1 to \$4 billion.⁷⁸ Based on the cost of the 1991 Gulf War, the House Budget Committee's Democratic Staff projected the costs of a new war of similar magnitude at \$31 billion for a 30-day conflict involving 125,000 troops, and \$60 billion for war lasting 60 days and involving 250,000 troops, plus another \$17 to \$33 billion over 10 years as a result of increased interest for financing the war. An unnamed Defense Department official reportedly told journalists in late February 2003 that the military costs of a war, should it take place, would range between \$60-\$95 billion for Fiscal Year 2003, and likely would be closer to the lower figure than the higher estimate.⁷⁹ Based on these estimates, and assuming an extended postwar military occupation, the direct military costs alone could be as much as \$200 billion or more, depending on how many troops remained in Iraq and for how long.

Less detailed estimates include that by former George W. Bush Administration economic advisor Larry Lindsey, who projected the total cost at as much as \$200 billion. Yale University's William Nordhouse has estimated the total cost of a war at from \$120 billion to \$1.6 trillion, using the COB and House Budget Committee Democratic staff estimates of \$50-\$60 billion for direct costs as a starting point.⁸⁰

⁷⁷ Dana Bash, "What Would War With Iraq Cost?" *Christian Science Monitor*, Jan. 2, 2003. (Online edition)

⁷⁸ Cover letter to Honorable Kent Conrad, Chairman, Committee on the Budget, United States Senate, and Honorable John M. Spratt, Jr. Ranking Member, Committee on the Budget, U.S. House of Representatives. *Estimated Costs of a Potential Conflict With Iraq*, Congressional Budget Office, September 2002.

⁷⁹ David E. Rosenbaum, "Bush and Pentagon Wrangle Over War Budget Request." *New York Times*, Feb. 27, 2003.

⁸⁰ For more information on these estimates see "Cost Issues," by Stephen Daggett and Amy Belasco, in CRS Report RL31715, *Iraq War? Current Situation and Issues for Congress*.

Implications for Middle East Stability

The Administration and critics disagree strongly about the consequences of a preemptive attack on Iraq for Middle East stability. A number of Administration officials have indicated concern about possible widespread anti-American protests and the difficulties that may be faced by conservative Arab governments, but deem the dangers as manageable. The Administration has mounted a media campaign, which has drawn mixed reviews both inside and outside the U.S. Government, to seek to allay concerns in the Islamic world that U.S. objectives are anti-Muslim. Some in the Administration such as Deputy Secretary of Defense Paul Wolfowitz contend that in the longer term, regime change in Iraq will provide an opening for a wholesale reconstruction of Middle East politics centered on a democratic and western-leaning Iraq.⁸¹ This change, it is argued, will create an opportunity for the spread of democracy in the region, and even make it easier to make progress on the Israel-Palestinian issue. Richard Perle, Chairman of the Defense Policy Board Advisory Committee, a body composed of private citizens with security policy experience, has made a similar argument but in more negative terms—that using overwhelming force against Iraq will demonstrate to Arab countries the futility of opposing U.S. policy and giving support to terrorists.⁸²

Others argue conversely that U.S. military intervention in Iraq will strengthen anti-U.S. and anti-democratic forces in the region. Even if the United States gains U.N. approval for invading Iraq, some analysts contend that U.S. and allied military action will have grave consequences for Middle East stability, especially because tensions already are high over the intensification of the Israeli-Palestinian conflict, for which Arabs and non-Arab Muslims tend to blame the United States for not restraining Israel. Those concerned about a “blowback” from an Iraqi defeat and occupation of Iraq by U.S. forces and other western forces, reportedly include a number of current and retired military officers with Middle East experience, who warn of the possibility that friendly, conservative Islamic regimes could collapse in the face of widespread street violence. They suggest that this could lead to the loss of bases and access rights that are deemed essential to the ability of the U.S. military forces to project power and reinforce stability in this vital oil rich region.

