



Reconstructing Iraq:

A Guide to the Issues

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PREFACE

U.S. military victory in Iraq has given rise to a new and equally important challenge: rebuilding the country and delivering on President Bush's promise of a free and democratic future for the Iraqi people. Yet post-war reconstruction and transition to self-governance are complex and extremely difficult challenges, and the case of Iraq poses unique problems. It also appears to be the first case in which the provisions on occupation of the 1949 Fourth Geneva Conventions have been formally applied.

The plans put forth by the administration for the reconstruction of Iraq are divergent from the past in significant ways.

First, the United Nations is not playing the leading role in reconstruction efforts and the development of a new government in Iraq. Prior to the adoption of Resolution 1483 on May 22, 2003, this process had been controlled largely by the United States, which had involved the UN and non-governmental organizations (NGOs) largely at its discretion. It remains to be seen exactly how the reconstruction process will unfold, but it seems clear that the U.S. — and not the UN — will play the dominant role, albeit with UN Security Council endorsement of its approach.

Second, President Bush has given the U.S. Department of Defense responsibility for reconstruction. In past cases, civilian agencies such as the State Department and its Agency for International Development (USAID) were charged with leading U.S. efforts to reconstruct nations after conflicts.

This booklet, the product of a collaborative effort by various groups involved in policy and on-the-ground assistance in Iraq, is meant to provide concise background information on post-war reconstruction generally, and on Iraq more specifically. It deals briefly with the legal issues entailed in reconstructing Iraq and details both international humanitarian law and Security Council mandates, but the majority of the document is devoted to presenting the larger policy issues entailed in the reconstruction effort. The booklet includes basic information on a wide range of topics, including:

- The traditional actors involved in reconstruction, their roles, and the guidelines which govern their actions
- Iraq's short-, medium- and long-term reconstruction needs
- The history of recent reconstruction efforts undertaken by the U.S. and/or the UN
- Attitudes of Americans and others about the process of reconstruction.

Our goal is to provide a useful research compendium that will help interested parties to evaluate reconstruction activities in Iraq.¹

¹ Please note that while every effort has been made to provide up-to-date information about various post-conflict reconstruction activities in Iraq, the nature of fast-moving events on the ground guarantees that some information provided in this booklet will become outdated. Therefore, the Open Society Institute will periodically post updates of significant changes to the information contained in this document, and will list new publications of major reports on Iraqi reconstruction. Please refer to <http://www.osi-dc.org> for these features.

THE LEGAL FRAMEWORK FOR INTERVENTION IN IRAQ

Disarmament, Regime Change, and Reconstruction

From August 2002 to March 2003, the Bush administration offered a number of reasons to justify military action in Iraq. These ranged from the need to bring about regime change to disarming the Iraqi regime of its weapons of mass destruction to achieving freedom for the people of Iraq.²

In legal terms, the Bush administration ultimately based its decision to launch a military strike against Iraq on past UN Security Council resolutions about Iraq's failure to comply with mandatory disarmament of weapons of mass destruction. Members of the administration made frequent and specific reference to using force in order to enforce Resolution 1441 of November 8, 2002, which—in the words of President Bush—“declared Iraq in material breach of its longstanding obligations, demanding once again Iraq's full and immediate disarmament, and promised serious consequences if the regime refused to comply.”³

Neither Resolution 1441 nor others, however, include any mandate for the U.S., the coalition, or the UN to undertake post-conflict reconstruction. In addition, some member states of the UN disagreed

with the claim that Resolution 1441 was a proper legal basis for U.S. military intervention. This contention initially left some nations reluctant to cooperate in reconstruction activities without a further resolution.

On May 22, the Security Council passed Resolution 1483 with a vote of 14-0.⁴ It remains to be seen whether member states will find the resolution a sufficient mandate for all future reconstruction activities in Iraq, or if further resolutions will be needed to deal with such issues as peacekeeping or justice mechanisms.

THE LEGAL FRAMEWORK FOR INTERVENTION IN IRAQ

Highlights:

- The Bush administration offered multiple reasons to justify military action in Iraq—ranging from the need to bring about regime change to achieving freedom for the people of Iraq—and ultimately based its decision on past Security Council resolutions on disarmament. These resolutions did not include a mandate for post-conflict reconstruction.
- The UN Security Council adopted Resolution 1483 on May 22, 2003, granting wide interim governance powers and control over the collection and disbursement of Iraqi oil revenue to the United States and its coalition partners, and conferring on them the status of an occupying power.
- Resolution 1483 grants the U.S. and its partners authorization to carry out activities beyond those explicitly authorized under existing international humanitarian law. There may be discrepancies between existing international humanitarian law and the terms of Resolution 1483.

A Mandate for Reconstruction: Resolution 1483

Resolution 1483, sponsored by the U.S., UK, and Spain, authorizes the United States to control Iraq and its oil until there is an internationally recognized Iraqi government. It contains an array of provisions mainly relating to oil revenue, lifting of the sanctions, the role of the UN through its appointment of a Special Representative, and the future of the humanitarian Oil for Food program. Following is a list of key matters covered:

2 For example, in remarks with President Hamid Karzai of Afghanistan on February 27, President George W. Bush stated that “the mission now is to disarm Saddam Hussein, in the name of peace. And we will disarm Saddam Hussein.” And in a subsequent speech to the nation on the eve of war, March 19, 2003, President Bush asserted that “The people of the United States and our friends and allies will not live at the mercy of an outlaw regime that threatens the peace with weapons of mass murder...we will meet that threat now...so that we do not have to meet it later.” Regime change became incorporated into the notion of full disarmament, as President Bush explained on February 27: “Should we be forced to commit our troops because of [Saddam Hussein's] failure to disarm, the mission will be complete disarmament, which will mean regime change.”

3 Remarks of President George W. Bush, Azores Conference, Azores, Portugal, March 16, 2003. The President also stated that “That resolution was passed unanimously and its logic is inescapable; the Iraqi regime will disarm itself, or the Iraqi regime will be disarmed by force. And the regime has not disarmed itself.” See also Secretary of State Colin Powell's speech to the UN Security Council on Feb. 5, <http://www.state.gov/secretary/rm/2003/17300.htm>.

4 The full text of this resolution is reproduced in Appendix 1 on page 58. It is also available on the UN website.

- **No time limit for the resolution.** Resolution 1483 contains no time limit, but does include a provision that the Security Council will review the resolution within twelve months. Under these terms, only an affirmative vote by the Security Council, subject to any one permanent member-state's veto, would be able to alter the resolution. In effect, the resolution has a built-in automatic renewal.
- **Occupation and the Authority.** The resolution notes that a letter was sent by the U.S. and the UK to the President of the Security Council on May 8, 2003, in which these two powers, collectively known as “the Authority,” acknowledge and accept the legal status of occupying power in Iraq and all of the attendant rights and obligations under existing international law. It also notes the possibility that now or in the future, other states may work under the Authority in its capacity as an occupying force.

The resolution states that the role of the Authority in Iraq will be to “promote the welfare of the Iraqi people through the effective administration of the territory,” and to do so in a manner consistent with relevant international law. It is unclear exactly how this authority to administer the territory will interact with other international law such as the provisions on occupation contained in the Geneva Conventions and the Hague Regulations (for more information, see page 6).

- **Oil revenue and financing the reconstruction.** The resolution creates a Development Fund for Iraq, which is to be held by the Central Bank of Iraq and will receive all oil revenue and other designated funds. The Fund's resources will be disbursed at the discretion of the Authority in consultation with the Iraqi interim administration, in a transparent manner, for humanitarian purposes, economic reconstruction, continued disarmament, and “for other purposes benefiting the Iraqi people.” The Fund will have an international advisory and monitoring board whose members will include representatives of the Secretary General, the World Bank, the IMF, and the Arab Fund for Social and Economic Development. The disbursement process will not be subject to the decisions of the Board, and the Board does not include members of Iraqi civil society.

The resolution also indemnifies all oil revenue from legal claims or contest by providing the proceeds from oil sales and revenue collected by the Fund with the privileges and immunities enjoyed by the United Nations. The noted exception to this indemnity is with regard to claims about ecological disasters or oil spills, in which case the Fund is not protected.

