

**Policy Brief Series**

# SMART SANCTIONS: RESTRUCTURING UN POLICY IN IRAQ



Joan B. Kroc Institute

**by David Cortright,  
Alistair Millar, and  
George A. Lopez**

**Contributing Editor, Linda Gerber**



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## Authors

**David Cortright** is president of the Fourth Freedom Forum, and a research fellow at the Joan B. Kroc Institute for International Peace Studies at the University of Notre Dame. Cortright was executive director of SANE, the largest U.S. peace organization, from 1977 to 1987, and was the recipient of a research and writing award for peace and international cooperation from the John D. and Catherine T. MacArthur Foundation. He has authored several books and numerous articles about peace issues. His most recent volume is *The Sanctions Decade: Assessing UN Strategies in the 1990s*, with George A. Lopez (Lynne Rienner, 2000).

**George A. Lopez** is director of policy studies and senior fellow at the Joan B. Kroc Institute for International Peace Studies at the University of Notre Dame. Lopez focuses on economic sanctions and state violence and repression. His work on these subjects has been published in *Chitty's Law Journal*, *Human Rights Quarterly*, *The Bulletin of the Atomic Scientists*, *International Studies Quarterly*, the *International Journal of Human Rights*, *Ethics and International Affairs*, and the *Fletcher Forum* as well as numerous books in which he has been author and editor.

**Alistair Millar** is vice president of the Fourth Freedom Forum and director of its Washington, D.C. office. Millar was a senior analyst at the British American Security Information Council. He has written on a wide range of issues, including sanctions, incentives, and nuclear nonproliferation. His opinion editorials and articles have appeared in several publications and periodicals including the *San Francisco Chronicle*, *Los Angeles Times*, *Defense News*, and the *Journal of International Affairs*.

## Contributing Editor

**Linda Gerber** is research director at the Fourth Freedom Forum. A 1996 graduate of Goshen College, Gerber has worked on issues of sanctions and incentives, nuclear disarmament, UN reform, and conflict diamonds.

## Research Contributors

Richard Conroy  
Kristi Nelson

## Participants and Consultants

Harry Barnes	Meghan O'Sullivan
Alan George	Joe Stork
Sidney King	Joanna Weschler
Barnabas Martin	

## **Preface**

This study is an extension of the ongoing sanctions research undertaken by the Fourth Freedom Forum and the Joan B. Kroc Institute for International Peace Studies.<sup>1</sup> The study explores the possibility of an alternative to the UN comprehensive embargo that has been in place since 1990. Our investigation is prompted by the continued erosion of the economic sanctions and the possible breakdown of controls on Iraq's production of weapons of mass destruction. We are also motivated by a desire to further relieve humanitarian hardships for Iraqi civilians.

Recent events make this study timely. U.S. secretary of state Colin Powell's February 2001 visit to the Middle East region included a call for a new package of "smart sanctions" designed to tighten controls on Iraqi weapons programs but permit general trade in civilian goods. Our aim is to provide a technical study that spells out the meaning of a smart sanctions strategy and is helpful to UN policymakers as they respond to the dilemmas of sanctions in Iraq.

As independent researchers with expertise in sanctions, we offer the varied recommendations in this report independently,<sup>2</sup> uninfluenced by the preferences of any nation or UN delegation. To the extent that there is a bias in the report, it is in the direction of affirming the role of sanctions as a viable tool of Security Council action when global norms are violated, while aiming that such sanctions be as humane as possible.

David Cortright, Goshen, Indiana  
George A. Lopez, Notre Dame, Indiana  
Alistair Millar, Washington, D.C.

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## **Acronyms**

AWACS	Airborne Warning and Control System
CENTCOMM	U.S. Central Command
CSIS	Center for Strategic and International Studies
GPS	Global Positioning Satellite
IAEA	International Atomic Energy Agency
ICA	Import Control Authority
ICAO	International Civil Aviation Organization
LEOS	Low Earth Orbit Satellites
MIF	Maritime Interception Force
OIP	United Nations Office of the Iraq Programme
RF	Radio Frequency
SAMs	Sanctions Assistance Missions
SCR	Security Council Resolution
SLG	Sanctions Liaison Group
SOMO	State Oil Marketing Organisation (Iraq)
UNICOI	United Nations Commission of Inquiry
UNMOVIC	United Nations Monitoring, Verification, and Inspection Commission
UNSCOM	United Nations Special Commission
WEU	Western European Union

# SMART SANCTIONS: RESTRUCTURING UN POLICY IN IRAQ

## **Executive Summary**

This study proposes a narrowly defined and tightly implemented set of smart sanctions focusing on weapons and military-related goods, as an alternative to the current faltering comprehensive sanctions regime. Such a modernized sanctions regime would need to be sustainable over the long term via the support of key UN Security Council members and frontline states. It would remain in effect until such time as Iraq complies fully with the relevant Security Council resolutions and fulfills its disarmament obligations.

THE STUDY REACHES THE FOLLOWING CONCLUSIONS:

### **Embargo Arms Not Trade**

- Revamp the current embargo in favor of a sharpened sanctions system aimed at two key targets—the control of financial resources generated by the export of Iraqi oil, and a prohibition against imports of weapons and dual-use goods;
- Maintain controls on Iraqi oil revenues and military-related imports, but permit trade in civilian consumer goods to flow freely;
- Contract out to commercial companies the responsibility of certifying and providing notification of civilian imports into Iraq;
- Permit the ordering and contracting of civilian goods on an as-required basis rather than in 180-day phases.

### **Preserve Financial Controls**

- Continue to channel all Iraqi oil revenues through the UN escrow account;
- Contract with an independent multinational oil brokering firm, through which all records and payments for permitted oil purchases would pass, to manage the sales of Iraqi oil and monitor any illegal surcharge payments;
- Establish a new compensation mechanism to provide economic assistance to neighboring states and begin paying Iraq's external debt;
- Freeze the personal financial assets and ban the travel of Saddam Hussein and his family, senior Iraqi political and military officials, and those associated with weapons production programs.

### **Strengthen Verification and Monitoring**

- Tighten land-based monitoring by establishing at major border crossings into Iraq fully-resourced Sanctions Assistance Missions, modeled on the UN sanctions experience in Yugoslavia;
- Establish a system of electronic tagging of approved dual-use imports;
- Create a special investigative commission to track down and expose sanctions violators;
- Assist member states in establishing effective penalties for companies and individuals that violate the ban on exporting weapons and dual-use items to Iraq;
- Require Iraqi-bound cargo flights to submit to UN inspection.

No single element of this smart sanctions package stands alone in wielding sufficient coercive clout. But linked together such controls provide a tightened sanctions regime.

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# THE PRESENT CRISIS

After more than a decade of controversy, the United Nations sanctions regime in Iraq faces an unprecedented crisis. The Baghdad regime continues to defy the provisions of Security Council Resolution (SCR) 1284 (1999), refusing to permit UN weapons inspectors to reenter the country and to complete the disarmament mission mandated in the Gulf War cease-fire resolution, SCR 687 (1991). Recent meetings between a special Iraqi delegation and the UN Secretariat do not appear to have made progress on breaking this impasse. Meanwhile, the international coalition that initially supported sanctions has fractured, sundered by competing military, political, and economic agendas. The comprehensive trade embargo, previously one of the tightest in history, is unraveling in dramatic fashion as:

- More than eighty flights have arrived at the newly reopened Saddam International Airport since August 2000;
- The volume of unauthorized trade with Iraq has increased significantly;
- Syria has reportedly agreed to a new free trade zone and reopened its long-closed pipeline with Iraq;<sup>3</sup>
- Saddam Hussein has sought to escape UN financial controls by imposing a per-barrel surcharge on oil exports;
- The monitoring of Iraqi-bound cargo entering the port of Aqaba ended in December 2000 when the government of Jordan severed its contract with Lloyd's Register.

These trends have raised serious doubts about the viability of the UN sanctions regime in Iraq. They have, as a Brookings Institution study notes, “transformed sanctions fatigue into sanctions defeatism.”<sup>4</sup>

Despite these dilemmas, the United Nations has an enormous stake in preventing the collapse of its policy in Iraq. The goal of completing the UN disarmament mandate is widely supported within the international community. Sanctions have constrained the military capabilities of the Baghdad regime and frustrated its attempts to redevelop weapons of mass destruction. Because of the enormous humanitarian costs involved, however, the UN trade sanctions have lost credibility and support among many nations, especially frontline states.<sup>5</sup>

The present task for the UN Security Council is to find a means of restructuring UN sanctions in a manner that will garner the support of an increasingly reluctant international community and achieve the goal of containing the threat of Iraqi weapons of mass destruction. A reformulation and refinement of sanctions to make them “smarter” is beneficial on its own terms, but also serves to underscore the ultimate goal of UN policy: to convince Iraq to accept fully its international obligations under SCR 1284 and other relevant Security Council resolutions, which when accepted will result in the suspension and lifting of sanctions.

## **The Context of this Study**

The system of smart sanctions outlined here relies on continuing UN control of Iraqi oil revenues and rigorous externally-based monitoring of military-related imports. Trade in nonmilitary, non-dual-use commercial goods is legalized, while restrictions on government finances and weapons-related imports are tightened. The proposed system



seeks—but is not dependent upon—Iraqi government cooperation. Such a system places serious limitations on Iraq’s ability to redevelop its weapons capacity, while easing unneeded restrictions on Iraqi civilians and nonmilitary commercial trade. It aims to restore an effective United Nations coalition determined to prevent Iraq from threatening its neighbors with weapons of mass destruction, and committed to relieving the unnecessary hardships suffered by Iraqi civilians. It also provides a basis for a new momentum to stimulate Iraqi compliance with SCR 1284. See Appendix A for a comprehensive list of the Security Council resolutions referenced herein.

The ideal solution to the sanctions dilemma is Iraqi acceptance of SCR 1284 and compliance with relevant Security Council resolutions. The arms monitoring and dismantlement arrangements mandated in SCR 1284 and SCR 687 require the cooperation of Iraqi government officials. The on-site verification and challenge inspection provisions authorized in these resolutions are essential for the completion and certification of the UN disarmament mandate. The direct monitoring of known or suspected weapons sites is the most effective means of verifying the dismantlement of weapons of mass destruction. If Baghdad refuses to cooperate, however, a sanctions system that is less dependent on Iraqi cooperation offers the best option for preserving military containment until the regime comes into compliance.

This study is divided into four parts. In the first section we describe a series of options for expanding and streamlining the oil-for-food program authorized under SCR 986 (1995) to permit the resumption of nonmilitary trade and the import into Iraq of unlimited civilian goods. These changes would ease humanitarian hardships resulting from sanctions and increase the potential for civilian economic development. Part two emphasizes the importance of maintaining UN control of Iraqi oil revenues and examines ways of using the present financial capture mechanism to impede the acquisition of weapons and military-related goods. Part three describes the monitoring and verification mechanisms that would constitute the core of the proposed arms restriction system. Options are proposed for improving the monitoring of cross-border traffic, the continued inspection of maritime shipping and a new system for monitoring cargo flights. These mechanisms would be designed to prevent the import into Iraq of weapons and military-related goods. Part four provides a brief sketch of the diplomatic strategy UN officials might employ in their dealings with the government of Iraq in an attempt to secure compliance with SCR 1284.

# EMBARGO ARMS NOT TRADE

Concerns about humanitarian conditions in Iraq have been and remain a significant factor in international public opinion. Sympathy for the fate of innocent Iraqis has contributed to eroding support for UN sanctions. This widespread public unease cannot be dismissed simply by pointing to the Baghdad regime's manipulation of the suffering of its people, and its unwillingness to utilize fully the resources available in the oil-for-food program.<sup>6</sup> Nor can it be countered by arguing, as reports of the secretary-general document, that the humanitarian supplies entering the country are beginning to make a difference in improving the lives of many people.<sup>7</sup> Notwithstanding these facts, the perception of humanitarian suffering in Iraq is so pervasive that no amount of argument to the contrary is likely to be effective in swaying public opinion. The best way to respond to these concerns, and to shore up public support for UN policy, is to accommodate the demand for an easing of sanctions on Iraqi civilians.

The UN Security Council should enact a fundamental change in the sanctions regime that permits the import into Iraq of all civilian consumer goods while retaining strict prohibitions against the importation of weapons and military-related items. Non-oil exports, which prior to the Gulf War accounted for less than 5 percent of total export revenue, would be freely permitted. No attempt would be made to channel the limited income generated by non-oil exports through the UN escrow account. This would be extremely difficult in any case and would undermine the potentially positive effects the opening of civilian trade could have on Iraqi society. The lifting of restrictions on non-oil exports could stimulate private sector trading in Iraq and might have the effect of encouraging non-state economic activity.<sup>8</sup>

The proposed lifting of all limits or restrictions on civilian imports would take place within the framework of the current mechanism for capturing Iraqi oil revenues authorized by SCR 986. In effect this would be an extension and as proposed below a renaming of the oil-for-food program. Existing controls over Iraqi oil revenues would be retained. Imports of civilian goods into Iraq would continue to be paid through the UN escrow account. These procedures would preserve UN financial control and oversight of Iraqi expenditures, and prevent the use of controlled oil revenues for the import of weapons and military-related goods.

The proposed expansion of permitted imports would continue a trend that has been underway for several years. Since the 986 program became operational in December 1996, successive Security Council resolutions have steadily broadened the program. Initially conceived as an emergency relief operation for the delivery of food and medicines, the program has expanded to cover additional categories of imports for civilian economic activity and infrastructure development. At the end of the program's second year of operation in February 1998, the Security Council adopted SCR 1153 expanding the revenues permitted from the sale of oil and approving support for the oil sector, electricity, agriculture, water and sanitation, and education. More recently, support has been approved for housing, transportation, and telecommunications. Some observers have informally referred to this enlarged program as "oil-for-stuff." The emphasis has shifted from simple humanitarian relief to broader economic development, and the program has expanded into a mechanism for rehabilitating the Iraqi civilian economy.