Broader Foreign Policy Interests

Most participants in the Iraq war debate agree that the U.S. response to the threat posed by Iraq could have ripples extending far beyond the Middle East. Supporters of the Administration’s policy argue that the United States is exercising necessary international leadership as the only superpower, not just to eliminate a WMD threat but also to support the international system and the rule of law, and that

⁸¹ Bill Keller, “The Sunshine Warrior.” *New York Times Magazine*, Sept. 22, 2002:

⁸² During a February 16, 2001 appearance on *Crossfire* Perle was asked about the rising anti-Americanism in the Arab and Muslim world in response the growing intensity of Israeli-Palestinian violence. He responded that he believed “that Arabs, like Americans, like Europeans, gravitate towards winners, and they have contempt for losers....When they see us prepared to take Saddam off and deal with him effectively, we will have support among his neighbors.”

the outcome will vindicate U.S. policy even in the eyes of domestic and foreign critics. The Administration contends that its determination to use preemptive military force, if other means do not suffice to disarm Iraq, serves to impress allies and other powers with U.S. “resolve” and leadership. These officials note that the Administration’s success in getting unanimous consent for UNSC Resolution 1441 validates both its commitment to working with Security Council members and American allies as well as its tactic of combining pressure and resolve with dialogue and compromise.

Critics of the Administration’s strategy argue that threatening to go to war without explicit Security Council authorization, let alone carrying out the threat, could have both short and long term negative implications for U.S. interests. They note that even Britain and other allied or friendly countries which agree with the Administration’s objectives, continue to express concern about what some describe as an unnecessary “rush to war.”⁸³ As of late February 2003, both the British and Spanish governments, two of the strongest supporters of U.S. policy, have indicated serious concern about massive anti-war demonstrations and other indicators of public opposition, and have strengthened their insistence on a serious effort to obtain a second Security Council resolution. The Administration has indicated it will support this effort.⁸⁴

Opposition to U.S. policy by countries such as France and Germany may be rooted in specific national interest perspectives, including economic interests in Iraqi oil and concern that if the United States acts without the United Nations, they will have no more means to influence, in this instance, restrain, U.S. policy. Press coverage of Europe and polling data suggest for that reason that much of the division is also a matter of differing styles of leadership, different political institutions and means of reaching compromises, and even culture. In respect to styles of leadership, a veteran British columnist with the *Financial Times* has argued that what is viewed in Europe as a “belligerent” posture on the part of the President and some senior U.S. officials “more than anything else, gives the Europeans, feckless as they can sometimes be, the heebie-jeebies.”⁸⁵

Some analysts and commentators who oppose preemptive war without support from the U.N. Security Council concede that the Administration has been gaining increasing international support through the use of various forms of leverage, but some see the cost as being too high in terms of lingering resentment of what some view as American strong arm tactics. They point to numerous opinion polls in Europe and the Middle East indicating deep resentment at what respondents see as American bullying. According to a poll taken by the Pew Research Center for the People and the Press, the American image has plunged most sharply in Arab and

⁸³ James Blitz and James Harding, “Blair to Urge Bush to Wait for New Resolution.” *Financial Times*, Jan. 31, 2003.

⁸⁴ Colum Lynch, “Bush to Work for 2nd U.N. Resolution.” *Washington Post*, Feb. 19, 2002: A24; Glenn Frankel, “Blair Under Siege Over Stance on Iraq.” *Ibid.*, Feb. 19, 2003: A1, A24.

⁸⁵ Jurek Martin, “All Will Be Forgiven If Bush Is Right About Saddam.” *Financial Times*, Feb. 1/Feb. 2, 2003: II.

other Islamic countries, but also among key regional allies such as Turkey and Pakistan, and among European and Asian allies. Despite considerable criticism of U.S. policy in Europe, the polls reportedly also show that United States is still viewed positively overall.⁸⁶

The governments of parliamentary democracies face particular dilemmas in deciding whether to support U.S. policy or accede to U.S. demands when the public is strongly opposed, as is the case in most European countries and Japan. For instance, German Chancellor Gerhard Schroeder's ruling coalition is widely believed to have won Germany's closest parliamentary election since the end of World War II in part by opposing U.S. policy on Iraq. Now that Schroeder is in power, however, he faces strong criticism from opposition parties in the Bundestag for "isolating" Germany from European Union (EU) partners as well as for his handling of domestic issues. Observers view the publication of an open letter supporting U.S. policy by eight NATO allies as a calculated reproach to Schroeder.⁸⁷