Finally, the resolution reduces the amount of oil revenue being paid to the UN compensation committee—which deals with addressing claims on Iraq from the 1991 war against Kuwait—from the current 25 percent to five percent, effective immediately. Resolution 1483 also calls on all states with Iraqi assets to immediately freeze and transfer them to the Development Fund, and maintains that any claims on these funds must be brought before a future permanent government of Iraq. It does not set aside any funds for the UN disarmament process, nor for the Kurds who prior to the war received 13 percent of the Oil for Food proceeds.⁵

⁵ This provision was contained in Security Council Resolution 986 (1995), which decreed that 13 percent of all UN-authorized humanitarian resources go to northern Kurdish areas.

**Russian ambassador
Sergey Lavrov, United
Nations, May 22, 2003:**

“Russia is satisfied with the compromise [on Resolution 1483]. It clearly brings this situation back within the international law area, and thus allows all countries who want to help to do so on a legal basis.”

- ***Oil for Food program.*** On a related topic, the Secretary General is instructed to dismantle the Oil for Food program—which was previously the only legal conduit for selling Iraqi oil and disbursing the revenue—in six months’ time and to turn all of its existing revenue, currently in a United Nations escrow account, over to the Fund. He is also instructed to immediately transfer \$1 billion of unencumbered funds from Oil for Food to the Development Fund. In the termination process, the Secretary General is given ultimate discretion over which existing contracts to honor and which to postpone or cancel. (There are many outstanding contracts worth billions of dollars, most notably to Russia, that have yet to be resolved.) It is unclear from the terms of the resolution whether or how the Authority will continue humanitarian distribution of food and supplies.
- ***Sanctions.*** All previous sanctions levied against Iraq, except for those relating to arms sales, are lifted by the resolution. Previous resolutions required that disarmament be complete and certified before the lifting of sanctions could occur; this requirement is effectively overridden by Resolution 1483.
- ***Disarmament of Weapons of Mass Destruction.*** The resolution does not contain a specific plan or mandate for the continued disarmament of Iraq. It notes, in a preambulatory clause, the importance of disarmament and its “eventual confirmation.” It seems to suggest that the Authority will continue to take the lead in conducting disarmament and will report back to the Security Council on its activities. Finally, it leaves ambiguous the future role of international weapons inspectors by stating that the Council will “revisit” the mandates of previous resolutions on disarmament, leaving open whether this will mean fulfilling or dismantling such mandates.
- ***Involving the United Nations.*** The main way in which the resolution involves the United Nations is through the instruction that the Secretary General appoint an independent Special Representative. The Special Representative is given an “independent” role and is meant to report back regularly to the Security Council on his activities under the resolution, including coordinating all UN activities in Iraq, especially relating to humanitarian work.

The Special Representative is also meant to assist the people of Iraq by, among other activities, working with the international community to facilitate reconstruction of infrastructure, to promote economic reconstruction and development, and to rebuild the Iraqi civilian police force; by working with the Authority and with Iraqis to form local and national institutions for representative governance; and by encouraging international efforts for legal and judicial reform.

- ***Governance of Iraq.*** Resolution 1483 states that “the people of Iraq with the help of the Authority and working with the Special Representative,” will form a transitional administration that will operate until an internationally recognized, representative government is formed and assumes the responsibilities of the Authority. This clause leaves ambiguous which entity will take the lead in forming an interim government, and whether UN activities on governance will be subject to ultimate approval by the Authority.

In terms of creating a permanent Iraqi government, the resolution states only that the Authority, the Special Representative, and Iraqis will have to work together toward its formation and that it will have to be “internationally recognized.” It is also unclear how the neces-

**President George W. Bush,
May 1, 2003, aboard the
USS Lincoln:**

“Other nations in history have fought in foreign lands and remained to occupy and exploit. Americans, following a battle, want nothing more than to return home.”

sary assumption by a future Iraqi government of the “responsibilities of the Authority” will take place, and whether this will be a strict benchmark for a new government to meet before the Authority will confer recognition of its legitimacy.

Legal Status of U.S.-Led Coalition

On May 1, 2003, President Bush announced that “major combat operations in Iraq have ended,” which marked a new chapter in operations on the ground in Iraq.⁶ His pronouncement did not, however, immediately resolve the legal status of U.S. forces in the region. It was only with the passage of Resolution 1483 more than three weeks later that the U.S. formally accepted its status as occupier in Iraq and agreed to abide by the applicable provisions of international law.⁷ Formal recognition by the

Authority of its status as an occupying power appears to mark the first time since entry into force that the Fourth Geneva Convention’s provisions on occupation will be applied.⁸

The resolution of the question had significant implications for which government or international institutions would be responsible for providing humanitarian relief and other services for the Iraqi people. Among other provisions, these governing instruments of international humanitarian law require that an occupying force provide for the basic security and health of the country’s populace, and, in general, prohibit the occupier from changing existing laws. (For more information on the Hague Regulations and the Geneva Conventions, see the pull-out box on page 6.)

**Security Council Resolution
1483, May 22, 2003:**

“Noting the letter of 8 May 2003 from the Permanent Representatives of the United States of America and the United Kingdom of Great Britain and Northern Ireland to the President of the Security Council (S/2003/538) and recognizing the specific authorities, responsibilities, and obligations under applicable international law of these states as occupying powers under unified command (the ‘Authority’).”

Resolution 1483 formally confers the status of occupier upon the Authority, but it also permits the U.S. and its partners to undertake activities beyond those that are explicitly authorized under the Fourth Geneva Convention and the Hague Regulations. While the Convention and the Regulations state that an occupier may administer the territory, many components of the U.S. plans for reconstruction in Iraq can arguably be construed as going beyond what these humanitarian instruments expressly or implicitly authorize. An occupying power as envisioned in the Fourth Geneva Convention and the Hague Regulations is essentially a “trustee” which is authorized to administer, but not to substantially transform, the country and its institutions. Thus, radical transformation of the country’s governmental institutions, of its legal code, and of the governing mechanisms for controlling natural resources — all of which could be construed as part of the democratization process promised to the Iraqi people by President Bush—arguably go beyond what the governing instruments of humanitarian law permit an occupying power to do.

However, Resolution 1483 will likely confer greater legitimacy upon the U.S. plans for the transformation of Iraq, even those components which might not ordinarily

6 Remarks by President George W. Bush, USS Abraham Lincoln, At Sea Off the Coast of San Diego, California, May 1, 2003, <http://www.whitehouse.gov/news/releases/2003/05/iraq/20030501-15.html>.

7 For many weeks prior to the announcement, there had been considerable contention in the international arena over whether the United States and its coalition forces should be defined as an “occupying power,” and required to act in accordance with the attendant legal obligations spelled out under the provisions of the 1907 Hague Regulations and the 1949 Fourth Geneva Convention. U.S. officials repeatedly declared that they were “abiding by international conventions,” while at the same time asserting that the U.S.-led coalition was not an occupying force. (Jonathan Flower, “UN Secretary General: Coalition is the Occupying Force in Iraq,” Associated Press, April 24, 2003.) Brigadier General Vincent Brooks, deputy operations director at U.S. Central Command, stated on April 14, 2003 that “we’re still a liberating force, and that’s how we’re approaching our operations.” (Remarks of Brigadier General Vincent Brooks, CENTCOM Operation Iraqi Freedom Briefing, April 14, 2003.) A “liberating force” is not a category defined by international law. These arguments ensued despite the provision of the Hague Regulations which states that international law governing occupying forces takes effect “as soon as the armed forces of a foreign power have secured effective control over a territory that is not its own” (Article 42 of the 1907 Hague Regulations).

8 While occupations—either contested or otherwise—have occurred since the entry into force of the Fourth Convention, such as the case of Iraq in Kuwait or Israel in the West Bank and Gaza, those states have never formally agreed to abide by and apply the provisions dealing with occupation. Factual existence of an occupation and consensus by the international community does not necessarily mean that the state in question will accept and agree to be bound by the formal application of the related legal provisions. Hence, the U.S. acceptance of its status as an occupying power in Iraq and of the related legal provisions appears to constitute the first such instance since the entry into force of the Geneva Conventions.