In many respects it is a misnomer to label the current system an oil embargo. Iraqi oil exports are not embargoed but merely regulated, so that the revenues are used only for approved purposes. Since the 986 program began in late 1996, Iraqi oil exports have been permitted for the purchase of humanitarian and other civilian goods. Iraq is currently capable of producing nearly as much oil as it did prior to the Gulf War.<sup>9</sup> Its potential annual oil export revenues are approximately \$20 billion at present prices. This is hardly what one would call an oil embargo.

The changes proposed here would continue and expand the trend toward loosening controls on the civilian economy. All imports of nonmilitary and non-dual-use civilian consumer goods would be permitted. Only those goods that appear on the list of dual-use or weapons-related goods, mandated by SCR 1051 (1996), would require prior approval by the committee created by SCR 661 (1990). All other civilian consumer goods could be imported freely into Iraq, subject only to the requirement of notification.

To facilitate the proposed adjustment, the Security Council should permit the ordering and contracting of civilian goods on an as-required basis rather than in phases. The current system of 180-day phases was instituted when the 986 program was merely a relief operation involving the distribution of food and medicine. This requirement has become dysfunctional in a program that involves the import of items with long lead times for infrastructure development, oil industry rehabilitation, and other purposes. Ending phases and the accompanying requirement for distribution plans every six months would greatly simplify the 986 program. Making such a change would not reduce UN oversight and control of Iraqi imports. All orders would continue to be notified to the secretary-general or reviewed by the Iraq sanctions committee. All payments would continue to be made through the UN escrow account. The Office of the Iraq Programme (OIP) would continue to report to the Security Council every 180 days on the status of the program. The only change would be the elimination of unnecessary bureaucratic requirements.

#### **Redesignate the 986 Program as a Civilian Economic Development Program**

In accordance with the proposed broadening of the program, and in recognition of the significant changes that have already occurred, the Security Council should redesignate the 986 program as the "Civilian Economic Development Program." The mission of the program would be redefined to emphasize its role in assisting the development of the Iraqi civilian economy and improving the social and economic well-being of Iraqi citizens. The proposed Civilian Economic Development Program would remain in place until the Baghdad regime complied fully with Security Council resolutions, at which point the remaining sanctions on Iraq would be lifted.

The proposed changes would remove impediments to the flow of humanitarian goods to Iraq and make more materials available for much needed public works such as restoring water and power networks and rebuilding education facilities. The secretary-general has repeatedly reminded the Security Council, however, that the implementation of the humanitarian program is impeded by the absence of a cash component.<sup>10</sup> He has urged that a cash component be made available for the purchase of locally produced goods and to meet the local costs of essential civilian needs. This would provide income to local producers and stimulate agriculture and other forms of economic development. Some member states of the Security Council have opposed the use of a cash component. This is in spite of plans prepared under the supervision of the Office of the Iraq Programme for regulating cash disbursements and in spite of the secretary-general's appeals that the program be implemented. An expert mission in March 2001

formulated ways of using 600 million euros as a cash component to cover the cost of installation, training services, equipment and spare parts in the oil sector.<sup>11</sup> The UN Humanitarian Coordinator in Baghdad should now be given the authority to reach an accord with the government of Iraq on how to put these plans into practice in all relevant sectors. This is an urgently needed step toward encouraging greater civilian economic development in Iraq.

The expansion of the 986 program and its redesignation as the Civilian Economic Development Program would signal to the international community and Iraq that the Security Council has heard the plea for humanitarian relief and the improvement of civilian commerce. It would send a message that Iraqi civilians are no longer the target of UN sanctions, and that henceforth pressure will be focused exclusively on Iraqi leaders and their weapons programs. Shifting the focus of sanctions from civilian trade to military goods changes the nature of the global discourse on UN policy in Iraq. Attention shifts from humanitarian concerns to the need for containing the military ambitions and weapons of mass destruction of the Baghdad regime. This change in political climate could enable the Security Council to fashion a new consensus and forge the necessary political unity to assure implementation of controls on finance and military-related imports.

#### **Permit Limited Foreign Investment in Iraq**

Foreign investment can be an important element of economic development and could help Iraq generate employment and overcome the effects of decades of war and sanctions. Foreign direct investment typically takes the form of joint ventures, in which the host government gains a share of assets and of the resulting income. The host government also obtains revenue from fees and by taxing the capital gains and profits of the foreign investor. Unrestricted foreign investment could produce substantial revenues for the Iraqi government. There would be no way to control such transactions or to channel the resulting capital gains and revenues into the UN escrow account.

It may be possible, nonetheless, to permit some limited and controlled forms of foreign investment in the Iraqi economy. The greatest demand for foreign investment is in the oil industry. Such investment would enable Iraq to increase its oil production capacity, thereby channeling additional revenues through the UN escrow account and into the Civilian Economic Development Program. It would also generate additional supply in world markets. The prospect of such investment would appeal to those countries—particularly France and Russia—that invested in Iraq in the past and are seeking to reinvest in the future.

If foreign investment is to proceed, however, it should be restricted to a narrow “buy-back” model in which the foreign companies provide capital equipment and expertise in exchange for cash or deliveries of oil. A special committee of investment specialists and financial auditors should be established to advise the Security Council on devising criteria for foreign investment. Foreign firms would then be permitted to invest in the Iraqi economy only if they followed the established criteria, and if they obtained approval from the Iraq sanctions committee for each investment project.

#### **Contract with Commercial Firms to Facilitate Import Review and Notification**

Since the 986 program began, the UN Office of the Iraq Programme has performed admirably in processing and certifying the many thousands of applications for imports into Iraq. As the volume and range of imported goods has increased, the Security Council has mandated improvements in the program. Under SCR 1284 and SCR 1302 (2000), the Security Council specified additional categories of imports that do not

require prior approval by the Iraq sanctions committee. These imports are simply notified to the secretary-general and financed in accordance with the usual procedures through the UN escrow account. For each of the categories that have been approved by the Security Council, a list of “fast track” items that are merely notified to the secretary-general has been or is in the process of being prepared. This streamlining of the approval process has significantly improved the functioning of the 986 program and expedited the delivery of supplies to the Iraqi people. As of 31 October 2000, OIP had received a total of 12,652 applications for the import of goods into Iraq, worth a value of \$19.72 billion. Of that total, 9,866 applications with a value of \$16.2 billion had been either approved by the Iraq sanctions committee or notified to the secretary-general.<sup>12</sup>

As the volume of goods flowing to Iraq increases, the procedures for contract review and notification will need to be further streamlined. To facilitate and expedite the processing and certification of civilian imports, the Security Council should contract with one or more credible commercial companies with experience in the management of international trade to assist in processing notifications and reviewing contracts for potential dual-use items. The commercial firm or firms would be hired to expedite the processing of commercial imports so that these goods can be shipped more rapidly and efficiently. Contracting out these services to one or more private companies would improve the overall efficiency of the Civilian Economic Development Program, enhance the scrutiny of potential dual-use items, and enable the UN to manage the growing volume of permitted imports. The additional costs involved would be charged to the UN escrow account.

#### **Minimize Holds on Imports and Make the Review Process More Transparent**

The efficiency of the current system for reviewing and notifying imports is impeded by the many delays and holds placed on items. The secretary-general referred in a recent report to “the unacceptably high level of the applications placed on hold.” As of 31 October 2000, applications valued at \$2.3 billion, representing 14.6 percent of the total, were on hold in the Iraq sanctions committee.<sup>13</sup> For such categories as electricity, agriculture, water treatment, and education, the percentage of holds is much higher. Disallowing or delaying such items often creates a multiplier effect, since they may be used in combination with other approved items. The dollar consequences of sanctions committee holds are thus greater than the \$2.3 billion tally of goods currently on hold. The United States and the United Kingdom have been responsible for many of these holds. U.S. officials defend their decision to place holds on particular items by pointing to the incomplete or noncompliant nature of many applications. They also argue that some of the items in question may have direct or indirect applicability to the development of weapons capabilities.

Member states have the right to block or delay the import of certain items and will no doubt continue to exercise that authority in the Iraq sanctions committee. In so doing, however, they should recognize that excessive holds create an atmosphere of suspicion and disagreement among Security Council member states that can weaken the political support needed for the effective implementation of sanctions. It is important to recognize that applications for importing items are twice reviewed before they reach the sanctions committee—first by the Office of the Iraq Programme, and then by weapons inspection experts. The duties of the sanctions committee might sensibly be rationalized by restricting its functions to reviewing only those contracts that have elicited questions or concerns in previous reviews. This would serve to increase efficiency and reduce the excessive number of holds. If member states place holds on particular import applications, they should specify the reasons for their decision and communicate these reasons to other member states and the public. Greater transparency would help to enhance intergovernmental credibility as well as public trust and confidence in the review process, and thereby strengthen the legitimacy of the overall system.

# PRESERVE FINANCIAL CONTROLS

Maintaining the current mechanism for capturing Iraqi oil revenues is vital to enforcing a continuing arms embargo. The present system requires that payments for Iraqi oil be channeled through the UN escrow account. This provides a highly effective means of preventing the use of these revenues for the purchase of prohibited military-related items. Border monitoring, investigative commissions, and other steps as recommended in this report can aid in the enforcement of the arms embargo, but no tool is more effective than the control of Iraqi oil revenues. Preserving such control would greatly aid the military containment of Iraq and the enforcement of sanctions on weapons and military-related goods.

## **Maintain the UN Escrow Account**

Iraq's inability to use its vast oil revenues for military purposes over the past decade has had a significant impact on the regime's military capabilities. Rough calculations suggest that since 1990 the Baghdad regime has foregone nearly \$150 billion in oil revenues due to sanctions.<sup>14</sup> If the government of Saddam Hussein had been able to spend those resources as it wished, a significant portion would have been devoted to the purchase of weaponry and the development of weapons of mass destruction.

Because of sanctions Baghdad has been unable to rebuild its war machine to previous levels. Its aircraft and major armored vehicles are more than a decade old and suffer from a lack of spare parts. As a result, Iraq is weaker militarily now than it was when it invaded Kuwait in 1990. According to a February 1998 report from the Center for Strategic and International Studies (CSIS) in Washington, D.C., Iraqi armed forces suffer from "decaying, obsolete, or obsolescent major weapons."<sup>15</sup> Iraq's black market weapons smuggling efforts are only "an erratic and inefficient substitute for large-scale resources," according to the CSIS report. The denial of control over oil revenues has thus diminished Iraq's ability to commit military aggression against its neighbors, or to develop and deliver weapons of mass destruction.

Some UN member states have argued that the embargo on weapons and military-related imports could be maintained without controls on Iraqi oil revenues. France proposed in a 1999 nonpaper, for example, that the oil embargo should be lifted and that "one should ensure that revenues generated by oil exportations are not used for military purposes."<sup>16</sup> This approach would have commercial benefits and would obviate the complex requirements for monitoring civilian imports outlined above, but it would have significant security drawbacks. Relinquishing control over oil revenues would greatly complicate the task of preventing the redevelopment of Iraq's weapons capabilities.

If oil revenues are simply handed over to the Baghdad regime without restriction, controlling imports and weapons purchases will become more difficult. UN member states would have to establish an effective system of national controls over military-related exports to Iraq. Countries that were former trading partners and weapons suppliers to Iraq would bear a special responsibility in this regard. Given the lack of compliance with previous UN arms embargoes, however, there is reason to doubt whether existing means of national control would be adequate.<sup>17</sup> Member states have been unable to restrict the flow of weapons to conflicts in Africa.<sup>18</sup> Preventing arms supplies to the potentially larger and more lucrative Iraqi weapons market would be

even more difficult. Export controls far more vigorous than those in effect today would be necessary to enforce an arms embargo on Iraq in the absence of financial controls.

Eliminating the UN escrow account would also complicate the task of international monitoring and verification. As noted in part three of this report, prohibiting weapons imports into Iraq will require an effective system of air, land, and sea monitoring, including fully-resourced Sanctions Assistance Missions (SAMs) at major border crossings. Establishing and maintaining such a monitoring system will be very expensive. Without financing from the UN escrow account, UN member states would be required to make substantial long-term financial commitments to support these and other ongoing verification arrangements.

The offer to lift UN financial controls has value as an incentive to the Iraqi government to cooperate with Security Council resolutions and permit on-site monitoring and inspection. But this offer is already incorporated in UN policy as part of SCR 687. According to paragraph 22 of that resolution, sanctions will be lifted if Iraq allows inspectors to verify the dismantling of its weapons of mass destruction. As noted in part four below, UN officials should reiterate and clarify these conditions, to confirm that restrictions on oil revenues will indeed be lifted when Iraq fulfills its disarmament obligations. To end revenue controls without such a commitment to compliance, however, would undermine UN policy and reward Iraqi intransigence.

Maintaining the present system of UN financial controls remains the best option for enforcing the prohibition against the import into Iraq of arms and military-related goods. The financial capture mechanism and UN escrow account are a unique and highly effective means of ensuring that oil revenues are not used for military purposes. Abandoning these controls would weaken restrictions on Iraq's war machine and could lead to a highly destabilizing and threatening rearmament program.