The newly elected Justice and Development Party in Turkey, which draws support from Islamists, faces an even greater dilemma. A significant segment of the Turkish public generally opposes a large buildup of U.S. forces at American bases in Turkey. In addition, the Turkish people tend to associate prolonged economic deterioration to the economy with the 1991 war against Iraq and its aftermath. While the Turkish military is still viewed as strongly in support of maintaining a close working relationship with United States' forces, the rise of democracy in Turkey has made it much more difficult for Ankara to follow its traditional policies. In response to both to the views of Turkish civilian political leaders and public sentiment, the Turkish government has sought to limit the size of the American military buildup and to seek significant monetary compensation in exchange for supporting a possible war.⁸⁸ As of late February 2003, the United States and Turkey appeared close to resolving an impasse over the extent of U.S. economic compensation, and Turkey's role as a conduit for U.S. ground forces into Northern Iraq.⁸⁹

Britain's Prime Minister Tony Blair, the strongest supporter of U.S. policy, also faces overwhelming public opposition to preemptive war with Iraq and a potential revolt in his ruling Labor Party. Britain's interests are more clear, however, due to a well-established policy of compensating for Britain's decline as a world power by becoming the closest ally of the United States, while also acting as an intermediary

⁸⁶ Howard LaFranchi, "U.S. Unpopular Among Key Allies." *Christian Science Monitor*, Dec. 6, 2002. See also CRS Report RS21336, *Iraq: the Turkish Factor*, by Carol Migdalovitz.

⁸⁷ Haig Simonian and Ian Bikerton, "Schroeder's Anti-War Approach Blamed for 'Isolating' Germany." *Financial Times*, Jan. 31, 2003: 3.

⁸⁸ Leyla Boulton and Judy Dempsey, "Turkey Wants to Limit U.S. Forces's Size." *Financial Times*, Jan. 20, 2003: 3.

⁸⁹ U.S. Forces in Gulf Region Top 200,000 as Turkey Nears Accord to Use of Territory," *AFP*, Feb. 22, 2003: 8:36 p.m.

between the United States and the European continent.⁹⁰ Although this role appears to be faltering in the case of Britain's influence with France and Germany, the perceived importance of the American connection may be sufficiently recognized among opinion leaders for Blair to prevent or ride out any rebellion in Blair's ruling Labor Party. Much could depend on whether Britain and the United States are able either to gain a second Security Council resolution that forces the issue with Iraq.

Somewhat ironically, among those who warn most forcefully about the potential long term consequences of U.S. policy towards Iraq, are several self-described academic "Realists"—believers in the inevitability of power rivalries among nation states and the consequent necessity for occasionally using military force. Rather than criticizing the Administration from an internationalist or multilateralist point of view, these commentators argue simply that the costs of acting in the face of international opinion could include a weakening the NATO alliance, violent reactions in the Middle East that could undermine friendly, conservative regimes, and most important, possibly weaken the thus far highly successful international cooperation on the war against al Qaeda. In addition, the Realist perspective sees the Administration's course as generating increased opposition to other important American agenda items that require cooperation from other countries, such as expanded global free trade.⁹¹

Issues Related to International Law

The Bush Administration has asserted that if it decides to attack Iraq to overthrow Saddam Hussein it will be acting in complete accord with customary international law regarding legitimate self-defense, and that such action is also justified under previous but still operative U.N. Security Council Resolutions.⁹² In addition, as expressed in his annual State of the Union address, President Bush and supporters of preemptive war to disarm Iraq also argue that the requirements of protecting U.S. security alone should govern U.S. actions. The President received one of the loudest ovations when he stated "the course of this nation does not depend on the decisions of others...."⁹³

Critics of the Administration's policy towards Iraq in Congress and elsewhere contend more categorically that preemption would not only violate international law but would also set an undesirable precedent, which other countries might view as

⁹⁰ Philip Stephens, "Blair Plays High Stakes in the Game for Pivotal Power." *Financial Times*, Jan. 27, 2003: 13.