OBLIGATIONS OF AN OCCUPYING FORCE

The 1907 Hague Conventions and the four Geneva Conventions of 1949 and their two Additional Protocols of 1977 are the principal instruments of international humanitarian law (IHL), which is also known as the laws of war or of armed conflict. Most states today are bound in the conduct of their military operations by the Geneva Conventions and the customary law reflected in the Hague Conventions and Protocol One.

Following is a list of key duties and obligations of an occupying power according to the terms of the 1907 Hague Regulations and the 1949 Fourth Geneva Convention.⁹

1. Respect the human rights of the local population

"Protected persons ...shall not be deprived, in any case or in any manner whatsoever, of the benefits of the present Convention..." including the right of self determination.¹⁰

2. Ensure public order and safety

The Occupying Power "shall take all the measures in his power to restore, and ensure, as far as possible, public order and safety while respecting...the laws in force in the country."¹¹

3. Ensure and maintain public health and hygiene

"...the Occupying Power has the duty of ensuring and maintaining, with the cooperation of the national and local authorities...the public health and hygiene in the occupied territory..."¹²

4. Provide food and medical supplies

"...the Occupying Power has the duty of ensuring the food and medical supplies of the population..."¹³

5. Protect property and resources

"The occupying State shall be regarded only as administrator and usufructuary of public buildings, real estate, forests and agricultural estates belong to the hostile State and...it must safeguard the capital of these properties."¹⁴

6. Permit and facilitate humanitarian relief operations

"If...the population of an occupied territory is inadequately supplied, the Occupying Power shall agree to relief schemes on behalf of said population, and shall facilitate them..."¹⁵

7. Refrain from making changes to the institutions of the government of the occupied territory that deprive the population of their rights

"Protected persons...shall not be deprived...of the benefits of the present Convention by any change introduced, as the result of the occupation of a territory, into the institutions of government of the said territory..."¹⁶

8. In general, refrain from changing the penal laws

"The penal laws of the occupied territory will remain in force, with the exception that they may be repealed or suspended by the Occupying Power in cases where they constitute a threat to its security or an obstacle to the application of the present Convention."¹⁷

9. Refrain from selectively transferring and/or deporting persons

"Individual or mass forcible transfer, as well as, deportation of protected persons from occupied territory...are prohibited, regardless of motive."¹⁸

9 In addition to the duties and obligations listed in the main text of this box, which are derived directly from the Hague Regulations and the Geneva Conventions themselves, an additional important prohibition is described in the Commentary on the Convention (IV) relative to the Protection of Civilian Persons in Time of War, Geneva, 12 August 1949. Part III: Status and treatment of protected persons Section III: Occupied territories ARTICLE 47 — INVIOABILITY OF RIGHTS (1), p.275. This section states that an Occupying Power is prohibited from annexing occupied territory absent of a peace treaty authorizing it to do so. "...the occupation of territory is essentially a temporary, de facto situation which deprive the occupied Power of neither its statehood nor its sovereignty...the Occupying Power cannot therefore annex the occupied territory."

10 Articles 27 of the 1949 Fourth Geneva Convention, articles 29, 47 and 49 are also applicable.

11 Article 43 of the 1907 Hague Regulations.

12 Article 56 of the 1949 Fourth Geneva Convention.

13 Article 55 of the 1949 Fourth Geneva Convention.

14 Articles 55 of the 1907 Hague Regulations. Additionally, article 46 of the 1907 Hague Regulations states "Private property cannot be confiscated."

15 Articles 59 of the 1949 Fourth Geneva Convention, article 61 is also applicable.

16 Article 47 of the 1949 Fourth Geneva Convention. Further, the Commentary on the Convention (IV) relative to the Protection of Civilian Persons in Time of War, Geneva, 12 August 1949. Part III : Status and treatment of protected persons Section III : Occupied territories ARTICLE 47 — INVIOABILITY OF RIGHTS (1) p.273 states "Certain changes (to institutions) might conceivably be necessary and even an improvement;...the object is to safeguard human beings and not to protect the political institutions and government machinery of the State as such...changes made in the internal organization of the State must not lead to protected persons being deprived of the rights and safeguards provided (by the Convention)."

17 Article 64 of the 1949 Fourth Geneva Convention.

18 Article 49 of the 1949 Fourth Geneva Convention.

be permitted under the provisions of humanitarian law relating to occupation. The resolution may reasonably be interpreted to constitute Security Council endorsement of the type of fundamental changes envisioned by the U.S. for Iraq.

A legal debate over exactly how much latitude the U.S. should have as an occupying power to transform Iraq's institutions, and how the rights and obligations of an occupying power will interact with the provisions in Security Council resolutions such as 1483, is likely to take place among experts and scholars for years to come. But regardless of what those debates may conclude, the further question about how the U.S. chooses to go about substantially transforming the country's institutions—the question with which the majority of this document deals—is largely a policy issue.

Legal Mandate for Previous Intervention in Iraq

Resolution 1483, having invoked Chapter VII authority, now constitutes binding international law on Iraq. All previous Security Council resolutions on Iraq—an extensive legal framework beginning with the lead-up to the 1991 Gulf War—are now only relevant insofar as they deal with subjects not covered by 1483. Resolutions on topics such as sanctions and the Oil for Food program have been largely replaced.

**President George W. Bush,
Azores, March 16, 2003:**

“To achieve [a unified and democratic Iraq], we will work closely with the international community, including the United Nations and our coalition partners. If military force is required, we'll quickly seek new Security Council resolutions to encourage broad participation in the process of helping the Iraqi people to build a free Iraq.”

Security Council resolutions constitute binding international law; they bestow legality upon the actions of nations or coalitions of nations, and contain prohibitions which are legally binding on all states. As noted above, the legal mandates and prohibitions contained within applicable past resolutions and those in Resolution 1483 may serve to expand or complicate the activities undertaken by the Authority in its capacity as an occupying force.

The extensive list of previous resolutions on Iraq is instructive in tracking the activities of the international community over the past decade. For example, unlike the recent conflict in Iraq for which no additional Security Council authorization was obtained, the 1991 Gulf War was authorized by S.C. Resolution 678 on November 29, 1990. In addition, economic sanctions against Saddam Hussein's regime and the UN-led Oil for Food Program were both governed by extensive sets of Security Council resolutions. A comprehensive list of Security Council resolutions on Iraq, starting from the Gulf War, is included in Appendix 2 on page 65. The resolutions are divided into three topics: Disarmament and Inspections; Oil for Food; and Economic Sanctions.

U.S. PLANNING FOR RECONSTRUCTION

On May 2, 2003, the Bush administration announced that with the end of major combat operations in Iraq, L. Paul Bremer, III, a career diplomat, would become special envoy to the President and would serve as the new civil administrator. Bremer arrived in Iraq on May 12, 2003 and will replace retired Lt. Gen. Jay Garner as the head of U.S. reconstruction activities in Iraq. Unlike Garner, who had reported to the Secretary of Defense through a military chain of command, Bremer reports directly to the Secretary of Defense and, ultimately, to the President. As such, the shift can be characterized as a transition from military to civilian control, but command over Iraqi reconstruction is still housed in the Department of Defense.

Garner was originally dispatched to Iraq to head the Office of Reconstruction and Humanitarian Assistance (ORHA), which had been created by President Bush in January 2003 in anticipation of the war with Iraq. ORHA is housed within the Department of Defense and was meant to be the central post-war planning office for the U.S. Originally its leadership, held by Garner, reported to Central Commander Tommy Franks, who in turn reported to the Secretary of Defense, Donald Rumsfeld.¹⁹ ORHA was charged with developing detailed plans for all aspects of planning for the administration of post-war Iraq, and was to coordinate participation of UN agencies, NGOs and other branches of the U.S. government.

The office filled a notable pre-existing gap within the U.S. government of a coordinating mechanism for interagency reconstruction activities. Under the Clinton administration, a plan for devising and coordinating reconstruction activities had been created through Presidential Decision Directive (PDD) #56 and partly implemented, but PDD #56 was not carried forward by the Bush administration and plans for a replacement agency never came to fruition. Thus, ORHA represented a significant though still vaguely defined step.