#### **Contract with a Private Brokering Firm to Manage Iraqi Oil Sales**

In the fall of 2000, in an attempt to sow confusion in international oil markets and undermine UN sanctions, Iraq demanded that oil purchasers pay a surcharge on each barrel of oil into a separate fund uncontrolled by the United Nations. The UN Security Council flatly rejected the proposal, and Iraq promptly shut down its oil pipelines. The spigots were reopened after a few days, but Baghdad continued to pressure individual oil purchasers to pay the surcharge. Major oil companies and reputable buyers refused Baghdad's demands. As a result, daily oil production dropped from approximately 2.3 million barrels a day in the fall of 2000 to less than a million barrels a day in December 2000. Nonetheless some purchasers (often small, obscure firms, or such entities as the Ukrainian Communist Party) continued to buy Iraqi oil, and major companies purchased this oil from intermediaries on the secondary market.<sup>19</sup> According to a confidential report by oil overseers attached to the Office of the Iraq Programme, the original buyers are paying a surcharge of 20 to 50 cents per barrel.<sup>20</sup> This is a serious violation of sanctions and a breach of UN financial controls.<sup>21</sup> Officials at the OIP in New York state that they have no capability or authority to monitor surcharge payments by oil purchasers. This indicates the need for more vigorous control of the brokering of Iraqi oil exports to prevent the payment of illicit surcharges.

To ensure greater control over the purchase and secondary marketing of Iraqi oil, the UN Security Council should contract with an independent commercial brokering firm to manage the sales of Iraqi oil. A reputable international firm should take charge of managing these sales and serve as the clearinghouse for all purchases of Iraqi oil. It would verify volumes, price, and the handling of payments to the UN escrow account.

The firm could work with Saybolt, which currently verifies the quantity and quality of oil exported from Iraq. It could also seek input and advice from the oil overseers who work with OIP. The independent brokering firm should be given explicit authority to monitor the secondary marketing of Iraqi oil and to prevent entities that pay illegal surcharges from purchasing Iraqi oil. Entities that are found to have paid illegal surcharges would be barred from purchasing Iraqi oil for a specified period.

The proposed addition of an independent oil brokering firm would increase UN control and oversight of Iraqi oil sales and provide another layer of protection against illicit payments to the Baghdad regime. The additional expenses could be charged to the escrow account. See Appendix B for charts outlining the current oil marketing process and the changes that would occur with the addition of an independent commercial brokering firm.

Some experts have argued that the demand for oil is too great, and the level of profit too high, to permit effective control over the brokering of Iraqi oil. But the UN and individual member states have maintained control over Iraqi oil exports for more than a decade now. If the UN Security Council were to establish a new system for the brokering of Iraqi oil, nations and corporations would be legally bound to comply. Oil purchasers and independent brokers would cooperate if this were the only way to legally purchase Iraqi oil. The limited success of Iraq's attempts to manipulate the oil market indicates that most companies prefer to conduct business legally. When the production of Iraqi oil fell because of Baghdad's maneuvers, world oil markets absorbed the resulting shortage without major price increases. This suggests that the oil markets (with the encouragement of governments) are able to make adjustments in response to the special circumstances of oil production in Iraq. It is likely that the addition of a private oil brokering firm, if mandated by the UN Security Council, would have the support and cooperation of governments and major oil companies. Such a brokering operation would add greater transparency and control to the marketing of Iraqi oil, and make it more difficult for purchasers to pay illicit surcharges to Baghdad.

### **Develop a New Compensation Mechanism**

Iraq's neighbors and former trading partners have incurred major economic losses as a result of the decade-long sanctions against the Baghdad regime. Article 50 of the UN Charter acknowledges the special economic problems that arise for third parties when sanctions are imposed, but offers no remedy other than "the right to consult the Security Council." To date these special needs have received little attention, or have been met through singular arrangements, such as the understanding that permits Jordan to import oil directly from Iraq. A more systematic and comprehensive mechanism is needed for addressing third-party concerns. Providing economic adjustment assistance to neighboring states and former trading partners would help to compensate these countries for the losses they have incurred. It might also offer encouragement for their continued compliance with restructured sanctions. It is no secret that "sanctions fatigue" is greatest among neighboring countries and former trading partners. The narrowing and restructuring of sanctions to focus on prohibiting arms imports will help to address some of these concerns, as will the legalization and expansion of civilian trade. The prospect of beginning to receive some payment for the special economic needs resulting from sanctions might further encourage this commitment, and thereby help to shore up international support for UN policy.

Another of the consequences of a comprehensive sanctions regime is that the target country's legal debt obligations are frozen along with all other economic and financial transactions. As a result, since 1990 Iraq has made no payments on its huge foreign



debt obligations, which have been estimated at more than \$60 billion, not counting compensation claims.<sup>22</sup> Iraq owes Russia approximately \$7 billion and France more than \$3 billion.<sup>23</sup> As long as comprehensive sanctions remain in place, the burden of these future debt payments will continue to hang over Iraq.

The debt obligations of developing countries are increasingly recognized as an obstacle to social development. In recent years the G-7 nations and international financial institutions have approved debt relief measures as a means of providing economic support for developing nations and ameliorating humanitarian conditions among the world's neediest populations. After a decade of sanctions, Iraq has become a nation in need of social development and humanitarian relief. Paying some of Iraq's debt-related financial obligations would help to encourage this long-term economic development and lessen the country's future debt servicing requirements.

To meet the special economic needs of third parties and begin paying Iraq's foreign debt, the Security Council should create a new compensation mechanism within the UN escrow account. The proposed new compensation mechanism might be modeled on the current compensation fund established by SCR 692 (1991) as a means of processing claims and paying compensation for losses and damages suffered as a result of Iraq's invasion and occupation of Kuwait. SCR 705 (1991) set a ceiling of 30 percent of the proportion of Iraqi oil revenues that could be used for compensation purposes. This was reduced to 25 percent in SCR 1330 (2000). Through December 2000, more than \$11.5 billion had been deposited in the compensation fund. The compensation commission overseeing the fund has received more than 2.6 million claims, seeking total compensation of approximately \$300 billion. Through March 2001 nearly all the claims of individuals had been settled. The total amount awarded (although not fully paid yet) is \$34.5 billion. Most of the remaining claims, which far exceed any conceivable level of available compensation revenue, are for large corporations and governments, including the state of Kuwait. According to the compensation commission's work program, the task of processing claims will be completed by 2003, although the schedule for making payments will stretch well beyond that date.<sup>24</sup> See Appendix C for a chart detailing compensation commission claims.

Because of existing legal obligations it is probably not feasible to use the present compensation fund for the purpose of meeting special economic needs and paying foreign debt. A special fund needs to be created, with its own body of commissioners. The commissioners would assess the economic needs of neighboring states and analyze Iraq's debt obligations to determine priorities for compensation. The Security Council would establish policy guidelines for the new commission, giving priority to nations with the greatest economic need, but otherwise would empower the commission to function independently, in the manner of the current compensation commission. The Council would authorize the use of funds from the UN escrow account to provide resources for the special commission. The new compensation mechanism might be funded at a level of 10 percent of current oil revenues, with a corresponding reduction in the existing compensation fund from 25 to 15 percent.

#### **Impose a Targeted Assets Freeze and Travel Ban**

If Baghdad continues to defy Security Council resolutions, the Council should impose additional targeted measures on the regime's leadership. The imposition of targeted financial and travel sanctions would be an appropriate and measured response to continued Iraqi intransigence. The Council should direct the Secretariat to draw up a targeted list of senior Iraqi officials and their immediate adult family members. The list would encompass Saddam Hussein and his sons and family, as well as other senior mili-

tary and political officials above a designated rank. Also targeted would be individuals known to hold positions of decision-making responsibility in Iraq's programs for the development of weapons of mass destruction. Assistance in identifying such targeted individuals could be obtained from various UN member states and from the files of the UN Monitoring, Verification, and Inspection Commission (UNMOVIC).

The Security Council should direct that the assets of these individuals be frozen, and that all financial transactions with these individuals be prohibited. The Council should also direct member states to deny visas to these individuals and prohibit their entry or transit through any country. In drafting the language for the proposed targeted financial sanctions, the Security Council should adopt the recommendations of the Interlaken process sponsored by the Swiss government.<sup>25</sup> The Council should also heed the recommendations of the Bonn-Berlin process sponsored by the German government in crafting the proposed travel ban.<sup>26</sup> Exemptions to the travel ban should be provided for humanitarian purposes, such as travel for emergency medical treatment and participation in the Hajj. Exemptions should also be provided for designated Iraqi leaders to meet with authorized UN officials on the modalities of compliance with Security Council resolutions.

The proposed freeze on the financial assets of individual Iraqi officials and their families is an extension of the original freeze on Iraqi government assets mandated in SCR 661. The proposed freeze on individual assets would make it illegal for any country to maintain or open accounts of or permit financial transactions with Saddam Hussein and his supporters. Several member states, including the United States, have already adopted such measures. Given the defiant behavior of the regime's leadership, it is appropriate that the Security Council make such measures mandatory internationally. The proposed assets freeze would be directed solely at the regime's leadership and would not create further economic or social hardships for the Iraqi people.

Admittedly, the proposed freeze on individual financial assets would have little immediate impact on Saddam Hussein or his followers. The presence of unregulated financial centers and the ease with which illicit funds can be transferred and hidden make the task of enforcing such measures extremely difficult. Nonetheless, the proposed action would make the sheltering of Iraqi assets illegal and thereby strengthen the authority of the United Nations and member states to seize those assets. Some press accounts suggest that Saddam Hussein and his family may have amassed billions of dollars in recent years through illegal oil sales and by diverting resources that were intended for humanitarian relief.<sup>27</sup> A Security Council decision to freeze individual assets would give authority to law enforcement officials throughout the world to search for and impound such funds. It would also complicate or impede the transfer of any additional assets in the future.

The proposal to ban the travel of designated senior Iraqi officials is not new. The Security Council approved such measures in SCR 1134 (1997) and 1137 (1997). In those resolutions, adopted in response to the regime's refusal to grant access to inspectors from the UN Special Commission (UNSCOM), the Council directed that a list of individuals be designated, in consultation with UNSCOM, and that their entry into or transit through the territories of member states be prohibited. Despite the adoption of these resolutions, no action was taken. A few months after the resolutions were approved, Iraqi officials relented and agreed (at least in writing) to grant UNSCOM inspectors access to potential areas of concern. The immediate purpose of these resolutions was thus achieved. Although cooperation between UNSCOM and the Iraqi government subsequently broke down and then collapsed, the travel ban authorized in SCR 1134 and 1137 was not implemented. The Security Council should now revisit those resolutions and proceed to create the list of designated individuals and impose the recommended travel ban.

# STRENGTHEN VERIFICATION AND MONITORING

As part of the proposed restructuring of sanctions, the Security Council should establish an improved border monitoring and inspection system for controlling the import into Iraq of specified military and dual-use items. The monitoring system should apply to clearly defined “all in one” lists, containing purely military and dual-use goods. Developing a streamlined and more manageable list of restricted military and dual-use items will help to reduce many of the holds imposed by the sanctions committee and allow items such as vaccines into Iraq for civilian purposes. The nature of the list will vary depending on the extent to which the target regime is willing to cooperate. The lists will therefore need to be designed to function on two levels: one with the cooperation of the Iraqi regime; the other without such cooperation. The latter will require more stringent border inspection in the absence of verifiable end-use information. Both options assume, as noted above, that financial controls will be kept in place and strengthened.

The monitoring process can be streamlined by prioritizing the dual-use list to focus on the most dangerous military-related items. The current lists of military and dual-use goods are very long and complicated. To make verification and monitoring more manageable, the existing lists should be prioritized so that the greatest effort is devoted to prohibiting items that pose the gravest threat to security—particularly components and materials for the production of nuclear weapons and ballistic missiles. Chemical and biological weapons are inherently more difficult to monitor, even under the most ideal circumstances, because of their dual-use character. The threat posed by these weapons is grave but not as severe as the threat posed by nuclear weapons and long-range delivery vehicles. Less dangerous and lower priority items could be given less attention or removed from the list. This would apply to dual-use biological items that are vital for civilian health, such as vaccines and chlorine. The shortened, prioritized lists would then allow a more efficient use of monitoring resources.

As a point of reference, the prioritization process could make use of UNSCOM’s “comprehensive report” of January 1999 on the disarmament, ongoing monitoring, and verification of Iraq’s weapons and missiles.<sup>28</sup> Knowledgeable inspectors under UN auspices—either as part of the current UNMOVIC team or as part of an ad hoc special commission—should evaluate previously reported data on the status of the material balances of proscribed operational weapons and capabilities in Iraq. Then, in a timely manner, the team of experts could provide a revised list of high priority items. This approach would make training and operations more manageable. The same experts who compiled the revised lists could be employed in frontline states to give initial technical advice to trainers and monitors involved in the Sanctions Assistance Missions outlined below.

## **Tighten External Monitoring**

Current Security Council resolutions call for the timely provision of information to the United Nations by member states regarding the intent of sale of goods for export to Iraq. Accordingly, it is up to each individual government to determine what measures should be taken to enact prohibitions or controls on exports. The responsibilities of member states need to be more clearly defined, more closely coordinated and improved. Following the example of the European Union’s policy on export controls,

the UN should consider adopting a common control system and harmonized policies for enforcement and monitoring in all UN member states. To prevent the transshipment of illicit goods to Iraq, for example, the UN could require an international import certificate verifiable by technical means. Such an international certificate would be a standard form authorized by the UN. It would certify that an importer has undertaken to deliver the stated goods to a particular destination at the indicated value and amounts, and that the goods will not be diverted, reexported, or transshipped to another destination, such as Iraq, without prior authorization of the UN sanctions committee. Such a certificate system would make falsification more difficult.