⁹¹ Prominent academic Realists who have criticized U.S. policy towards Iraq as well as the conduct of anti-al Qaeda operations in Afghanistan include Professors John Mearsheimer of the University of Chicago, Stephen Walt, of Harvard, and Stephen Van Evera and Barry Posen of M.I.T., Nicholas Lemann, "The War on What?" *The New Yorker*, Sept. 16, 2002: 36-44.

⁹² Dafna Linzer (Associated Press), "U.N. Action on Iraq Hinges on Reading of Gulf War Cease Fire." *Salt Lake City Tribune*, Nov. 2, 2002.

⁹³ Dana Milbank and Mike Allen, "Bush Stiffens Warning of War With Iraq, Says Hussein Missed His Final Chance." *Washington Post*, Jan. 29, 2003: A1, A9.

applying equally to their perceptions of threat from their neighbors. These critics are equally adamant in their belief that the new National Security Strategy report, released by the White House in September 2002, puts the United States at odds with international law, since it makes the option of using preemptive force in the face of WMD threats a matter of national policy. Critics acknowledge that the United States has long considered preemption an option, but they contend that elevating it to the level of a publicly-stated policy, albeit one that would not be employed in all cases, will have negative ramifications for U.S. security and other interests.⁹⁴

Former Secretary of State Henry A. Kissinger, in a Washington Post OpEd article in August 2002, expressed general support for the Administration's position on the use of force even while warning of the potential negative consequences for the international system. Kissinger agreed with some opponents of U.S. policy who have argued that waging preemptive war is not in keeping with long-standing interpretations of international law and the United Nations Charter, which the United States largely drafted and ratified. However, Kissinger also argued that the rise of international terrorism and the proliferation of ballistic missiles and nuclear weapons have created a new situation that requires a new concept of legitimate actions of self-defense. While accepting that Iraq's actions create an "imperative for preemptive action," he warned nonetheless that it would not be in the U.S. interest to create a precedent that might be adopted by other countries. Consequently, he urged the Administration also to work to create a new international regime for addressing the dangers of nuclear proliferation.⁹⁵

The international law issue is likely to remain a matter of dispute so long as the Administration stresses its right to use preemptive force, or actually uses military force against Iraq or other countries. Some legal scholars maintain that the *degree* of threat posed to national security is the governing criterion under international law, thus making the "test of necessity" the critical element either under customary international law or the U.N. Charter.⁹⁶ As noted above, this issue of necessity in and of itself remains a major source of contention.

Moral Issues

Those who believe that the United States should base its policies on "moral principles" include some who advocate such an approach for its own sake and others who see the emphasis on morality in foreign policy as an important element of U.S. influence and leadership. Some analysts and commentators note that the Administration has sought the moral high ground by emphasizing that Saddam Hussein personifies evil, and establishing his immoral actions as at least a secondary reason for removing him. President George W. Bush struck a moral tone in his January 29, 2002 State of the Union address, in which he linked Iraq with Iran and

⁹⁴ The White House, *The National Security Strategy of the United States*, Sept. 2002, Sec. III..

⁹⁵ Henry A. Kissinger, "Our Intervention in Iraq." *Washington Post*, August 12, 2002:

⁹⁶ CRS Report RS31314, *International Law and the Preemptive Use of Force Against Iraq*, by David M. Ackerman.

North Korea as part of an “axis of evil.” During an August 2002 visit to the UK, National Security Advisor Condoleeza Rice asserted that Saddam Hussein is an “evil man” who has used chemical weapons on his own people, attacked his neighbors, and sought to advance his WMD capability by flaunting U.N. resolutions. Rice argued that the threat posed by the Iraqi leader made for “a very powerful moral case for regime change.”⁹⁷ The President, in his September 12, 2002, address to the United Nations General Assembly, asserted that “Liberty for the Iraqi people is a great moral cause and a great strategic goal.”⁹⁸ He also emphasized the moral issue in his January 27, 2003, State of the Union address.

Accordingly, the Administration argues that overthrowing Saddam Hussein and creating a new, more democratic government, is a positive moral good. The Administration has particularly emphasized the gross violations of human rights by the Iraqi regime, and has also pointed to evidence that many Iraqis are waiting anxiously for their liberation.