Significant confusion remains over Bremer's ongoing role and the future of ORHA. In addition to the departure of Garner, three other top officials of ORHA were removed from their posts in May 2003. These issues bespeak larger tensions around the division of labor and authority for reconstruction between branches of the Executive. As it was originally publicized, ORHA's

U.S. PLANNING FOR RECONSTRUCTION

Highlights:

- Only weeks after retired Lt. Gen. Jay Garner arrived in Baghdad to head U.S. reconstruction efforts, the Bush administration announced that Garner would be replaced by L. Paul Bremer, III, a career diplomat. Bremer arrived in Iraq on May 12.
- The shift in leadership can be characterized as a transition from military to civilian control, but the line of command for reconstruction remains housed in the Department of Defense. The appointment of Bremer as the new civil administrator of Iraq allayed some concerns about the dominant role of the military in post-war relief efforts.
- The confusion over Bremer's role and the future of the Office of Reconstruction and Humanitarian Assistance (ORHA) bespeak larger tensions within the Executive branch, in particular between the Department of Defense and the State Department.

¹⁹ General Tommy Franks announced on May 22, 2003 that he will retire from active military service and step down as commander of U.S. Central Command by the end of summer 2003. Vernon Loeb, "Franks to: Leave Central Command and Retire," *The Washington Post*, May 23, 2003.

responsibilities were to be divided into three main categories: reconstruction, civil administration, and humanitarian assistance. The office was meant to coordinate the participation of other U.S. agencies according to their areas of expertise, including the State Department, the Treasury Department and the Justice Department.²⁰ Yet it was always somewhat unclear, even after USAID began issuing contracts with the consent of ORHA, exactly how the participation of each department would mesh. In general, the Pentagon's extensive control over relief efforts—and postwar reconstruction generally—has caused tension with some Executive branches, most notably with the State Department. The transfer of power from Garner to Bremer has been characterized in some media reports as a concession to the State Department.

Even before the war in Iraq began, the State Department had begun shaping its own vision for a free Iraq. Through its “Future of Iraq Project,” which began in October 2002, the State Department brought together Iraqi professionals outside Iraq to examine vital humanitarian, political and economic issues facing a post-Saddam Iraq. The participants' 17 working groups culminated in a 32-page report, which offers an intensive analysis of what 12 of the Iraqi participants view as crucial steps in promoting a positive future for the Iraqi people. In the report, participants examine democratic institution-building in Iraq; infrastructure needs; building a modern economy; humanitarian aid, and other issues. The State Department says that many of the participating Iraqi professionals plan to return to Iraq now that Saddam has been deposed, and the hope is that the “Future of Iraq Project” recommendations can play a key role in shaping post-war institutions and reconstruction based on Iraqi expertise. Coordination between this mechanism and the concurrent efforts being undertaken by the Pentagon remains uncertain.

20 For further information about ORHA's responsibilities and structures, see U.S. Department of Defense Office of Reconstruction and Humanitarian Assistance *Organizational Diagram*, <http://www.cfr.org/pdf/chart.pdf>.

TRADITIONAL ACTORS IN POST-CONFLICT RECONSTRUCTION

While the U.S. has developed post-war plans for Iraq and made clear that it intends to take the lead in rebuilding efforts, it remains unclear exactly who will administer and implement different aspects of relief and reconstruction.²¹ There exists an array of national, transnational, and non-governmental actors, all with unique capacities and expertise. Any or all of them may be called upon to participate in reconstruction activities in Iraq and in future post-conflict situations.

Following is a list of four types of actors that have traditionally been involved in the aftermath of conflict situations: the UN and its various agencies; international financial institutions (IFIs); non-governmental organizations (NGOs), both domestic and international; and permanent and temporary security and peacekeeping alliances.

TRADITIONAL ACTORS IN POST-CONFLICT RECONSTRUCTION

Highlights:

- Actors traditionally involved in post-conflict reconstruction efforts include the UN system, international financial institutions, non-governmental organizations, and regional and ad-hoc security alliances.
- Resolution 1483 has granted a significant but limited role for the UN alongside the occupying powers; in addition to the UN's role in humanitarian activities, Resolution 1483 provides for an independent Special Representative to the Secretary General.
- The International Monetary Fund (IMF) and the World Bank stand to play an important role in re-building post-conflict Iraq, and will be integrally involved in the assessment and restructuring of Iraq's debt.
- The role of NGOs in Iraq may be less than is typical in post-crisis settings; while the U.S. Agency for International Development is granting contracts for NGOs for security and humanitarian purposes, most work has thus far been contracted by the U.S. to private vendors.
- It remains unclear whether NATO will formally deploy its own Iraq peacekeeping force in the future and if it will seek a UN mandate beyond the provisions of Resolution 1483 to do so.

The United Nations System

Both the United States and United Nations are conducting reconstruction activities in Iraq. The United Nations is already providing humanitarian assistance in Iraq under various UN mandates that permit immediate humanitarian assistance in disaster situations.²² Though it remained unclear for some time what the division of labor would be between the U.S. and the UN or which entity would ultimately coordinate the reconstruction of Iraq, Resolution 1483 has granted a more significant but limited role for the UN alongside the occupying powers. In addition to the humanitarian activities that have proceeded throughout the reconstruction, Resolution 1483 now provides for the appointment of an independent Special Representative to the Secretary General. On May 23, 2003, Secretary General Annan named UN High Commissioner for Human Rights Sergio Vieira de Mello as his new Special Representative for Iraq for an initial period of four months.²³

Depending on the U.S. interpretation of the resolution and on how Secretary General Annan chooses to proceed, the Special Representative may be able to assume a significant role in certain activities such as rewriting the legal codes and helping to establish an interim government, and will govern the range of UN activities and the commitment of UN resources in

21 Resolution 1483 does clarify certain rules and responsibilities for both the UN and the Authority, but the ultimate authority for most areas of reconstruction, with the exception of control of oil, remains ambiguous.

22 Most important among these are Security Council resolution 986 and resolutions 45/100 and 46/182 of the General Assembly, UN Security Council Resolution 986, available online at: <http://www.un.org/documents/scres.htm>. Resolution 45/100 can be found at: <http://www.un.org/documents/ga/res/45/a45r100.htm>; Resolution 46/182 can be found at: <http://www.un.org/documents/ga/res/46/a46r182.htm>.

23 Vieira de Mello was the preferred candidate of the U.S. Secretary General Annan had been originally hesitant to appoint him because he did not wish to de-prioritize human rights, but eventually acceded to the request for a period of at least four months. Colum Lynch, "Diplomat Will Oversee UN's Iraq Operations," *The Washington Post*, May 23, 2003.

Iraq. The Special Representative is the highest UN authority on the ground and will serve as the primary liaison to the occupying powers on issues of vital importance to the international community. The presence of the Special Representative carries with it the legitimacy of the UN member body, which will likely encourage greater donor support to reconstruction efforts.

The resolution also permits the UN to provide representation in such bodies as the International Advisory and Monitoring Board for the Development Fund for Iraq (which will contain all oil revenue and is meant to finance reconstruction activities); to “work with” the people of Iraq and with the help of the Authority in the efforts to establish an interim government and a future representative government; and to report to the Security Council on its activities as defined under the resolution. However, in most of these activities it remains ambiguous which entity has the lead role in coordinating and controlling the reconstruction. One notable exception is in the disbursement of oil revenue, where the Authority has retained control; the resolution also mandates that the Secretary General hand over operational control and all resources of the Oil for Food program to the Authority.

The dominant control of the U.S., as has been noted, makes current reconstruction in Iraq diverge widely from similar post-conflict situations in recent decades. The authorizing and legitimating power that the United Nations may bring to reconstruction activities has remained largely untapped except in the humanitarian sphere, as has its expansive expertise ranging from oversight and coordination to building systems of law and reconciliation. As a report issued by the United Nations Association of America states,

This is a fundamentally new situation for both the U.S. and the UN in many ways but the situation still reflects the realities of the past 50 years. The U.S. has overwhelming power but must seek legitimacy through alliances and high purpose. The UN has no power except for that bestowed upon it by its major member states, but it has great capacity to bestow legitimacy. There should and will be a coming together of these different roles in rebuilding Iraq.²⁴

Many agencies of the UN system are well-positioned to assist in the post-conflict reconstruction efforts in Iraq. Indeed, agencies such as the World Food Program (WFP), the United Nations Office for Project Services (UNOPS), the United Nations High Commissioner for Refugees (UNHCR), and the

United Nation’s Children’s Fund (UNICEF) are already actively engaged in assisting the citizens of Iraq. These humanitarian agencies were active in Iraq before and after the recent conflict period, and their presence preceded the passage of Resolution 1483. The efforts they administer are not considered reconstruction activities and thus need no further mandate; in addition, these agencies were also specifically deployed under existing Security Council mandates to provide aid in Iraq. In general, these agencies (e.g. UNHCR, WHO, WFP, UNICEF) can operate without a Security Council resolution in order to fulfill their humanitarian missions. They require only an invitation from the occupying force and a permissive environment in which to operate.