In the absence of uniform international certification, more could be done toward harmonizing some key aspects of national legislation among UN member states for managing trade controls. For example, a questionnaire was attached to a nonpaper on the possibilities of UN reform produced by Australia and the Netherlands in 1995. The questionnaire asked for information from member states on a variety of issues including the “national legislative basis for application of sanctions resolution.” Although no concrete developments have occurred, a follow-up by way of an updated reintroduction of the survey would be a step in the right direction.<sup>29</sup>

### **Consider the Use of Electronic Tagging**

There have been no weapons inspections in Iraq since UNSCOM withdrew in December of 1998. The former verification system that included on-site inspections and camera monitoring no longer exists. Remote surveillance devices installed by UNSCOM have been rendered useless. In the absence of a functional monitoring system there is no certain method of gauging Iraq’s capacity to develop or deliver weapons of mass destruction. The current system for monitoring exports, established by SCR 1051, requires all sales of dual-use items to be reviewed by the International Atomic Energy Agency (IAEA) and UNSCOM, and with the adoption of SCR 1284, UNMOVIC. Without sufficient in-situ verification of end-use compliance, however, there is no way to assure such monitoring.

The introduction of automatic identification technologies, such as attaching electronic tags with remote sensors to imported items, would help remedy this problem.<sup>30</sup> Various types of tags exist that can aid in the monitoring and verification of the end use of dual-use technologies. It has been suggested in the past, for example, that all fissile material could be stored in tagged containers. Any tampering with such containers could be detected. Markers such as isotopic ratios and the presence of metallic impurities would be noted and could help the IAEA record and keep track of such materials.<sup>31</sup>

Electronic tags have been used for a variety of commercial and other purposes for years.<sup>32</sup> They have also been adapted for international security applications, verification, and monitoring. The Lawrence Livermore National Laboratory in California has developed microdevices for the purpose of identifying “selected items of high security interest, such as nuclear warheads, tanks, chemical and biological munitions, etc.”<sup>33</sup> The tags are designed to be indestructible. They are easily attached to the item to be monitored, and are “impossible to remove and attach to another item.”<sup>34</sup> As technology continues to improve, tags are becoming “smarter” and the applications for which they can be used are increasing. Radio frequency (RF) tagging is one of the most promising technologies for the monitoring purposes outlined in this report. RF tags are available in three types: passive, semipassive, and active tags.

Passive and semipassive tags have a comparatively short range of a few meters to over 100 meters—though the range is increasing as technology improves. They permit

multiple tags to be read simultaneously and have the ability to precisely locate items, making them more conducive to remote monitoring than conventional bar coding or other inventory-tracking methods that have previously been used in UNSCOM missions. Passive tags can be made extremely small (some are the size of a grain of rice) and are inexpensive. Semi-passive tags are larger, about the size of a coin. According to Ron Gilbert, a research scientist at the Pacific Northwest Laboratory, “high-priority, high-security items, such as ammunition and weaponry, are examples of items that could be tracked and inventoried with ease and reliability.”<sup>35</sup>

Active tags are the most applicable to the monitoring and verification requirements outlined in this study. They have an extended range of hundreds of kilometers and can be used to monitor temperature, humidity, pressure, breakage, and other criteria that could help determine the physical condition of the items being tracked and monitored. Active tags can also be developed to collect and evaluate data in real time. Some relevant applications include using active tags to control switches and valves. They can also activate or deactivate a piece of equipment after unauthorized access is detected. Sensors can help to estimate the time and route, and determine the location of the item to which they are attached. At Pacific Northwest National Laboratory, for example, engineers have developed an RF tag system to track small arms inventory for the U.S. Army. According to the laboratory, “the tagged weapons can be easily inventoried in cluttered environments such as warehouses and can be disabled if removed without the proper authority.”<sup>36</sup>

All three types of tags have been developed for the U.S. Department of Energy, primarily at the Pacific Northwest National Laboratory and previously in conjunction with Argonne National Laboratory.<sup>37</sup> They have been developed for satellite tracking of the movements and operational activities of treaty-limited items and transportation vehicles throughout Europe and the former Soviet Union.<sup>38</sup> Private companies such as Qualcomm and Wave ID are also developing radio frequency technology for use in nongovernment-related activities, such as tracking land- and sea-based cargo shipments of consumer products. These technologies could also be further developed for monitoring and verification of military and dual-use items.<sup>39</sup>

There are technological problems that exist with current tagging technology. All forms of long distance or active global positioning satellite (GPS) model radio frequency tags rely on an intermediary transmitter to receive and pass signals from a satellite to the tag. The transmitters currently used either resemble cellular phones or are Low Earth Orbit Satellites (LEOS) that will not operate in signal restricting environments, such as in basements, bunkers, or buildings. This problem can be remedied by placing a controller module on the roof of a building, but in the case of Iraq, it will be extremely difficult to place and ensure the viability of such a device without the cooperation of the Iraqi regime.<sup>40</sup> Regardless of these limitations, applying various tagging technologies in conjunction with one another remotely within and outside Iraq could help to prevent the influx and misuse of items of major concern.

Other detection technologies could be employed to assist with remote monitoring. For example, long-range neutron detection devices can be used at border crossings to detect the movement and shipment of radioactive materials.<sup>41</sup> Border guards can use receivers and transmitters to check conventional and dual-use items. Furthermore, reliable information from other sources, such as nongovernmental organizations, legitimate private companies, and the media and academic institutions, should also be considered in the effort to identify export control violations.

### **Establish Sanctions Assistance Missions**

Effective monitoring and border control of land transportation constitutes an essential element of any policy designed to limit the flow of dual-use and prohibited technologies into Iraq. Such an effort will be most effective if it is devised with an eye on the limitations and lessons of the Sanctions Assistance Missions established by the European community and the United Nations against the Federal Republic of Yugoslavia. Consistent with this earlier model, the Security Council should establish a Sanctions Liaison Group (SLG) with the nations bordering Iraq that will oversee the monitoring. As with its European predecessor, the SLG for Iraq would employ experienced customs officials to train and assist local officials in the interdiction and inspection of cargoes entering Iraq. In addition, mobile computers and satellite equipment for communications purposes should be employed as an integral part of the operation. Evidence suggests that the earlier SAMs system helped to increase the detection of false documents and contraband goods.<sup>42</sup> It also provided a sustainable system for monitoring and reinforcing the array of sanctions in place.

The geography of Iraq makes it easier to control contraband goods of any serious volume on overland routes than was the case in Yugoslavia. The number of major border crossings into Iraq is limited. Although small amounts of smuggling may circumvent major checkpoints, especially along Iraq's mountainous northern and eastern borders, the transport of goods through major border crossings can be detected. As with other dimensions of controlling and monitoring the flow of dual-use and prohibited goods, the goal of such an operation is both real interdiction of goods on the prohibited list, and deterrence of actors who might calculate that the costs of being caught in sanctions busting have increased beyond an acceptable level due to the demonstrated capacity of the customs and control system.

A number of practical implementation concerns must be addressed in the development of Sanctions Assistance Missions to control the import of military and dual-use technologies into Iraq. The first is a clear definition of items to be prohibited, combined with clarity about the nature and scope of the enforcement effort. As noted the dual-use list must be manageable and should be prioritized to focus on items with potential nuclear or ballistic missile application. The Sanctions Liaison Group should delineate the terms of monitoring, interdiction, enforcement, and dispute resolution related to the import control effort.

In the establishment of effective border monitoring, a technical unit working under the authority of the SLG called the Import Control Authority (ICA) would need to be created and charged with the task of monitoring and inspecting land transport into Iraq. It would be staffed with professional customs officials from other member states. These officials would train, supervise, and coordinate the inspection work of national customs officials of frontline states. The goal would be to establish a capability for random and structured border inspections and a system for certifying documents. The number of customs officials needed from outside the region to staff such a system is likely to be approximately 200 people. An even greater number of staff would need to be contributed by the affected border countries. The proposed system would require a 24-hour-a-day operation.

Working under the guidance of the SLG, the ICA would evaluate its full personnel needs to guard against understaffing and shortages caused by varying lengths of tours of duty of professional staff from outside the region. For an ICA system to be most efficient, officials with expertise should be posted for three- to six-month tours of duty. A clear two-year commitment to such a program and balanced tours of duty would be

most helpful. Similarly, each of the participating border states must demonstrate adequate commitment of staff for training and implementation. Special attention will need to be paid to language skills and cultural issues, as ICA staff from outside the region will need language competence and versatility or have it quickly available to them at the border checkpoint.

A third area of concern for effective implementation is the development of uniform certification processes so that border officials can move across locales in Syria, Turkey, or Jordan with common and harmonized means of monitoring and enforcement. Toward this end, the SLG should develop and require an international import certificate or its equivalent.

The SLG could also examine the possibility of establishing an automated bar code system. Such a system would utilize universal product code (UPC) bar codes for “fast track” goods and certain trucking companies whose cooperation with the import control system is precertified. The ability to check documents automatically through a bar code system would greatly facilitate the process of authenticating legitimate shipments.

The discovery of violations need not place border monitors in a position of having to perform enforcement functions. Rather, violations of managed trade and attempts to smuggle goods should be dealt with by an enforcement division separate from the ICA. This may be a function discharged by local police authorities or by a separate border police entity. The SLG would deal directly with disputes arising from interdiction and with member states about the control of exporters attempting to enter Iraq. Transparency in this regard is important to deter future violations and to illustrate the integrity of investigations of suspected violations.

A fourth requirement for an effective border monitoring system is the full cooperation of the adjacent states. This will be a major challenge in the case of Iraq. Frontline states have suffered major economic losses because of sanctions. The proposal for a new compensation mechanism to provide economic assistance for these states may help to induce greater cooperation with restructured sanctions. Benefits may also accrue to these countries from the restoration of civilian trade and the unrestricted flow of commercial goods. Companies will derive income from legalized trade, and governments will be able to collect additional taxes. Another inducement may be the training provided by international customs agents in offering state-of-the-art expertise to local customs agencies and bringing greater professionalism to border monitoring.

In light of the current deterioration of general trade sanctions in the region, it is unclear that an effective and robust system of border monitoring can provide these incentives. However, under United Nations auspices and with the general promise of increased economic activity in the region, adjacent states may find legal, transparent, and professional trading systems more in their interest than contraband and illicit networks of trade. Similarly, in a region where professional customs officials are neither as necessary nor as prevalent as they are within the European system, the provision of technical aid and professional training could provide substantial long-term benefits to individual states.

An effective monitoring system of this type must be understood as having the potential for success only if adjacent states and potential trading partners are committed to the general task of enacting prohibitions and controls on prohibited goods. The specific responsibilities of member states in this regard, a clear definition of prohibited dual-use goods, and an agreed system for dealing with controversies or discrepancies are essential for the success of the system. The United Nations and participating states

must adopt a common control effort and assist in the development of harmonized policies for such enforcement and monitoring.

It may be possible to enhance monitoring by building upon the observation regime established as part of the 986 program. Under the terms of the Memorandum of Understanding S/1996/356 and the Interim Report of the Secretary-General on the Implementation of SCR 986 (1995) S/1996/978, the UN is authorized to field 151 observers and monitors inside Iraq for the purpose of observing the delivery of goods and monitoring the overall impact of the 986 program. While this monitoring/observation regime has not met original expectations, it has the potential for being more effective, and could be used to assist with the monitoring of dual-use items and providing assistance to the Sanctions Liaison Group. The observers and monitors are well acquainted with warehouses, transportation systems, and end-use facilities where potentially sensitive items are utilized. Reassigning these observers to assist with monitoring the end use of dual-use items would greatly facilitate the verification process—if Iraqi officials cooperate.

The unique situation created by SCR 986, which holds the government of Iraq liable for all costs incurred in the monitoring and verification of its disarmament process, makes it possible to consider the adoption of an elaborate border control system. The estimated annual cost for fully-resourced Sanctions Assistance Missions in the countries surrounding Iraq would be approximately \$65 million. This cost can be paid through the UN escrow account. The estimate of \$65 million assumes that the United Nations would be required to pay all salary and related costs of SAMs officers and staff, and that the operational costs for Iraq would be equivalent to those of the Yugoslavia SAMs. If member states paid salaries of SAMs officers, as was the case for Yugoslavia, costs could be less.<sup>43</sup> As part of the United Nations managerial structure for this enterprise, a systematic evaluation process should be created to assess the effectiveness of the monitoring system and to make any adjustments that may be needed to improve program operations.

### **Maintain the Maritime Interception Force**

Monitoring maritime traffic is a vital component of the overall effort to prevent Iraq from developing weapons of mass destruction. It helps to ensure that adequate quantities of nonprohibited goods enter Iraq after expeditious inspection. It also limits the volume of unauthorized oil exports. Maritime transport represents the largest threat of smuggling of illegal cargo, far more so than overland truck traffic. The equivalent of many truckloads of illicit goods or oil can be carried on a single ship.

The Maritime Interception Force (MIF) supports the implementation of SCR 661. SCR 665 (1990) authorized the enforcement of the embargo by nations deploying naval forces in the area.<sup>44</sup> The MIF helps to ensure that shipments of oil and humanitarian relief supplies are delivered in compliance with SCR 686 (1991) and subsequent relevant resolutions. Although smuggling and illegal oil shipments have been a consistent and increasing problem for the MIF, officials have reported that the MIF has been quite successful in preventing the import of material and components that could be used to rebuild Iraq's weapons of mass destruction. According to one high-level official, the MIF has not seen a single violation of the prohibition against the shipment of weapons materials.