Those who oppose the Administration’s policy on moral grounds pursue at least two different lines of argument. Some, including the United Methodist Council of Bishops, the National Council of Churches, individual Episcopal Bishops, and somewhat less categorically, the United States Conference of Catholic Bishops, have argued essentially that a preemptive strike on Iraq would violate the basic principles of Christian morals and ethics. These critics generally concede that the Iraqi regime is brutal and a potential danger to peace, but not so much as to warrant preventive war.⁹⁹ One of the most categorical statements along these lines is contained in a pastoral letter from the President of the United Methodist Council of Bishops, which asserts that “A pre-emptive war by the United States against a nation like Iraq goes against the very grain of our understanding of the Gospel, our church’s teachings and our conscience.” This statement, and others, have emphasized that at a minimum, war with Iraq, if all diplomatic means fail, should not be initiated without a new authorizing resolution from the U.N. Security Council.¹⁰⁰

Some also see the record of past U.S. cooperation with Saddam Hussein during the 1982-1988 Iraq-Iran war as warranting skepticism about the underlying morality of American purposes. These observers note that in late 1984 the United States reestablished diplomatic relations with Baghdad, which Iraq had broken during the 1967 Arab-Israeli War, and supported Saddam Hussein despite knowledge that his regime was employing chemical weapons against Iranian troops and treating its own citizens with extreme brutality. Although the Reagan Administration by no means

⁹⁷ “Rice Sets Out Case For Toppling Saddam.” *Telegraph* (London), August 16, 2002.

⁹⁸ “President’s Remarks at the United Nations General Assembly,” White House Press Release, Sept. 12, 2002.

⁹⁹ “NCC 2002 General Assembly Calls on President Bush, Congress, to “Do All Possible, Without Going to War” to Resolve the Iraq Crisis”; “Statement on Iraq,” United States Council of Catholic Bishops, Nov. 13, 2002; Jeremy Boyer, “Churches Question the Morality of Striking Iraq.” *Times Union* (Albany, NY) (internet version), Oct. 14, 2002.

¹⁰⁰ “Council of Bishops President Joins Calls for Restraint on Iraq,” *United Methodist News Service*, Oct. 7, 2002.

approved of Saddam Hussein's tactics, its concern that Iran might win the war and spread its revolution to the rest of the region reportedly led it to provide Baghdad with satellite battlefield intelligence, and helicopters that may have been used to spray chemical weapons on both Iranian troops and rebellious domestic opponents. In addition, some now-retired American officials and military officers claim first hand knowledge that Iraq was provided with battle planning assistance.¹⁰¹ Some accounts also claim that in the mid-1980s the National Center for Disease Control and Prevention sold bacteria, fungi, and protozoa that could be used to produce bacteriological weapons to the Iraqi Atomic Energy Commission. Bush Administration officials deny this, responding that the cited Commerce Department files refer to requests, rather than export authorizations.¹⁰²

Critics of the Administration's moral case note that even after the end of the Iran-Iraq war in 1988, the George H. W. Bush Administration continued to maintain cooperative relations with Saddam Hussein and to provide more than \$1 billion in export credits for the purchase of food and various kinds of machinery, almost to the eve of Iraq's invasion of Kuwait. Such aid was continued even after a field report by the Senate Foreign Relations Committee staff and other sources provided credible information that seemed to confirm that in 1988 Saddam Hussein had wiped out whole villages of Kurds with chemical weapons.¹⁰³ The Senate passed S. 2763, the "Prevention of Genocide Act of 1988," on September 9, 1988. The House passed a similar but less far-reaching measure, H.R. 5337, "Sanctions Against Iraqi Chemical Weapons Use Act," on September 27, 1988. Both measures were opposed by the Bush Administration as unwanted constraints on the President's authority, and also fell victim to disagreements between the House and Senate and procedural roadblocks.¹⁰⁴ Other legislative initiatives in 1988 and 1989 also failed to be enacted.