Other agencies, such as the United Nations Development Program (UNDP) and the United Nations Department of Peacekeeping Operations (UNDPKO), cannot undertake missions without a Security Council mandate authorizing operations. However, non-humanitarian agencies do not require individual mandates after the Security Council passes a resolution on reconstruction. In such a case, UN agencies are deployed as necessary under the oversight of the UN Secretary General. Under the

Joint Statement on Iraq by U.S. President George W. Bush and UK Prime Minister Tony Blair, Northern Ireland, April 8, 2003:

“The United Nations has a vital role to play in the reconstruction of Iraq. We welcome the efforts of UN agencies and non-governmental organizations in providing immediate assistance to the people of Iraq.”

24 United Nations Association of the United States of America, “Rebuilding Iraq: How the United States and the United Nations Can Work Together,” April 2003, p. 4.

terms of Resolution 1483, it appears that the Special Representative of the Secretary General may now deploy any agency, humanitarian or otherwise, in Iraq as he sees fit.

The UN Compensation Commission (UNCC), a subsidiary organ of the UN Security Council, will also figure into post-conflict reconstruction plans for Iraq. The UNCC was established in 1991 by Security Council Resolution 692 (May 20, 1991) to process claims and pay compensation for losses and damage suffered as a direct result of Iraq's unlawful invasion and occupation of Kuwait. When the Oil for Food program was formally launched in 1996, the UNCC began to receive 30 percent of the proceeds of Iraq's oil sales; this was reduced to 25 percent in 2000 by resolution 1330. Since 1991, the UNCC has received approximately 2.6 million claims seeking compensation in excess of \$300 billion. According to the UNCC, more than 99 percent of the claims filed have been resolved, and as of April 9, 2003 the UNCC had paid more than \$17 billion in claims.²⁵ Security Council Resolution 1483 reduced the allocation to the UNCC from Iraqi oil revenue to 5 percent.

An additional UN-mandated office that will have a role in reconstructing Iraq is the High-Level Coordinator for the return of missing property and missing persons from Iraq to Kuwait.²⁶ The coordinator is to report to every four months on Iraq's compliance with its obligations under Security Council Resolution 687 (1991) to repatriate or return the remains of the missing, and every six months on its obligations to return looted property. In October 2002, Iraq began returning, through UN auspices, the Kuwaiti archives removed by its forces during the 1990 occupation of Kuwait, but despite repeated pledges of cooperation, the UN Security Council has expressed concern about the fate of missing persons in Iraq. Resolution 1483 continues these efforts to return missing Kuwaiti nationals and property.

Following is list of relevant UN agencies, some of which are already engaged in Iraq and others which are likely to be deployed by the new Special Representative for Iraq:

UN Humanitarian Agencies

OCHA (*Office for the Coordination of Humanitarian Affairs*) is the office responsible for the coordination and oversight of all UN agency operations in a country or region. OCHA is charged with coordinating all UN humanitarian and relief efforts in Iraq, and is also the primary point of contact between the UN and the coalition. OCHA, which is currently operating from its Geneva headquarters, is also instrumental in implementing the Consolidated Appeals Process, a fundraising method that the UN system, international organizations and NGOs use to respond to complex humanitarian emergencies. http://www.reliefweb.int/ocha_ol/

UNHCR (*United Nations High Commissioner for Refugees*) provides international protection to refugees, furnishes them with material assistance, and seeks durable solutions to their plight. UNHCR's role will be circumscribed by the relatively low numbers of displaced persons created by the war, although it will be instrumental in repatriating the refugees that existed prior to the latest conflict in Iraq. <http://www.unhcr.ch>

UNICEF (*United Nations Children's Fund*) is the lead agency in all matters relating to the rights and welfare of children. UNICEF provides emergency assistance to children in war ravaged countries, and will work with NGOs in Iraq on medical, educational and health programs that can provide for the long-term needs of children and mothers. <http://www.unicef.org>

25 The United Nations Compensation Commission Secretariat, "Status of Claims Processing," April 9, 2003, <http://unog.ch/uncc/status.htm>.

26 On February 14, 2000, UN Secretary General Kofi Annan, in accordance with Security Council resolution 1284, appointed Yuli Voronstov as his High-level Coordinator for the return of missing Kuwaiti property and persons.

WFP (World Food Program) is currently one of the only UN agencies operating on the ground in Iraq, providing food aid to citizens in cooperation with the U.S.-led coalition. Between the months of June and November 2003, the WFP plans to contribute more than \$1.8 billion in food to Iraq, much of which has already arrived in neighboring countries but remains outside of the borders due to security problems and unrest within the country.²⁷ The WFP's mission is to provide food aid to low-income, food-deficit countries, to help meet humanitarian relief needs and implement long-term economic and social development projects.

<http://www.wfp.org>

WHO (World Health Organization). The WHO, which undertakes preventive and reactive missions to provide health care, will likely be engaged in many activities in Iraq, including the rehabilitation of hospitals and local medical facilities, health education and the provision of medical care, and preventative services in the early phases of reconstruction in Iraq.

<http://www.who.int/en>

Other UN Agencies

UNDP (United Nations Development Program), which helps countries in their efforts to achieve sustainable human development, generally plays the largest role of all UN agencies in reconstruction efforts. In Iraq, UNDP could be tasked with missions ranging from rebuilding of the physical infrastructure to capacity-building for local governance. UNDP—which operates in 166 nations—assists countries in implementing programs to eradicate poverty, create employment and sustainable livelihoods, empower women, and protect the environment.

<http://www.undp.org>

FAO (Food and Agriculture Organization) could be instrumental in Iraq by helping to reestablish agricultural markets and providing indigenous farmers with the resources necessary to resume farm operations, while also attempting to stabilize commodity prices. The FAO is tasked with promoting efforts to raise the levels of nutrition and standards of living by helping improve the production and distribution of food and agricultural products.

<http://www.fao.org>

UNDPKO (United Nations Department of Peace-Keeping Operations) has conducted 55 peace missions since 1948. UNDPKO could be engaged in Iraq to assist the U.S.-led coalition with providing internal security and police forces, though the U.S. has organized security in Iraq largely through bilateral dealings.

<http://www.un.org/Depts/dpko>

UNIFEM (United Nations Development Fund for Women) efforts in Iraq would obviously center on the rights of women and could help to ensure their inclusion in the new government. UNIFEM could also assist in rehabilitating the educational system and developing a more representative curriculum. UNIFEM's mandate is to provide financial and technical assistance to innovative programs and strategies that promote women's human rights, political participation and economic security.

<http://www.unifem.org>

27 Beth Potter, "WFP Announces Plan to Deliver \$1.8 Billion in Food Aid," UN Wire, May 11, 2003.

UNEP (United Nations Environment Program) could be engaged in missions in Iraq such as rehabilitation of areas affected by oil well fires, as well other regional environmental concerns. UNEP works worldwide to provide leadership and encourage partnerships that balance quality of life and environmental protection.

<http://www.unep.org>

UNESCO (United Nations Educational, Scientific, and Cultural Organization), which promotes educational, scientific and cultural collaboration, will be engaged in Iraq on efforts to help rebuild the educational system and to provide for the preservation and continuation of religious and cultural institutions and practices. For further information on UNESCO's activities in relation to restoring looted artifacts, please see pages 39-40.

<http://www.unesco.org>

UNMAS (United Nations Mine Action Service) is preparing an emergency response team to survey and clear landmines and UXO. UNMAS will survey and clear mines and unexploded ordnance to make access routes and infrastructure safe; provide support for the search and removal of booby traps and other improvised explosive devices; undertake UXO awareness training with the local population; and offer assistance to victims. UNMAS provides expert technical assistance in landmine identification, removal, and destruction activities.