The MIF has been an example of successful multilateral cooperation. The force began as a bilateral effort with the United States and the United Kingdom in 1990 and later received endorsement from the Western European Union (WEU) and support



from France, Belgium, Italy, Greece, Spain, and the Netherlands.<sup>45</sup> Australia contributed ships to the MIF on eight occasions between 1990 and 1996, and then again for a three-month period in 1998.<sup>46</sup> The United Kingdom has deployed small ships such as the HMS *Cumberland*, a Type-22 frigate.<sup>47</sup> Financial support and assistance has come from Arab states with on-shore operations. Saudi Arabia has contributed to Gulf Cooperation Council support for the U.S. military presence in the Gulf.<sup>48</sup> Other nations that contribute now or have done so in the past are Canada, New Zealand, and Argentina. Some officials have urged greater international participation in the MIF.<sup>49</sup> One way to improve the multilateral composition of the force would be to consider sharing command functions, which to date have been an exclusively U.S. responsibility. On the other hand some analysts note that “support [from the American public] for a transfer of command or significant amounts of control to the UN is not currently realistic.”<sup>50</sup>

The MIF force does not attempt to search every ship that enters the northern Gulf area. The normal procedure is to verify a ship’s documentation to confirm that it is carrying UN-approved shipments. If the documents are not in order, the vessel is turned away. Ships that cannot produce documentation or that refuse to cooperate can be boarded and inspected. Occasionally ships are seized and returned to their port of origin. The current operating force includes a total of five ships with a minimum of two ships on patrol at all times. Helicopters deployed on these patrol ships help to extend the reach of the MIF’s search capabilities. According to General Anthony Zinni, former commander in chief of U.S. Central Command (CENTCOM), as of 15 March 2000, “Maritime intercept operations have resulted in contraband searches on more than 12,320 ships in and out of Iraq, diverting more than 700 for sanctions violations.”<sup>51</sup> It is difficult to judge from Zinni’s statistics whether the MIF’s operations have been a success without seeing the interceptions as part of a total percentage of ship traffic in the northern Gulf.

The MIF has not operated in the region of the Jordanian port of Aqaba since August 1994. According to author Richard Hull, ships bound for Aqaba were under increased scrutiny by MIF forces due to Jordan’s reluctance to cooperate with sanctions against Iraq. Ships were forced to choose between operating at full capacity with the risk of being diverted to another port for inspection, or operating at less than full capacity to allow space for inspectors to board the ship. This resulted in increased costs for cargo bound for Aqaba and a loss of business to competing ports in Syria, Turkey, and Iran.<sup>52</sup> From 1994 through November 2000 inspections at Aqaba were performed by Lloyd’s Register, a UN-appointed private company, at a cost of \$2 to \$3 million per year paid by the UN which was later reimbursed by the Jordanian government.<sup>53</sup> Since the withdrawal of the MIF from the port of Aqaba in 1994 the force’s activities have been confined to the northern Gulf. The force is responsible for patrolling the Mina Al Bakr terminal in the northern Gulf.

Smuggling is a constant reality in the Gulf. To avoid MIF patrols, smugglers use the territorial seas around the southern Gulf islands and along the Iranian coastline in what the U.S. Navy calls a “rather sophisticated effort centrally controlled within Iran.”<sup>54</sup> According to the commander in chief of Central Command, “Baghdad has smuggled an average of 309,000 metric tons (or about 2.3 million barrels) of oil per month to world markets through Iranian coastal waters, [representing] less than three percent of [Iraq’s total oil exports]. Iranian naval forces have facilitated maritime oil smuggling.”<sup>55</sup> Estimates of the value of the oil smuggled from Iraq through Iranian territorial waters are in the range of approximately \$55 to \$75 million per month. According to U.S. CENTCOM, Iran took in nearly \$80 million in protection fees from smugglers in 1997. In the year 2000 Iraq earned \$600 million from oil smuggling.<sup>56</sup> MIF officials assert that Iraqi revenues from smuggling could be reduced if the force possessed additional

resources—mainly ships—to more effectively curb illegal oil shipments. See Appendix D for a chart showing illegal maritime exports of petroleum products.

### **Require Iraqi-Bound Cargo Flights to Submit to UN Inspection**

Iraq has used commercial aviation, an otherwise minor instrument in the UN sanctions regime, to develop economic and diplomatic links with the rest of the world and break out of its international isolation. Iraq's ability to use aviation as a vehicle for eroding support for sanctions was made possible by the vague, and sometimes contradictory, wording of SCR 661 and SCR 670 (1990). States and groups that have sought to challenge the Iraq sanctions regime have justified flights to Iraq by maneuvering around the loopholes within these resolutions. Paragraph 3 of SCR 670 requires states to deny takeoff and landing rights to any aircraft "if the aircraft would carry cargo to or from Iraq" other than food. Yet paragraph 4 requires that states "shall deny permission to any aircraft destined to land in Iraq . . . to overfly their territory," subject to two conditions: if the aircraft landed within their territory to permit its inspection to ensure that there was no cargo on board, or if the flight had been approved by the sanctions committee. Thus, paragraph 3 seems to aim only at cargo aircraft, while paragraph 4 specifically addresses "any" aircraft. Since many passenger airliners also carry some cargo, it is plausible that these provisions could be applied to them as well. However, nowhere does SCR 670 specifically ban all flights to and from Iraq, or specifically shut down passenger flights. It only demands monitoring of the cargo contents of flights.

The initial application of these provisions went far beyond the wording of the resolutions. All civilian passenger traffic stopped. Iraqi Airways offices were closed, its aircraft were grounded in third countries, and its support operations stopped. As support for sanctions eroded, however, states began to interpret the sanctions less strictly. Current practices reflect the contradictory and vague wording of the resolutions authorizing aviation sanctions.

Should the Security Council decide to lift all or part of the aviation sanctions, or to impose an inspection regime, it should use legal terminology commonly accepted in the aviation industry. One problem that must be addressed is that most passengers can, and often do carry some cargo and mail, which adds to the possibility of any passenger aircraft becoming a potential cargo aircraft. The Security Council has a range of measures and options it can use, either singly or in combination, to ensure that international aviation into Iraq does not contribute to the rebuilding of military capabilities. The Security Council could make monitoring easier if it required Iraq-bound aircraft to land at specified regional chokepoints. Such a proposal would depend on the cooperation of regional governments. There are a number of regional airports with sufficient air traffic and cargo capacity to participate in a "land and inspect" system. Aviation traffic data suggest that monitoring Iraq's inbound aviation traffic would be manageable. Appendix E provides two tables showing air cargo traffic in various cities in the Middle East and in Iraq.

One critical choice the Security Council must face is whether to stop and inspect passenger flights. Passenger flights accounted for 56.3 percent of cargo and 99.7 percent of the mail unloaded in Iraq in the years prior to sanctions. Cargo flights accounted for only 1.4 percent of the total but 43.7 percent of the cargo delivered to Iraq. Limiting aircraft inspections to cargo aircraft would be less expensive, cause fewer traffic and congestion problems, and be very efficient, covering almost half of Iraq's airborne cargo in a small number of flights. It would also provide a means of tracking the largest items that might be used to develop weapons of mass destruction. The preferable option is thus to limit inspections to cargo planes and otherwise permit passenger flights to operate freely.

The Security Council should consider utilizing international teams of aviation inspectors whose only mandate would be to monitor air cargo for weapons and dual-use goods. This would be a dedicated mission, like UNSCOM, whose inspectors would have the authority and training to inspect aircraft cargo and flight documents. If evidence of violations were found, the Security Council could act quickly through its special investigative commission to expose and act upon such information.

International enforcement could include aviation Sanctions Assistance Missions to help regional customs, police, airport, and air traffic control authorities strengthen their procedures to make clandestine flights more difficult. Aviation SAMs could develop training programs and manuals to help flight controllers improve their procedures to prevent and detect illicit flights. Training procedures could enable customs officials to improve their proficiency at identifying false flight and shipping documentation, and recognizing prohibited dual-use technologies. The aviation SAMs could also be charged with providing communications equipment and developing communications procedures among air traffic controllers and UN inspectors at regional airports.

### **Create a Long-Term Iraq Investigative Commission**

As a means of investigating violations of continuing sanctions on Iraq, especially the prohibition against deliveries of weapons and military-related goods, the Security Council should create a semipermanent arms embargo monitoring commission for Iraq. Modeled after investigative panels established in the cases of UN sanctions in Angola and Sierra Leone, the proposed commission should be empowered to examine evidence of alleged sanctions violations and recommend remedial action to the Security Council. The presence of such an investigative panel would help to deter violations and assist in the enforcement of the restructured UN sanctions regime.

The monitoring and investigation of Security Council-mandated arms embargoes has evolved considerably in the last five years. In 1995, after nongovernmental organizations began publicly reporting on systematic violations of the UN arms embargo in Rwanda,<sup>57</sup> the Security Council adopted SCR 1013 creating the UN Commission of Inquiry (UNICOI) to investigate violations of the arms embargo against the genocidal former government of Rwanda. UNICOI's reports both publicized violations and illuminated the depth and complexity of illicit arms trading in undermining UN embargoes.<sup>58</sup> Following on the UNICOI experience, and further reporting by NGOs, the Security Council subsequently created special investigative panels for Angola, Sierra Leone, and the Congo.<sup>59</sup>

Past UN investigative commissions and panels have achieved two important objectives. First, they have investigated and publicized violations of UN arms embargoes and other targeted sanctions. This has helped states take measures to shut down sanctions busters, or to make their operations more difficult and costly by forcing them further underground. Second, they have served as a means of improving global governance on transnational issues such as international aviation, arms trading, control of financial assets, and trade in natural resources. UN investigative panels have undertaken sophisticated analyses of the gaps in regulation and enforcement that lie at the root of sanctions violations. Ambassador Robert Fowler of Canada, who as head of the UN sanctions committee on Angola spearheaded the work of the expert panels on Angola, progressively engaged private international trade associations, especially in the diamond industry, to generate ideas about how to enforce the UN's diamond sanctions. Without such assertive engagement by UN sanctions officials, and the negative publicity generated by reports of the investigative panels and nongovernmental organizations, it is doubtful that the international diamond industry would have taken steps to reform the way it conducts business.

While persons of eminent stature are important for lending credibility and authority to a commission, monitoring the continuing arms embargo, especially illicit trade in dual-use items, will require specialized expertise. The UN can draw on the pool of experts involved in UNSCOM, as well as private, academic, and government officials who have closely watched Iraq's post-Gulf War military behavior. One special need in the Iraqi case is unmasking front companies that Iraq has used to purchase sensitive dual-use technology.

An Iraq investigative panel will need to cooperate closely with other elements of the UN's sanctions monitoring effort. It will need information on flight violations from the Airborne Warning and Control System (AWACS) monitors, on financial irregularities from financial monitors, and on suspicious shipments from international monitors at airports, seaports, and border crossings. The Security Council will need to ensure that a special investigative commission for Iraq has adequate financing, equipment, office space, and other necessary logistics. The expenses of such an investigative commission should be charged to the UN escrow account.

UN investigative commissions have heretofore been viewed as temporary agencies. The temporary nature of these previous commissions has given states incentives to stall and avoid cooperation. Since the arms embargo and continuing military and financial sanctions against Iraq may need to remain in place for an extended period, the proposed Iraq arms embargo monitoring commission should be given a long-term mandate renewable every eighteen months.

The proposed commission should focus on investigating violations of the embargo on weapons and military-related goods and the controls on Iraqi oil revenues. Its functions would include:

- Cooperating with the Sanctions Liaison Group and the independent oil brokering firm to investigate sanctions violations;
- Initiating full-scale inquiries to identify the persons and firms involved in sanctions violations and the possible complicity of governments;
- Issuing reports to the Iraq sanctions committee and the public on documented violations;
- Recommending to the Iraq sanctions committee appropriate penalties for sanctions violators;
- Proposing remedial policy adjustments that may be necessary to prevent illicit transactions and improve sanctions compliance.

## AFTER SMART SANCTIONS

The UN Security Council should direct the secretary-general to launch a new diplomatic initiative to convince the government of Iraq to comply with the terms of SCR 1284 and fulfill its obligations under relevant Security Council resolutions. Although such efforts have failed in the past, they have not been attempted after a policy change as fundamental as that proposed here. If the United Nations and its member states can establish a restructured sanctions system along the lines suggested, the government of Iraq may calculate that the benefits of complying with SCR 1284 outweigh the costs of an open-ended program of tightened financial and military controls. It may realize that compliance with Security Council resolutions is the only way of escaping sanctions controls. For Iraq to come to this realization and move toward compliance, however, incentives will be needed in addition to sanctions. Coercive means alone are unlikely to be effective in resolving the current impasse. Flexible diplomacy and incentives for cooperation are also essential to achieving UN objectives.

While UN officials should engage in diplomatic dialogue with Iraqi leaders, there can be no backing away from the obligation for weapons inspection specified in SCR 1284 or other relevant Security Council resolutions. Some clarification of the meaning of certain provisions may be possible, and the modalities for the suspension of sanctions in the event of Iraqi cooperation can be specified, but the basic thrust of these resolutions must be maintained. To back away from or weaken the requirement for internal arms inspection and the dismantling of weapons of mass destruction would be a setback to global nonproliferation efforts. The UN disarmament mandate in Iraq is not an isolated policy, but is part of a salutary global trend toward the use of intrusive on-site inspections to reduce and eliminate the threat of weapons of mass destruction. Preserving the obligation for a final round of weapons monitoring in Iraq and the certification of its disarmament is thus crucial to upholding the authority of the United Nations and strengthening the global norm against the development and use of weapons of mass destruction.