Some who oppose the current Administration's policy on moral grounds acknowledge that governments sometimes must choose "the lesser of two evils" to protect important national security interests. Some accept that backing Iraq over Iran during 1980-88 could be seen as such a case. These observers also contend,

¹⁰¹ Current Secretary of Defense Donald Rumsfeld, then a private citizen after his first tenure as Defense Secretary (1975-1977), was sent to Baghdad as President Reagan's Middle East envoy in late 1983 and early 1984, as part of the process of reopening bilateral relations. Library of Congress, *Iraq Country Handbook*; Christopher Dickey and Evan Thomas, "How Saddam Happened," *Newsweek*, Sept. 23, 2002:35-41.

¹⁰² When asked by Senator Robert C. Byrd in a September 20, 2002 Senate Armed Services Committee hearing, whether the United States might now be "...facing the possibility of reaping what we have sown?", Secretary Rumsfeld responded: "Certainly not to my knowledge. I have no knowledge of United States companies or government being involved in assisting Iraq develop chemical, biological, or nuclear weapons." *Congressional Record*, September 20, 2002 (Senate) Page S8987-S8998. [http://www.senate.gov/~byrd/byrd_issues/byrd_iraqi_bioweapons/byrd_armedsvc_sept19/byrd_armedsvc_sept19.html].

¹⁰³ Peter Galbraith, "Chemical weapons use in Kurdistan: Iraq's final offensive", Staff report to the Committee on Foreign Relations, United States Senate (Washington: U.S. Government Printing Office, 1988).

¹⁰⁴ "Iraq Sanctions," *1988 CQ Almanac*, Congressional Quarterly, 1988: 510-511.

however, that past examples of American “Realpolitik” tend to undermine current claims by the Administration to having the moral high ground. They argue that even if the Administration presently may have other valid grounds for employing preventive warfare against Iraq, past U.S. actions limit U.S. moral authority in this case. While Administration officials have not directly addressed the issue of the past relationship between the United States and Iraq, they strongly assert that both Saddam Hussein’s past and current behavior make his removal a moral imperative.

Conclusions: Future Issues Driven by Future Developments

The Administration’s success in gaining unanimous approval of Security Council Resolution 1441 on November 8, 2002 has not significantly changed the basic issues in the debate. Baghdad’s recalcitrance thus far reinforces the view of those who have described the return of inspectors as a waste of time. On the other hand, supporters of giving the inspectors more time argue that if Baghdad decides, in the face of an impending invasion, to fully and proactively cooperate with the inspectors, or if the inspectors should gain breakthroughs in spite of Iraqi efforts, some answers might be found to currently unresolvable questions about Iraq’s WMD programs. At a minimum, it is argued, the United States will be in a position to obtain stronger international support for its cause.

Thus far, the failure of the U.N. inspectors to find a significant number of proscribed weapons or materials has created a dilemma for the Administration. As of late February 2003, key members of the U.N. Security Council continue to oppose, at least publicly, adopting a second resolution authorizing military action without more proof of the Iraqi threat. Both Hans Blix, the chief inspector, and a number of permanent and rotational Security Council member countries have called for giving the U.N. inspectors more time to carry out their work.¹⁰⁵

As of late February 2003 the Administration appears to be planning one last effort to get Security Council support in the form of a second resolution authorizing military force. However, President Bush and other senior officials also have indicated their reluctance about making the effort because of concern that the United States might get “mired down” in the process.¹⁰⁶ The Administration’s willingness even to consider seeking a second resolution appears to be aimed at strengthening congressional and public support and responding to the concerns of some of the strongest supporters of U.S. policy – Britain, Spain, and Italy – and also to give some political cover to reluctantly supportive Arab leaders. Almost all U.S. allies have taken the position that a second resolution authorizing force is a necessary condition

¹⁰⁵ Colum Lynch, “U.S. Defers Allegation of Iraqi Breach.” *Washington Post*, Jan. 18, 2003: A15; Karen DeYoung, “A Skeptical U.N.” *Washington Post*, Jan. 19, 2003: A1, A20.