<http://www.mineaction.org>

UNFPA (United Nations Population Fund), which provides assistance to countries to help address reproductive health and population issues, could resume its pre-war efforts in Iraq to ensure the availability of care and supplies for reproductive health. UNFPA has been active in Iraq since 1972, and between 1995 and 2001 increased the number of facilities providing reproductive health services from 37 to 146.²⁸

<http://www.unfpa.org>

UNOPS (United Nations Office for Project Services) provides project management, financial supervision, and other support services for projects and programs undertaken by UN organizations and member states. In Iraq, UNOPS could provide services to a wide range of post-conflict projects.

<http://www.unops.org>

International Financial Institutions (IFIs)

The International Monetary Fund (IMF) and the World Bank are specialized agencies of the United Nations system, set up in 1945 to help promote growth and stability in the world economy. They stand to play an important role in re-building post-war Iraq, especially in the absence of a functional regional development bank in the Middle East. In addition to their activities relating to debt restructuring and economic rehabilitation of Iraq, an additional role for the IFIs has been conferred by the terms of Security Council Resolution 1483, which states that representatives of the IMF and the World Bank will sit on the advisory and monitoring board of a "Development Fund for Iraq." The function of the Fund is to finance reconstruction by disbursing profits from oil exports and other revenue.

28 United Nations Population Fund, "Aid to Iraqi Women" Fact Sheet, <http://www.unfpa.org/emergencies/iraq/index.htm>.

The Oil for Food Program, Past and Future

A unique UN effort in Iraq is the Oil for Food program, which is a humanitarian initiative, not a standing agency, and has been created and governed by various Security Council resolutions. Prior to the recent conflict, 60 percent of Iraq's civilian population was dependent on the program's network of more than 45,000 Iraqi food agents, who distributed food and basic supplies such as medicine.²⁹ Under Resolution 1483, Oil for Food will be dismantled within six months by the Secretary General and its funds will be transferred to the Development Fund for Iraq, a replacement regime for collecting and disbursing oil revenue. The Fund will disburse funds and collect revenue under the direction of the Authority, in conjunction with an International Advisory and Monitoring Board that reports back to the Security Council. The Board is comprised of representatives from other member-based organizations such as the IMF and the World Bank. In the immediate term, the Secretary General is instructed to transfer \$1 billion of unencumbered funds from the UN Oil for Food escrow account into the Development Fund for Iraq.

The Oil for Food program, proposed by the United Nations in 1991 and established by Security Council Resolution 986 in April 1995, was created to authorize an exception to the international economic sanctions regime that prevented Iraq from exporting goods or resources.³⁰ Under its auspices, Iraq has been permitted to sell oil in exchange for importing humanitarian goods through a UN escrow account. The UN has administered the Oil for Food program through the Office of the Iraq Program.

Oil for Food was active in Iraq right up until the conflict, when on March 17 Secretary General Annan ordered the withdrawal of UN humanitarian personnel and an additional Security Council resolution was passed to add flexibility, allow the urgent review of approved contracts to determine priorities for delivery of supplies, and relocate authority for the program to the UN rather than the Iraqi government. Under the terms of Resolution 1483, the Secretary General is now charged with assessing the value of existing contracts and deciding which outstanding contracts to honor and which to postpone.

Supplies provided by the Oil for Food program are still in sharp demand. The UN Office of the Iraq Program has stated that as of May 13, 2003, the total value of priority items from the Oil for Food program's humanitarian pipeline that can be shipped to Iraq by June 3 has reached \$778 million. Most of these supplies are in the sectors of food (\$356 million), electricity (\$179 million), agriculture (\$119 million) and health (\$81 million). More than half (55 percent) of those goods and supplies are already in transit to Iraq.³¹ In six months time, under the terms of Resolution 1483, the Authority is expected to assume all operational responsibility for the program, but it remains unclear how or whether food distribution will continue at that point in time.

Iraqi Debt

It is still somewhat unclear in what forum Iraq's debt will be addressed, but Iraq is not expected to begin repayment of debts until after 2004.³² Resolution 1483 "calls upon the international financial institutions to assist the people of Iraq" and further welcomes efforts by the Paris Club, an informal group of sovereign creditors, to "seek a solution to Iraq's sovereign debt problems." At their annual meeting on April 13, 2003, the World Bank and IMF invited the Paris Club take up the issue of Iraq's debt.³³ Before any debt restructuring or servicing will take place, all parties agree that an official number for the extent of Iraqi debt will have to be reached. Some reports indicate that the IMF will take the lead on providing this figure, but the Paris Club has also indicated that it will assess Iraqi debt as the first step in its continuing efforts. It seems clear that either one of the two bodies, or some combination of both, will be called upon to assess Iraqi debt.

The IMF and the World Bank are constrained somewhat by their own rules, which state that before new funds can be disbursed to Iraq, Baghdad must repay the World Bank \$82 million in arrears, and the IMF \$52 million in arrears.³⁴ While Iraq's financial obligations to the IFIs total approximately \$134 million, it is actually governments and commercial groups that constitute Iraq's primary creditors, with outstanding debts to these entities valued at approximately \$126.9 billion.³⁵ Though the IMF and World Bank may not be able to immediately provide new funds to Iraq, they are

29 CBS News, "Oil for Food For Iraq Gets UN OK," March 28, 2003.

30 The sanctions, except for those prohibiting the sales of weapons, have all been lifted by Resolution 1483. See also United Nations Office of the Iraq Programme, "Oil for Food In Brief," <http://www.un.org/Depts/oip/background/index.html>.

31 United Nations Office of the Iraq Programme, "Weekly Update: Medicines, Food and Heavy Equipment Among Priority Items in Transit to Iraq," May 13, 2003, <http://www.un.org/Depts/oip/background/latest/wu030513.html>.

32 Reports on May 27 indicated that the Group of 8 (G8) made preliminary agreements to impose a moratorium on repayment of Iraqi debt through 2004. See Kathleen Ridolfo, "G-8 Reportedly Set to Grant Moratorium on Iraq's Foreign Debt," *Iraq Report: Radio Free Europe/Radio Liberty*, May 23, 2003. <http://www.rferl.org/iraq-report/>. Also based on comments by Undersecretary of the Treasury, John Snow, from a mid-May meeting of finance ministers in Deauville, France. Ed Crooks, "International Economy: Ministers Agree Iraq Needs more Time to Service Debt," *Financial Times* (FT.com), May 19, 2003.

UN Involvement in Pre-Conflict Iraq

On March 17, 2003, just before the bombing began, UN agencies and their staff operating in Iraq were evacuated on an order from Secretary General Annan. The UN had been active in providing basic services in Iraq since the 1991 Gulf War and its agencies have amassed expertise and contracts throughout the country.

- **The United Nations Development Program (UNDP)** was the lead UN agency on the ground and managed the Oil for Food program. The main UNDP effort in Iraq was the reconstruction of the power grid in Baghdad, and the development of infrastructure in northern Iraq, especially in the Kurdish sectors. In addition, UNDP worked to support some civil society activities including health care, microfinance, and promotion of women's rights. UNDP also supported the Learning Resource Center, which gave Iraqis training in information technology and access to the outside world through an informal internet café.
- **The United Nations High Commission on Refugees (UNHCR)** operated in Iraq and at its borders. The first Gulf War produced a large caseload of nearly one million internally displaced persons (IDPs) who have not yet been resettled.
- **UNICEF** worked on specific child health care issues, providing help to women and children throughout the sanctions era.
- **The World Food Program** provided food and other supplies to support the 60 percent of the population that relied on humanitarian food assistance.
- In addition, the UN had provided a **Special Rapporteur** on the situation of human rights in Iraq, as established by the United Nations Commission on Human Rights at its 1991 session and renewed annually since then. The mandate of the Special Rapporteur is to investigate concerns in countries and receive and consider complaints from victims of human rights violations, and then reports his findings, conclusions and recommendations to the Commission or the United Nations General Assembly. In February 2002, the Special Rapporteur for Iraq was granted permission by the Iraqi government to visit the country for the first time in ten years. A second trip was being planned before the outbreak of the recent conflict.³⁶

likely to become engaged—and in some cases have already become involved, as mentioned above—in other activities relating to economic reconstruction.