Although the terms of SCR 1284 are in many respects more favorable to Iraq than those of SCR 687, providing a road map leading to the suspension of sanctions within a year of enactment, the Iraqi government has so far flatly rejected its terms. Nonetheless, the secretary-general should make a renewed effort to gain Iraqi compliance. He should be authorized to bring to Iraqi officials a series of understandings or clarifications of the terms of SCR 1284 that would be designed to induce Iraqi cooperation. Among these might be the following:

- The Security Council should indicate its willingness to consider the suspension of certain minor, nonmilitary sanctions measures after inspectors from UNMOVIC and the IAEA have been permitted to reenter Iraq and complete the first phase of their work, as specified in paragraph 7 of SCR 1284. The proposed suspension of minor sanctions provisions would be a symbolic gesture of reciprocation in response to initial Iraqi cooperation, and to encourage further compliance. A precedent for such a gesture was the 1994 decision of the Security Council during the sanctions against Yugoslavia (1992 through 1995) to ease some restrictions against the Belgrade regime in response to its decision to halt further aid to the Bosnian Serbs.<sup>60</sup> A similar gesture in response to initial Iraqi cooperation with renewed UN weapons inspections could help to create a dynamic of cooperation that might lead to full compliance;

- If Iraq were to cooperate further and permit UN weapons inspectors to complete their mission and establish an operational ongoing monitoring and verification system, as provided in paragraph 33 of SCR 1284, the Security Council should consider accelerating the process of sanctions suspension. Rather than waiting 120 days to suspend sanctions, the Security Council could reward Iraqi compliance by suspending sanctions sooner, perhaps within thirty or sixty days;
- If Iraq continued to cooperate with the ongoing monitoring and verification system and was found to be free of any programs for the development of weapons of mass destruction, the Council should consider making the suspension of sanctions continuous rather than renewable. The requirement for an affirmative decision to renew the suspension every 120 days could be dropped after a certain time as Iraq demonstrated its continued compliance with UN resolutions;
- The Security Council should affirm, as specified in SCR 687, that UN sanctions against Iraq will be lifted, not merely suspended, when Iraq complies fully with all relevant Council resolutions. The Council is obligated under paragraph 22 of SCR 687 to lift the prohibition against member states importing commodities or goods from Iraq when the Baghdad regime complies fully with the UN disarmament mandate. The Security Council is thus obligated by the terms of its own resolutions to lift the oil embargo and accompanying financial controls when the disarmament mission is completed. There is some legal ambiguity on this question, since SCR 1284 refers only to a suspension rather than a lifting of sanctions, but the original provisions of SCR 687 remain applicable as a matter of international law. The absence of any reference to the lifting of sanctions in SCR 1284 was one of the stated reasons for Iraq's rejection of the resolution. A clarification and restatement of the Council's commitment to the lifting of the oil embargo as provided by paragraph 22 of SCR 687 could be extremely important as an incentive for Iraqi compliance. Such a clarification would also have political benefits internationally, dispelling criticisms that standards of compliance have changed and restoring consistency and legitimacy to UN policy;
- The United States and the United Kingdom should suspend or scale back their overflights and bombing missions in the so-called "no fly zone" over Iraq. Such a unilateral measure of goodwill would be justifiable on military grounds, since there is no immediate or significantly increased threat of Iraqi aggression against its neighbors or sectors of its own population. The suspension might be particularly feasible in the southern zone below the 33rd parallel. The political and diplomatic benefits of a suspension of overflights would be substantial, demonstrating that the United States and the United Kingdom, the two firmest defenders of continued sanctions against Iraq, are willing to be flexible in the interest of encouraging Iraqi cooperation.

The proposed assurances and gestures of flexibility are necessary to show that the Security Council has made a good faith effort at finding a diplomatic solution and that the international community has exhausted every option for encouraging Iraqi compliance. These measures may help to change Baghdad's calculus of the potential benefits of cooperation and encourage a new policy of compliance with Security Council resolutions. Until Iraq adopts such a policy, the proposed smart sanctions system provides continuing and tightened controls on the import of weapons and military related goods. The combination of a more focused and effective sanctions regime and a new and more flexible diplomatic initiative offers the best hope for encouraging Iraqi compliance and ending the sanctions impasse.

### **Political Context**

Although not within the scope of this study, regional security concerns are intimately linked to UN policy in Iraq. The long-term viability of an arms limitation system in Iraq depends on a broader regional program of arms reduction and disarmament. This was recognized in paragraph 14 of SCR 687, which described the mandated measures for Iraqi disarmament as “steps toward establishing in the Middle East a zone free from weapons of mass destruction.” There is also an abiding connection between UN policy in Iraq and efforts to resolve the worsening conflict between Israelis and Palestinians. Achieving progress on the latter is essential to securing cooperation with the former, especially among Syria, Jordan, and other frontline states. A commitment to the implementation of Security Council Resolutions 242 (1967) and 338 (1973) would greatly increase regional enthusiasm for the implementation of Resolutions 687 and 1284. A truly smart sanctions policy in Iraq thus requires a concerted effort to address broader issues of Middle East peace and regional demilitarization based on the uniform acceptance of international law and compliance with UN resolutions among all states in the region.

# CONCLUSION

The series of actions outlined in this report do not represent a panacea for controlling Iraq's ability to produce weapons of mass destruction. Only the Baghdad government can assure such control, through its willingness and demonstrated commitment to abide by its earlier pledge to neither hold nor produce weapons of mass destruction. All efforts of control that operate without Iraqi cooperation are secondary. Moreover the general deterioration of compliance with the existing UN sanctions among some member states and frontline countries makes any plan for the adoption and implementation of restructured sanctions an uphill struggle. Because the rewards of providing illegal goods and technologies to the government of Iraq are high, no system of military and dual-use isolation will be fully adequate. A realistic aim is to strive not for perfection but for an adequacy of control.

The adequacy represented by the different strategies and actions we have offered may, in fact, be sufficient to this task over the short to medium term. None of the mechanisms sketched here constitutes a "stand alone" action that will tighten the sanctions. Rather, much like the strongest of ropes, the interweaving and coordination of each seemingly weak measure with the others provides a mutual reinforcement of partial strands of control. The result is a rather robust new sanctions system. The combined component parts are effective because they increase both the uncertainty of success in violating sanctions and the costs to those who attempt to violate. Most important, the system proposed here retains control of the most critical element, Iraqi oil revenues, as the decisive obstacle to the rebuilding of the Iraqi military. Concerted political efforts to create this new system will ensure the long-term UN goals in the region: the enhancement of peace and security, and the protection of human dignity for all peoples in the area.



# NOTES

<sup>1</sup> To date this research project has produced three major books, more than two dozen articles, and has been in active dialogue with the diplomatic community regarding the development of sanctions reform, most notably smart sanctions. See the Fourth Freedom Forum web site for full details of the project <<http://www.fourthfreedom.org>> (3 April 2001).

Works produced include: David Cortright and George A. Lopez, *The Sanctions Decade: Assessing UN Strategies in the 1990s* (Boulder, Colo.: Lynne Rienner, 2000); Thomas G. Weiss, David Cortright, George A. Lopez, and Larry Minear, eds., *Political Gain and Civilian Pain: Humanitarian Impacts of Economic Sanctions* (Lanham, Md.: Rowman and Littlefield, 1997); Larry Minear, David Cortright, Julia Wagler, George A. Lopez, and Thomas G. Weiss, "Toward More Humane and Effective Sanctions Management: Enhancing The Capacity Of The United Nations System" (Occasional Paper #31, Thomas J. Watson Jr. Institute for International Studies, Brown University, Providence, R.I., March 1998); David Cortright and George A. Lopez, "The Limits of Coercion," *The Bulletin of the Atomic Scientists* (November/December 2000); 18–20; George A. Lopez and David Cortright, "Trouble in the Gulf: Pain and Promise," *The Bulletin of the Atomic Scientists* (May/June 1998); 39–43.

<sup>2</sup> Since October 2000 we have reviewed hundreds of pages of documents, conducted individual or group interviews with more than one hundred policy experts and decision makers from more than twenty countries, and convened expert seminars in New York, Washington, D.C., Berlin, and London. While the three authors alone bear responsibility for all dimensions of this study, our work would not have been possible without the professional assistance and dedication of the researchers noted here, and the collection of readers and experts who provided insight into complex areas beyond our previous experience and expertise. Most noteworthy among these are Alan George, independent consultant; Meghan O'Sullivan, fellow, the Brookings Institution; Harry Barnes, former director of Human Rights and Conflict Resolution at the Carter Center; and Joanna Weschler and Joe Stork of the Human Rights Watch Committees. We also express our gratitude for the support and cooperation of the Norwegian Institute of International Affairs, NUPI.

<sup>3</sup> During the February 2001 visit to the Middle East of U.S. Secretary of State Colin Powell, Syrian president Bashar al-Assad reportedly agreed to channel revenues from the newly reopened pipeline through the UN escrow account. Jane Perlez, "Powell Proposes Easing Sanctions on Iraqi Civilians," *New York Times*, 27 February 2001, A1.

<sup>4</sup> Meghan O'Sullivan, "Iraq: Time for a Modified Approach" (Policy Brief 71, The Brookings Institution, Washington, D.C., February 2001), 1.

<sup>5</sup> The humanitarian costs of the sanctions in Iraq have been the subject of numerous studies. Two of the most comprehensive are Richard Garfield, *Morbidity and Mortality Among Iraqi Children from 1990 to 1998: Assessing the Impact of Economic Sanctions*, Occasional Paper Series 16:OP:3, paper commissioned by the Joan B. Kroc Institute for International Peace Studies, University of Notre Dame and the Fourth Freedom Forum, March 1999. *Fourth Freedom Forum* <<http://www.fourthfreedom.org/sanctions/garfield.html>> (6 March 2001); and Mohamed M. Ali and Iqbal H. Shah, "Sanctions and Childhood Mortality in Iraq," *The Lancet* 355 (May 2000). For a discussion of the issue of responsibility, see David Cortright and George A. Lopez, "Are Sanctions Just? The Problematic Case of Iraq," *Journal of International Affairs* 52, no. 2 (Spring 1999) 743–45. The government of Saddam Hussein has been complicit in permitting and manipulating the suffering of its own people. Baghdad rejected the oil-for-food program when it was first proposed in 1991. Since the program began in 1996, the Iraqi government has repeatedly disrupted the flow of oil-for-food revenues and has refused to utilize all of the available funds to order humanitarian supplies and civilian goods for its people.

<sup>6</sup> During the six-month phase ending 31 October 2000, the government of Iraq spent only 28.14 percent of the \$6.9 billion available for the purchase of food and other humanitarian supplies. United Nations Security Council, *Report of the Secretary-General Pursuant to Paragraph 5 of Security Council Resolution 1302 (2000)*, S/2000/1132, New York, 29 November 2000, par. 30.

<sup>7</sup> An April 1999 review of the program by Secretary-General Kofi Annan observed that the program "has met its priority objective in making available basic food items and health supplies." See United Nations Security Council, *Review and Assessment of the Implementation of the Humanitarian Programme Established Pursuant to Security Council Resolution 986 (1995) December 1996–November 1998*, S/1999/481, 28 April 1999, par. 53.

<sup>8</sup> It must be recognized, however, that the Iraqi government might attempt to suppress independent civilian commerce or manipulate it for state purposes.

<sup>9</sup> As of late March 2001, Iraq's daily oil production was between 2.6 and 2.8 million barrels per day, according to UN figures. "Iraqi smugglers net oil bonanza," *Financial Times* <<http://news.ft.com/ft/gx.cgi/ftc?pagename=View&c=Article&cid=FT3M76UUVD&live=true&tagid=ZZZINS5VA0C&sub-heading=middle%20east%20and%20africa>> (27 March 2001). In July 1990, Iraqi crude oil output reached 3.5 million barrels per day, with production capacity at 4.5 million barrels, which was the highest level since 1979. "Iraq energy oil information," United States Energy Information Administration. <<http://www.eia.doe.gov/emeu/cabs/iraqfull.html>> (27 March 2001).

<sup>10</sup> United Nations Security Council, *Report of the Secretary-General Pursuant to Paragraph 5 of Security Council Resolution 1302 (2000)*, S/2000/1132, New York, 29 November 2000, par. 133.

<sup>11</sup> United Nations Security Council, *Report of the Secretary-General Pursuant to Paragraph 5 of Security Council Resolution 1330 (2000)*, S/2001/186, New York, 2 March 2001, par. 158.

<sup>12</sup> United Nations Security Council, *Report of the Secretary-General Pursuant to Paragraph 5 of Security Council Resolution 1302 (2000)*, S/2000/1132, New York, 29 November 2000, par. 28.

<sup>13</sup> United Nations Security Council, *Report of the Secretary-General Pursuant to Paragraph 5 of Security Council Resolution 1302 (2000)*, S/2000/1132, New York, 29 November 2000, par. 38 and 39.