¹⁰⁶ Richard W. Stevenson and Julia Preston, “Bush Meets Blair Amid Signs of Splits On War Role.” *New York Times*, Feb. 3, 2003: A1, A8.

for cooperating with a U.S. invasion.¹⁰⁷ Some analysts also predict that France and possibly even Germany can be brought into the coalition if the Administration agrees to give the inspectors more time either to discover compromising evidence or to declare that Iraq is not cooperating. Since U.S. forces are not likely to be fully in place until the end of February, at the earliest, some observers suggest that the Administration would have little to lose and much to gain by agreeing to give the inspectors a few more weeks. However, the escalating transatlantic rhetoric, moves by France and Germany such as trying to block NATO from dispatching defensive military equipment to Turkey, and growing antagonism between France and the newer NATO members in Eastern Europe, appear to have significantly reduced the possibility of eventually presenting a united front to Iraq.

Should the United States go to war without the clear approval of the U.N. Security Council, the issues of international law and the morality of using military force could gain added salience. In that event, the ultimate impact on U.S. international standing likely would depend heavily on the course of the war. If a military or political debacle or a major disruption of international oil supplies should occur as a consequence of an invasion that did not have at least nominal U.N. and international approval, the consequences for U.S. foreign policy and leadership likely could be significant. A wave of instability in the Middle East, should it occur, would be particularly harmful to U.S. global leadership, not to mention the direct costs to U.S. interests such as the possible loss of military bases and access in the Persian Gulf region. If a comparatively successful outcome should result, with low American, allied and Iraqi civilian casualties, and if the region remains comparatively stable, U.S. standing and influence could rise regardless of whether it acted with formal U.N. approval. Some, however, judge that the longer term negative influence on U.S. alliance relations would be significant.

The relative degree of success or failure in organizing a post-Saddam government, and preventing chaos or the breakdown of Iraq's territorial integrity, also may have significant impact on the level of international support for reconstruction. If the Administration should go to war without a second U.N. resolution authorizing force, U.S. allies and the international community might not be even as forthcoming as in the case of Afghanistan, where—skeptics note—nearly a year after the collapse of the Taliban, little evident progress has been made towards reconstruction.¹⁰⁸

The President's impatience with Iraqi obstructionism and Security Council procedural delays has caused many observers to conclude that a conflict is highly likely.¹⁰⁹ Most observers expect a relatively easy military victory, with the caveat that winning a war would be much more difficult, and involve high military and civilian casualties, if the Iraqi Army and the Republican Guard were to force U.S.

¹⁰⁷ James Blitz and James Harding, "Blair to Urge Bush to Wait for New Iraq Resolution." *Financial Times*, January 31, 2003.

¹⁰⁸ See CRS Report RL31355, *Afghanistan's Path to Reconstruction: Obstacles, Challenges, and Issues for Congress*, by Rhoda Margesson.

¹⁰⁹ Timothy Garton Ash, "The Capitol Makes Up Its Mind," OpEd, *New York Times*, Dec. 12, 2002: A35.

and allied forces into urban combat. As of late February 2003, however, some observers continue to hold out hope that either Iraq will comply with its obligation to disarm or, if it does not, that a means may be found for the United States and its main military allies to go to war with an authorization from the U.N. Security Council. In particular, some observers continue to hold out the possibility that the two main present antagonists within NATO and the Security Council, the United States and France, might be able to achieve agreement on a new Security Council resolution that includes a narrow enough time frame and sufficiently precise performance criteria to satisfy U.S. requirements, while also directly or indirectly authorizing the resort to military force if Iraq fails to comply. Such a resolution, if achievable, could help repair the current breach in the NATO alliance caused by the sharp disagreement over how to address a threat which all agree is a serious one.¹¹⁰

For many if not most participants in the current policy debate, the fundamental issue is not the ability of the United States to prevail against Iraq and also win the peace in the form a stable successor regime. Even many critics of U.S. policy concede that the United States is likely to gain at least its minimum objectives. If the United States goes to war against Iraq, the Administration's policy may or may not be vindicated by the outcome, but the larger debate about how, and to what ends, and with what degree of international support, the United States should use its great power, will continue.

¹¹⁰ Editorial, "Try one Time Please, Mr. Blix; The United Nations Must Come to a Judgment Soon." *Financial Times*, Feb. 15-16, 2003: 6.