Future Role of the World Bank and IMF in Iraq

The *World Bank*, originally created to finance post-World War II reconstruction, will be called on to finance investments in health, education and infrastructure in Iraq. The World Bank announced on May 28, 2003 that it would send a Bank representative along with the newly appointed U.N. Special Representative on his trip to Iraq, in order to assess the on-the-ground needs for development and reconstruction. A full assessment mission will not take place until security improves, however.³⁷ The Bank said in an earlier statement that it would work closely with bilateral and multilateral groups, "particularly United Nations agencies."³⁸

The *International Monetary Fund (IMF)* will be needed to help re-establish Iraq's monetary and banking system, and may eventually be called upon to provide temporary financial assistance as part of a restructuring of Iraq's huge foreign debts. According to some reports, IMF experts have also been working since April 2003 to develop plans for an Iraqi currency and ways to re-establish commerce in the country. The IMF will also likely be involved in assessing the total amount of Iraq's debt so that restructuring programs may commence, as noted above.

Bush administration officials have said they

33 The Paris Club itself is owed money by Iraq. Pyivi Munter, "War in Iraq After the Conflict: Baghdad Action Triggers Rally in Traded Debt," *Financial Times* (FT.com), April 8, 2003.

34 World Bank, "Spring Meeting 2003 Press Release," April 22, 2003, <http://www.worldbank.org> and International Monetary Fund, "Spring Meeting 2003 Press Release," April 22, 2003.

35 Center for Strategic and International Studies, "A Wiser Peace: An Action Strategy for a Post-Conflict Iraq Supplement I: Background Information on Iraq's Financial Obligations," January 23, 2003, p. 3, figure 3. Based on the report's figure of \$127 billion for Iraq's foreign debt, and subtracting the IMF and World Bank's arrears of \$134 million, the total remaining foreign debt after repaying these two IFIs is \$126,866,000,000.

36 In his remarks to the Commission on April 1, 2003 the current Rapporteur, Andreas Mavrommatis, stressed the importance of continuing his activities and the activities of the Commission in Iraq "to assist [Iraqis] in the process of the healing of wounds, in tackling humanitarian issues that arise, in protecting at all times the supreme right to life, and eventually in ensuring for the future the effective application of civil, political, economic, social and cultural rights." Introductory Statement by the Special Rapporteur on the Situation of Human Rights in Iraq, Andreas Mavrommatis, 59th Session of the Commission on Human Rights, April 1, 2003.

37 World Bank, "Assessing Needs in Iraq," May 28, 2003, <http://www.worldbank.org>.

38 World Bank, "Official Statement," April 29, 2003, <http://www.worldbank.org>.

Edwin Truman, a former top international finance official at the Federal Reserve and the Treasury Department:

“This will not be credible to the Iraqi people or anyone else if we try to do it ourselves. The World Bank and the IMF have a lot more experience and a lot more credibility in this than the U.S. government.”

would welcome World Bank and IMF help in Iraq and provided a limited role for the IFIs in Security Council Resolution 1483, but it remains unclear how such efforts would be reconciled with U.S. projects, such as those to be undertaken by the U.S. Agency for International Development. Traditionally, the World Bank has provided immediate economic assessments, often in cooperation with USAID, to determine strategies for financing the recovery effort.

However, in a confidential 100-page U.S. contracting document entitled “Moving the Iraqi Economy From Recovery to Sustainable Growth,” obtained by a *Wall Street Journal* reporter, U.S. officials contemplate in detail restructuring an economy that has been almost entirely government-run for decades, and long mired in a slump aggravated by wars and international sanctions.³⁹ The report, prepared by the Treasury Department and the Agency for International Development (USAID), envisions a dominant role for private American contractors working alongside small teams of U.S. officials, and mentions the World Bank and the International Monetary Fund only in passing. Treasury Department officials maintain that the plan reflects only a general vision for Iraq’s future economy, and that not all the goals will necessarily be followed.

U.S. Treasury Secretary John Snow said in late April that the World Bank and International Monetary Fund will play an “important role in supporting” reconstruction of Iraq.⁴⁰ Snow noted that the Bank was establishing expert teams to conduct a needs assessment and that the IMF “has provided general advice on the currency and monetary policy, and has also signaled that it is prepared to undertake a needs assessment at the appropriate time.”⁴¹ The IMF has not yet sent a team into Iraq for this work and a spokesman noted on May 22 that it would do so at such time as seemed “useful and productive.”⁴²

Other International Financial Institutions in Reconstruction

There is currently no *Middle East Development Bank* akin to reconstruction and development banks in Europe, Latin America, Asia, and Africa. In 1995, President Clinton convened a group of European and other national delegations to consider the creation of such an institution. In 1996, the Bank for Economic Cooperation and Development in the Middle East and North Africa (MENA-BANK) was created, but it endured many problems related to the Israeli-Arab conflict, and is now in a state of collapse.

Finally, the *European Union* (EU) can also act as an IFI. In times of crisis, the EU has the ability to disburse funding from a pool of resources that is received from individual member nations. The EU has been involved in humanitarian assistance in Iraq through the European Commission Humanitarian Aid Office (ECHO). ECHO supplies technical assistance and funding to UN agencies and NGOs operating in Iraq. Between the Gulf War of 1991 and the most recent conflict, ECHO was the main source of external humanitarian assistance for the Iraqi people. ECHO has pledged 327 million Euros for post-conflict relief efforts in Iraq, primarily through OCHA, UNICEF, CARE (a U.S.-based relief NGO), the International Committee of the Red Cross (see page 18 for more information on the ICRC), and Première Urgence (an international humanitarian aid agency).⁴³

39 Neil King, “US envisions a free-market revolution,” *The Wall Street Journal*, May 2, 2003.

40 Reuters, “U.S. Treasury’s Snow: IMF, World Bank to Help in Iraq,” April 30, 2003. Also see: Paul Blustein, “G-7 Agrees That Iraq Needs Help With Debt; Important Roles Seen For IMF, World Bank,” *The Washington Post*, April 13, 2003.

41 Testimony of Undersecretary of the Treasury John Snow, U.S. House of Representatives Appropriations Foreign Operations Subcommittee, April 30, 2003.

42 Thomas C. Dawson, Director, External Relations Department of the IMF, “Press Briefing,” May 22, 2003, <http://www.imf.org/external/np/tr/2003/tr030522.htm>.

43 Agence France Presse, “EU announces 327 million euros for Iraq relief operations,” March 31, 2003.

Non-Governmental Organizations (NGOs)

NGOs play an important role in emergency reconstruction efforts, and they also represent the core suppliers of medium- and long-term assistance efforts on the ground.

Mandate, Activities and Capacity

NGOs engage in post-war reconstruction using funds raised from the public and/or as the implementing partners for bilateral donors and United Nations agencies from which they receive funding. Thus, while UN agencies or donor governments may direct and fund the reconstruction efforts, NGOs are often largely responsible for on-the-ground planning and physical execution of rebuilding.

In the short-term, NGOs provide humanitarian assistance to those affected by conflict in the forms of food, water, health care, and shelter. Some prominent groups which have been instrumental in past post-conflict relief efforts include CARE, Catholic Relief Services and World Vision, which are leaders in food distribution. The International Rescue Committee (a refugee relief agency) and Oxfam are acknowledged leaders in water and sanitation.⁴⁴ Medecins Sans Frontières (the French-based NGO) and International Medical Corps (a global humanitarian organization) provide clinical medical services at disaster sites. In the longer-term, as implementing partners for donor nations and UN agencies, NGO activities span a broad spectrum of sectors, including education, agriculture, health, small business, and civil society.

NGOs tend to have unique capacities in post-conflict situations. They typically have greater knowledge of local conditions than UN agencies or bilateral donors because their personnel have been on the ground for years, or sometimes decades, as in the cases of Afghanistan and Sudan. Their institutional memories are better and their individual relationships more intimate.

International Committee of the Red Cross (ICRC)⁴⁵

The ICRC, founded in 1863, is unique among non-governmental and international organizations. Its mandate to protect and assist the victims of armed conflict was conferred by the international community through the four Geneva Conventions of 1949 and their Additional Protocols of 1977. The ICRC's guiding principle is that even in war there are limits: limits on how warfare is conducted and limits on how combatants behave. The set of rules related to conduct during military operations is known as international humanitarian law (IHL), of which the Geneva Conventions and the Hague Conventions of 1907, are the most important instruments. The ICRC, as the explicit guardian of IHL, spreads knowledge of that law and promotes its development. The ICRC also works to protect and assist people in the midst of conflict and other humanitarian crisis, working closely with Red Cross and Red Crescent Societies worldwide.