- 14 O'Sullivan, "Iraq: Time for a Modified Approach," 5.
- 15 Anthony H. Cordesman, "The Iraq Crisis: Background Data", background paper, (Center for Strategic and International Studies, Washington, D.C., 1998), 15.
- 16 Government of France, *Iraq—French Contribution in the Search for a Solution*, Paris, 1999.
- 17 Bondi, Loretta, "Arms Embargoes" (paper presented at Bonn International Center for Conversion First Expert Seminar, Bonn, Germany, November 1999); Rydell, Randy, "Monitoring United Nations Arms Embargoes" (paper presented at Bonn International Center for Conversion First Expert Seminar, Bonn, Germany, November 1999). Bonn International Center for Conversion <<http://www.bicc.de/>> (7 March 2001).
- 18 Cortright and Lopez with Richard Conroy, "Flawed UN Arms Embargoes in Somalia, Liberia, and Rwanda," in *The Sanctions Decade*.
- 19 Carl Mortished, "Oil Boycott Over Iraqi Breach of UN Sanctions," *London Sunday Times*, 7 January 2001.
- 20 Carola Hoyes, "US Toughens Line on Iraq Oil Sanctions Violations," *The Financial Times*, 27 February 2001.
- 21 The disruption of oil markets also reduced UN revenues (a loss of \$2.2 billion from December through early February) and lowered the funds available for humanitarian supplies and the payment of compensation claims. Hoyes, "US Toughens Line."
- 22 Sarah Graham-Brown estimates total external debt at between \$60 and \$80 billion. Sarah Graham-Brown, *Sanctioning Saddam: The Politics of Intervention in Iraq* (London: I. B. Tauris, 1999), 256. O'Sullivan gives an estimate of \$130 billion. O'Sullivan, "Iraq: Time for a Modified Approach," 10.
- 23 Graham-Brown, *Sanctioning Saddam*, 4 and 61.
- 24 United Nations Compensation Commission <<http://www.unog.ch/uncc/>> (28 March 2001).
- 25 Smart Sanctions Government of Switzerland State Secretariat for International Affairs <<http://www.smartsanctions.ch/>> (7 March 2001).
- 26 Bonn International Center for Conversion <<http://www.bicc.de/>> (7 March 2001).
- 27 In July 2000 *Forbes* magazine estimated Saddam Hussein's net worth to be approximately \$7 billion. *Forbes* <[http://www.forbes.com/forbes/2000/0703/6515256a.html;\\$sessionid\\$3W3LOKIAADIETQFIAGVVSFEY](http://www.forbes.com/forbes/2000/0703/6515256a.html;$sessionid$3W3LOKIAADIETQFIAGVVSFEY)> (30 March 2001).
- 28 United Nations, *Letter dated 25 January 1999 from the Executive Chairman of the Special Commission established by the Secretary-General pursuant to paragraph 9 (b) (i) of Security Council resolution 687 (1991) addressed to the President of the Security Council, S/1999/94*, New York, 29 January 1999.
- 29 Margaret P. Doxey, *United Nations Sanctions: Current Policy Issues* (Halifax, Nova Scotia: Centre for Foreign Policy Studies, Dalhousie University, 1997), 29; Boutros Boutros-Ghali, *An Agenda for Peace*, A/50/322, United Nations, Office of the Secretary-General, New York, 3 August 1995.
- 30 For an excellent account of the possible uses of tagging for end-use verification purposes see "Global Crime and Public Policy: The Case of Money Laundering," and "From Denial to Disclosure: Dual-Use Trade in a Globalizing Industry," Wolfgang H. Reinicke in *Global Public Policy: Governing without Government?* (Washington, D.C.: Brookings Institution Press, 1998).
- 31 Barry Kellman and David S. Gualtieri, *Barricading the Nuclear Window: A Legal Regime to Curtail Nuclear Smuggling*, University of Illinois Law Review 667, 22 (1996).
- 32 Uses of tags include tracking the migration patterns and activities of fish and wildlife, and the prevention of retail theft. Uses for arms control include standoff detection of nuclear proliferant activities/facilities for NPT verification and support for the Chemical Weapons Convention and Open Skies Treaty. "Millimeter-Wave Remote Chemical Sensor," Argonne National Laboratory <<http://www.et.anl.gov/sinde/Labs/MMWlab/MMWchem.html>> (20 February 2001).
- 33 "Tags," Lawrence Livermore National Laboratory. <<http://www.llnl.gov/eng/ee/erd/isg/tags.html>> (20 February 2001).
- 34 "Tags," Lawrence Livermore National Laboratory. <<http://www.llnl.gov/eng/ee/erd/isg/tags.html>> (20 February 2001).
- 35 "Technology Breakthroughs: Small and Mighty . . . It's All in the Tag," *Breakthroughs Magazine*, (Spring 1999). Pacific Northwest National Laboratory <<http://www.pnl.gov/breakthroughs/spring99/techbreaks.html#rftag>> (20 February 2001).
- 36 "Solutions Update: RF Tags on the Right Track for Tracking," *Breakthroughs Magazine*, (Fall 2000). Pacific Northwest National Laboratory <<http://www.pnl.gov/breakthroughs/fall00/update.html#00f15a>> (20 February 2001).
- 37 A senior scientist at one national laboratory noted that the Argonne National Laboratory has not been active in this field for more than five years and that specific applications outlined in this study could certainly be developed, but that current research and development have not been consistent enough to ensure further progress in this area. Interview conducted by Alistair Millar, Washington, D.C., 8 February 2001.
- 38 Y. Cai, E.R. Koehl, R.D. Carlson, and A.C. Raptis. "User Interface Program for Secure Electronic Tags." Argonne National Laboratory Report ANL-95/16, Argonne, IL, May 1995. <<http://www.et.anl.gov/thm/pubs/95-16.html>> (20 February 2001).
- 39 *Wave ID Wireless Solutions* <<http://www.WaveID.com>> (20 February 2001).
- 40 Based on an interview with a former senior national laboratory research and design engineer and current designer of private sector RF tag technology. Interview conducted by Alistair Millar, Washington, D.C., 8 February 2001.
- 41 A.J. Peurrung, R.R. Hansen, D.C. Stromswold, and P.L. Reeder, "Long Range Neutron Detection: US Department of Energy," Pacific Northwest National Laboratory 13044, Richland, WA, November 1999. <[www.pnl.gov/main/publications/external/technical\\_reports/PNNL-13044.PDF](http://www.pnl.gov/main/publications/external/technical_reports/PNNL-13044.PDF)> (20 February 2001).
- 42 United Nations Security Council, *Letter Dated 24 September 1996 from the Chairman of the Security Council Committee Established Pursuant to Resolution 724 (1991) Concerning Yugoslavia Addressed to the President of the Security Council, Report of the Copenhagen Roundtable on United Nations Sanctions in the Case of the Former Yugoslavia, Held at Copenhagen on 24 and 25 June 1996, S/1996/776*, New York, 24 September 1996, par. 17.

<sup>43</sup> According to figures provided by the European Commission, annual operational costs for the Yugoslavia SAMs peaked in 1995 at approximately \$50 million, including \$26 million for sophisticated communications equipment and satellite links between Yugoslavia, the SAMs coordinator in Brussels, and UN headquarters in New York. The number of deployed officers reached a high of 220. Patricia Connolly, "Cost and Funding of Sanctions Assistance Missions (SAMs) Operation," European Commission, Directorate General Taxation and Customs Union Programme Management, Brussels, 24 January 2000.

For the estimates given here it is assumed that the number of SAMs officers would be slightly less than in Yugoslavia, since there are fewer major border crossings. Costs are based on an assumption of 200 full time officers. The average operational costs per officer in Yugoslavia were approximately \$227,000. If salary and related costs of \$100,000 per officer are added, the annual cost for 200 officers comes to approximately \$65 million.

<sup>44</sup> The term "interdiction" is occasionally used instead of "interception" by officials.

<sup>45</sup> Richard E. Hull, "I. Economic Sanctions Against Iraq," *Imposing International Sanctions: Legal Aspects and Enforcement by the Military*, Institute for National Strategic Studies, Washington, D.C., March 1997 <http://www.ndu.edu/inss/books/sanctions/contents.html> (20 February 2001).

<sup>46</sup> "Australia to Assist UN Gulf Operations" *Australia Ministers for Defence Media Release MIN 087/99*, Canberra, 29 March 1999. <<http://www.minister.defence.gov.au/1999/index.html>> (20 February 2001).

<sup>47</sup> "Gulf: Royal Navy Operations in the Middle East," *Royal Navy*. <<http://www.royal-navy.mod.uk/static/pages/159.html>> (20 February 2001).

<sup>48</sup> General Anthony C. Zinni, CIC US Central Command, *Statement to U.S. House Committee on the Armed Services*, Washington, D.C., 15 March 2000.

<sup>49</sup> In testimony Senator John Warner (R-VA) noted that during 1999 "U.S. and British ships boarded 700 vessels suspected of violating the U.N. sanctions regime." Warner questioned the involvement of other nations that are listed as members of the MIF, by asking "[w]hy is the United States virtually alone, other than Great Britain, in this military effort regarding Iraq...?" Senate Committee on Armed Services, *Hearing to Receive Testimony on U.S. Policy Toward Iraq*, Washington, D.C., 19 September 2000, 7-8. MIF officials later informed the authors that Warner has a point and that the U.S. is undoubtedly taking on most of the burden. Interview conducted by Alistair Millar, Washington, D.C., 13 November 2000.

<sup>50</sup> James J. Tritten, "Naval Perspectives for Military Doctrine Development," *Naval School of Health Sciences*, 1995. <<http://www.nsh-spts.med.navy.mil/corres/service/manual/Ndc/manual.htm>> (20 February 2001).

<sup>51</sup> General Anthony C. Zinni, CIC US Central Command, *Statement to U.S. House Committee on the Armed Services*, Washington, D.C., 15 March 2000.

<sup>52</sup> Hull, *Imposing International Sanctions*.

<sup>53</sup> Hull, *Imposing International Sanctions*, 17.

<sup>54</sup> "Iranian-Iraqi Cooperation," *Washington Post*, 12 February 1997, A29.

<sup>55</sup> General Tommy R. Franks, Senate Committee on Armed Services, *Hearing to Receive Testimony on U.S. Policy Toward Iraq*, Washington, D.C., 19 September 2000.

<sup>56</sup> "Iraq Smuggled \$600m worth of oil in 2000" *Reuters*, 6 February 2001, <<http://www.GulfNews.com>> (20 February 2001).

<sup>57</sup> *Rearming with Impunity: International Support for the Perpetrators of the Rwandan Genocide* (Washington D.C.: Human Rights Watch, May 1995); *Between War And Peace: Arms Trade and Human Rights Abuses Since the Lusaka Protocol* (Washington D.C.: Human Rights Watch, February 1996); Global Witness, *A Rough Trade: The Role of Companies and Government in the Angolan Conflict* (London: Global Witness, December 1998).

<sup>58</sup> United Nations Security Council, *Interim Report of the International Commission of Inquiry, S/1996/67*, New York, 17 January 1996; United Nations Security Council, *Report of the International Commission of Inquiry, S/1996/195*, New York, 14 March 1996; United Nations Security Council, *Third Report of the International Commission of Inquiry, S/1997/1010*, New York, 24 December 1997; United Nations Security Council, *Final Report of the Commission of Inquiry, S/1998/1096*, New York, 18 November 1998.

<sup>59</sup> United Nations Security Council, *Security Council Resolution 1237, S/RES/1237*, New York, 7 May 1999; United Nations Security Council, *Security Council Resolution 1295, S/RES/1295*, New York, 18 April 2000; United Nations Security Council, *Report of the Panel of Experts on Violations of Security Council Sanctions Against UNITA, S/2000/203*, New York, 10 March 2000; United Nations Security Council, *Final Report of the Monitoring Mechanism on Angola Sanctions, S/2000/1225*, New York, 21 December 2000; United Nations Security Council, *Interim Report of the Monitoring Mechanism on Angola Sanctions, S/2000/1026*, New York, 25 October 2000. For Sierra Leone, see United Nations Security Council, *Security Council Resolution 1306, S/RES/1306*, New York, 5 July 2000; United Nations Security Council, *Report of the Panel of Experts on Sierra Leone Diamonds and Arms, S/2000/1195*, New York, 20 December 2000. For the Congo, see H.E. M. Jean-David Levitte of France, the United Nations Security Council, *Statement by the President of the Security Council, S/PRST/2000/20*, New York, 2 June 2000. The Security Council created a panel of experts to investigate the exploitation of natural resources by all parties in the Congolese war.

<sup>60</sup> United Nations Security Council, *Security Council Resolution 941, S/RES/941*, New York, 23 September 1994.

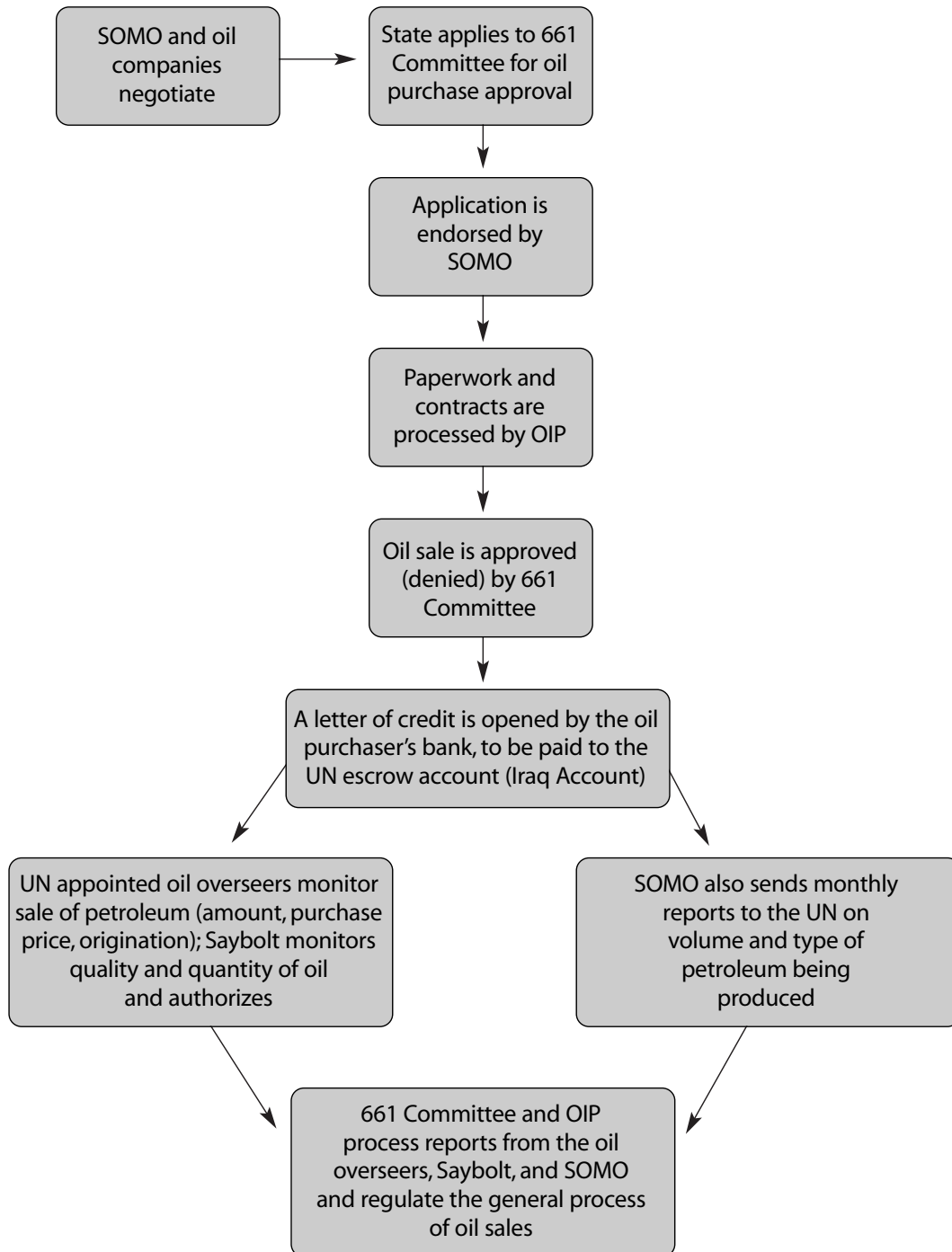
# APPENDIX A

## Relevant Security Council Resolutions

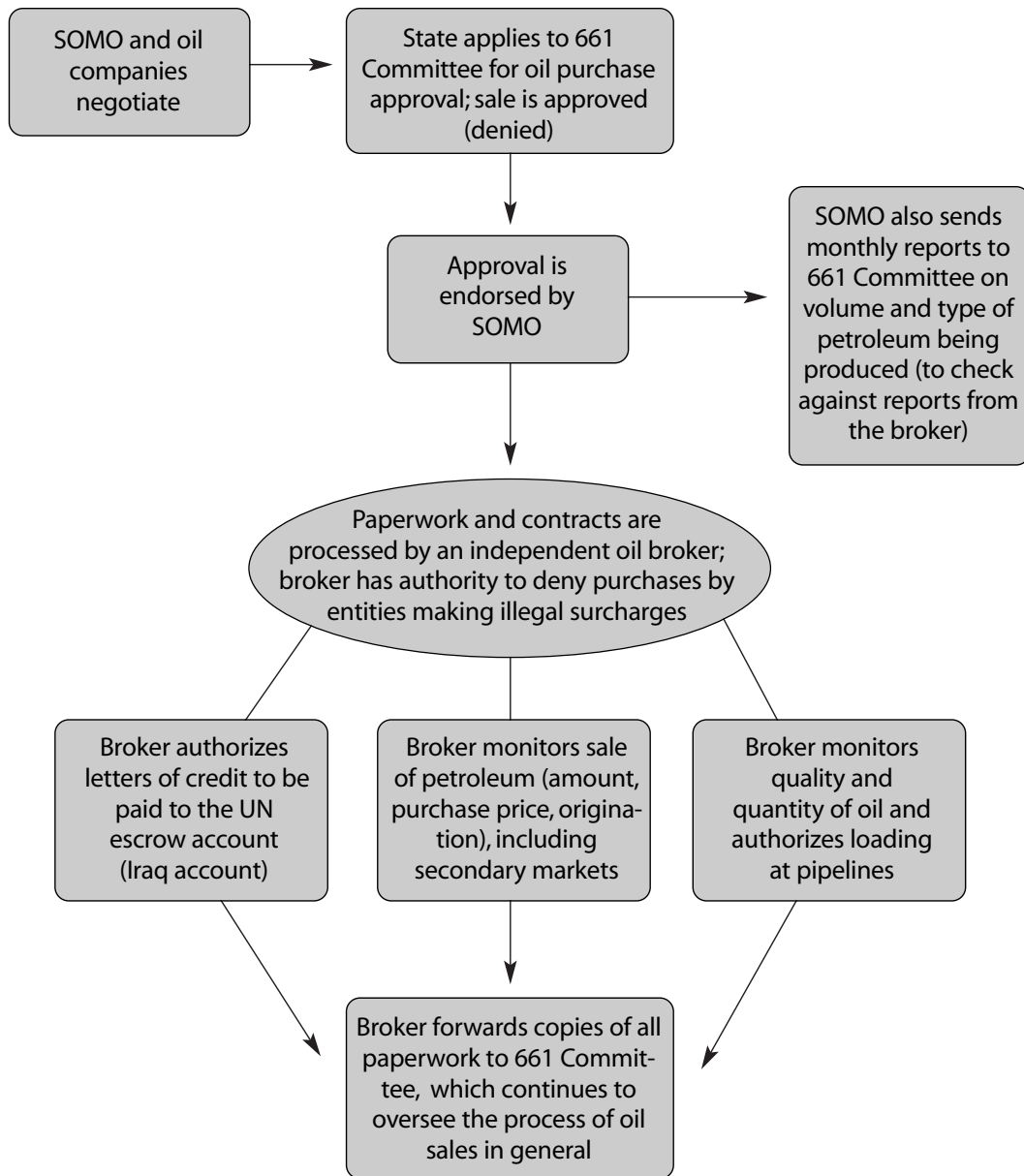
RESOLUTION	DATE	ACTION
242	22 November 1967	Promoted just and lasting peace in the Middle East
338	22 October 1973	Called for immediate cease-fire and negotiations for peace in the Middle East.
661	6 August 1990	Imposed comprehensive, mandatory sanctions Created sanctions committee Banned all trade Imposed oil embargo and arms embargo Suspended international flights Froze Iraqi government financial assets/prohibited financial transactions
665	25 August 1990	Authorized maritime inspections
670	25 September 1990	Imposed aviation ban with humanitarian exceptions
686	2 March 1991	Established Iraqi liability for damages caused to Kuwait and third states Ensured delivery of humanitarian and relief supplies
687	3 April 1991	Established terms of cease-fire Established set of eight specific conditions for the lifting of sanctions
692	20 May 1991	Established compensation fund
705	15 August 1991	Set ceiling of 30 percent of Iraqi oil revenues to be used for compensation fund
986	14 April 1995	Established new formula for oil-for-food program Permitted sale of up to \$1 billion in Iraqi oil every three months Came into force December 1996
1013	7 September 1995	Created UN Commission of Inquiry (UNICOI) in Rwanda to investigate arms embargo violations
1051	27 March 1996	Approved mechanism for monitoring dual-use goods
1134	23 October 1997	Banned travel of senior Iraqi officials for noncompliance with UNSCOM
1137	12 November 1997	Reiterated travel ban for noncompliance
1153	20 February 1998	Extended oil-for-food program again Raised oil sales to \$5.25 billion every six months Permitted revenues to finance urgent development needs (electricity sector)
1284	17 December 1999	Established new UN Monitoring, Verification, and Inspection Commission (UNMOVIC) Outlined procedures for the completion of weapons verification process Expanded humanitarian provisions and lifted ceiling on volume of permitted oil sales Declared council's intention to suspend sanctions for renewable 120-day periods if Iraq cooperated with UNMOVIC and IAEA
1302	8 June 2000	Expanded categories of goods not requiring notification to the sanctions committee
1330	5 December 2000	Lowered contribution of oil revenue to compensation fund from 30 to 25 percent.

# APPENDIX B

## Current Process of Oil Sales



## Proposed Process of Oil Sales



# APPENDIX C

## United Nations Compensation Commission Claims Categories and Status as of 19 March 2001

CATEGORY/DESCRIPTION	INITIAL CLAIMS	REMAINING CLAIMS	COMPENSATION AWARDED	REMAINING COMPENSATION SOUGHT
A – Individuals forced to leave Iraq or Kuwait between 2 August 1990 and 2 March 1991	918,931	0	\$3,196,233,000	0
B – Individuals who suffered serious personal injury or lost a parent, child, or spouse	6,041	0	\$13,450,000	0
C – Individual claims for damages up to \$100,000	1,659,840	0	\$4,979,424,951	0
D – Individual claims over \$100,000	10,739	7,581	\$450,691,061	\$10,400,000,000
E1 – Oil sector corporations	106	71	\$19,419,414,382	\$5,690,000,000
E2 – Non-Kuwaiti corporations not falling into other “E” subcategories	2,483	1,760	\$651,422,340	\$6,040,000,000
E3 – Non-Kuwaiti corporations related to construction and engineering, excluding oil sector	400	168	\$275,483,404	\$3,750,000,000
E4 – Kuwaiti corporations	2,750	1,364	\$1,560,442,435	\$5,840,000,000
E/F – Export guarantee and insurance claims	132	92	\$34,480,865	\$5,620,000,000
F1 – Government losses incurred during departure and evacuation	100	32	\$179,919,141	\$16,800,000,000
F2 – Governments of Jordan and Saudi Arabia	75	31	\$105,715,305	\$9,400,000,000
F3 – Kuwaiti government, excluding environmental damages	62	21	\$3,710,342,399	\$105,900,000,000
F4 – Damage to the environment	163	163	\$0	\$46,000,000,000
<b>Total</b>	<b>2,601,822</b>	<b>11,283</b>	<b>\$34,577,019,283</b>	<b>\$215,440,000,000</b>

Source – United Nations Compensation Commission web site <<http://www.unog.ch/uncc/>> (27 March 2001).

# APPENDIX D

## Illegal Maritime Exports

### Iraqi Refined Petroleum Products

#### January 1996 – September 2000

The following assessments are based on maritime activities noted in the Shatt al Arab and Khor Abd Allah waterways. The data was compiled by the MIF to support the UN mission and provide information to the UN sanctions committee relating to the illegal export of Iraqi refined petroleum products via maritime methods.

	1996	1997	1998	1999	2000
	Metric Tons	Metric Tons	Metric Tons	Metric Tons	Metric Tons
January	4,500	46,000	279,000	22,905	415,300
February	9,750	70,050	188,300	15,570	408,170
March	15,232	83,500	37,200	4,800	405,750
April	8,203	65,100	81,300	0	229,625
May	4,000	76,000	212,150	0	152,275
June	10,000	113,000	245,900	0	392,561
July	19,580	156,500	172,200	3,480	309,680
August	25,000	142,042	182,450	6,100	160,151
September	27,300	176,600	23,750	190,904	136,325
October	34,250	182,000	247,240	239,950	—
November	43,400	239,700	158,230	279,930	—
December	65,100	200,200	101,040	317,273	—

In 1999 there were 2,422 queries as to a ship's status by the MIF with 700 boardings due to suspected oil smuggling. Six hundred eighty-one ships were cleared and nineteen diverted (stopped and cargo confiscated).

From 1 January to 31 October 2000 there were 1,136 queries, 410 boardings with 347 ships cleared, and sixty-one ships diverted (stopped and cargo confiscated).

Source – U.S. Office of Naval Intelligence <[http://nmic.navy.smil.mil/PRODUCTS/GDSS/Indicies/Gasoil\\_figures.html](http://nmic.navy.smil.mil/PRODUCTS/GDSS/Indicies/Gasoil_figures.html)> (30 November 2000); U.S. Central Command Office of Public Affairs, 9 November 1999.



# APPENDIX E

**Table 1: Cargo and Traffic Capacity of Major Middle East Airports, 1999<sup>1</sup>**

AIRPORT	CARGO, (METRIC TONS)	CARGO RANK	TRAFFIC (TAKEOFFS & LANDINGS)	TRAFFIC RANK
Sharjah	580,608	29	31,971	413
Dubai	490,843	32	132,708	155
Cairo	221,327	73	86,953	223
Jeddah	203,402	77	83,766	231
Istanbul	182,466	83	177,319	103
Kuwait City	117,307	109	36,321	396
Abu Dhabi	93,571	123	50,694	324
Amman	77,535	139	23,970	460
Muscat	63,304	148	38,956	386
Beirut	54,863	159	27,878	436
Ankara	21,501	250	55,076	308
Tel Aviv	305	639	43,812	353

**Table 2: Iraq-Bound Cargo, 1982 – 1990<sup>2</sup>**

	NUMBER OF FLIGHTS	CARGO (TONS)
Cargo Flights, Yearly Averages	102	27,904
Cargo on Passenger Flights, Yearly Averages	2,338	24,345

<sup>1</sup> Data gathered from web site of Airports Council International, (<http://www.aci.org>). Cargo capacity is ranked out of 756 airports; traffic capacity ranked out of 839 reporting airports. Cargo data includes all cargo loaded and unloaded at that airport, including mail.

<sup>2</sup> Data prepared by the Statistics Bureau of the International Civil Aviation Organization (ICAO). Table measures landings in Iraq (Baghdad) and cargo unloaded.