Another unique feature of on-the-ground assistance by NGOs is their explicit non-alignment with either side of a conflict; groups engaged in humanitarian assistance subscribe to principles of independence and impartiality which give them some protection from attack amidst conflict and residual violence.

Potential Conflicts of Interest in Iraq

Their principled impartiality has led to great concern on the part of NGOs working on the ground in Iraq that they not be perceived as taking orders from the U.S. military. Yet NGOs, for the most part, also acknowledge that coordination with the military in conflict situations is necessary for success. The military can be wary of joining forces with NGOs as well, due in part to vastly different organizational structures between the two entities, but often recognizes that aid workers have years of experience and can offer an invaluable understanding of the situation on the ground.

44 The ICRC is an international organization, not an NGO. See the pull-out box on the ICRC above.

45 Portions excerpted directly from the International Committee of the Red Cross, "Discover the ICRC," May 2002, [http://www.icrc.org/WEBGRAPH.NSF/Graphics/discover_eng.pdf/\\$FILE/discover_eng.pdf](http://www.icrc.org/WEBGRAPH.NSF/Graphics/discover_eng.pdf/$FILE/discover_eng.pdf). For more information on the ICRC's activities, please see <http://www.icrc.org>.

46 Center for Strategic and International Studies and the Association of the U.S. Army "Play to Win: Final Report of the bi-partisan Commission on Post-Conflict Reconstruction," January 2003.

Interaction, a Washington-based coalition of humanitarian groups, was negotiating with U.S. military planners for months prior to the war on the logistics of working together in Iraq, while also advocating that humanitarian agencies should operate under civilian control. There have also been past efforts to foster cooperation; a notable example was the year-long Commission on Post-Conflict Reconstruction, which met throughout 2002 and included members of NGOs and military leaders. The group ultimately issued a set of recommendations, including greater standardization and institutionalization of the role of NGOs in the U.S. government's planning process for post-conflict reconstruction.⁴⁶ It seems clear that the success of reconstruction efforts in Iraq will depend, in part, on the ability of the two sectors to cooperate.

Activities in Iraq

For a number of reasons, some explained above, the role of NGOs in Iraq may be less than is typical in post-crisis settings. While the U.S. Agency for International Development is granting contracts for NGOs for security and humanitarian purposes, most work thus far has been contracted by the U.S. to private vendors. NGO involvement is likely to be more indirect, with groups applying for community development grants or becoming subcontractors to firms in need of specialized knowledge. Additionally, cooperation between NGOs and the U.S. government in Iraq has been impeded because for many months leading up to the conflict, the U.S. significantly delayed issuing to NGOs the necessary licensing requirements mandated under the economic sanctions regime. As a result, many groups were unable to do pre-conflict assessments and preparations, and have had trouble deploying immediately on the ground.

The few international NGOs that were in Iraq before the war and remained through the conflict – e.g. CARE Australia and Save the Children/UK – are continuing their programs. Approximately 60 NGOs were in Jordan and more in Kuwait waiting to enter Iraq at the end of the conflict.⁴⁷ The chaos which ensued after the fall of the regime and continuing armed violence slowed the entry of most. But an increasing number of newly arrived NGOs are operational inside the country. Save the Children/U.S. and Mercy Corps are among NGOs providing food, fuel and water in Umm Qasr and other southern cities; International Medical Corps has been working in a Baghdad hospital; and Northwest Medical Teams continues to provide medical assistance in northern Iraq.

Coordination between NGOs and the U.S.-led forces in Iraq is being undertaken through the Humanitarian Operation Center (HOC) in Kuwait. The HOC represents the civil side of the the U.S.-led coalition. Its purpose is to facilitate humanitarian efforts through the sharing of critical information regarding access, security and populations in need. The United States has also deployed a Disaster Assistance Response Team (DART). The team conducts assessments, directs assistance towards vulnerable populations, and provides funding to International Organizations and NGOs. The DART is composed of more than 60 humanitarian response experts from USAID; the Department of State's Bureau of Population, Refugees and Migration; and the Department of Health and Human Service's Public Health Service. In addition, the DART has the authority to provide grants on-site, and has administrative officers for logistics, transportation, and procurement, all of which enable the team to assess needs and fund solutions in the field.

For a complete, up-to-date list of which NGOs are in Iraq, see the Humanitarian Information Center for Iraq (HIC), "Who's Doing What Where" at <http://www.agoodplacetostart.org/wdww.php>

47 State Department briefing, April 21, 2003; Associated Press, "Relief workers in Middle East prepare for war's human toll," March 14, 2003.

48 U.S. Department of State Press Conference, "Remarks by Secretary of State Colin L. Powell and NATO Secretary General Lord Robertson After Their Meeting," May 5, 2003, <http://www.state.gov/secretary/rm/2003/20224.htm>.

Regional Security Alliances and Ad-Hoc Temporary Alliances

Regional security alliances have traditionally been involved in post-conflict reconstruction through the provision of peacekeeping and peace-building forces. In Iraq the U.S.-led coalition has kept the peace thus far, but Secretary of State Colin Powell said on May 5, 2003, that the North Atlantic Treaty Organization (NATO) “will explore a potential mission in Iraq in the days and weeks ahead,” and on May 21, NATO announced that it will aid Poland in establishing a peacekeeping force in central Iraq.⁴⁸ The role will be limited in the near future to such efforts as technical assistance, but may signify a step toward direct provision of NATO forces to Iraq. For the time being, NATO’s Secretary General, Lord Robertson, has stated that “we are not talking about a NATO presence in Iraq, we are talking purely and simply about NATO help to Poland.”⁴⁹ It remains unclear whether NATO will formally deploy its own peacekeeping force in the future and if it will seek a UN mandate beyond the provisions of Resolution 1483 to do so. Resolution 1483 extends the legal provisions on occupation to any peacekeepers operating under the command of the Authority.

NATO was founded in 1949 to provide mutual security to Atlantic allies including the U.S., Canada, and countries of Western Europe. In recent years, NATO has expanded its role in helping to resolve humanitarian crises and providing security for reconstruction efforts beyond the immediate Atlantic region. NATO receives a mandate to act when its members vote to do so. In the past, NATO has also received mandates to act under Security Council resolutions. Since 1995, NATO has been responsible for major peacekeeping efforts in Bosnia and Kosovo.⁵⁰

In April 2003, NATO announced that it will expand its peacekeeping responsibilities in Afghanistan, and will take control of the 29-nation International Security Assistance Force (ISAF) that is helping the Afghan Transitional Authority maintain security. Control of ISAF, to which NATO members have provided 95 percent of the troops, had previously rotated among nations every six months. ISAF will, however, continue to be a UN-mandated operation under United Nations Security Council Resolutions 1386, 1413 and 1444. NATO’s actions mark the first time the Alliance has moved beyond the scope of its original mission and participated in such geographically remote areas.

Another example of peacekeeping-by-alliance is for developing countries to deploy peacekeepers under the auspices of regional alliances with larger organizational mandates. One such standing alliance on the African continent is the Economic Community of West African States (ECOWAS). ECOWAS, an economic-based organization in West Africa since 1975, has also undertaken peace and post-conflict operations independent of or in cooperation with the United Nations. In its relatively short history, ECOWAS has engaged in several robust conflict prevention, peacekeeping and peace enforcement missions in Sierra Leone and Liberia, under the auspices of the ECOWAS Monitoring Group (ECOMOG). ECOMOG forces are deployed on an ad-hoc basis, usually retroactively mandated by a Standing Committee, and do not need the support or consent of all member states.

In the past two decades, countries have also joined together in temporary alliances to provide peacekeeping and security forces in post-conflict situations. One example is the Australian-led International Force in East Timor (InterFET), which began deployment on September 20, 1999 under UN Security Council Resolution 1264 to restore peace and security in East Timor. InterFET—which consisted of 16 countries, including the United States—comprised a total of 9,300 troops and was successful in ending militia violence (for more information on East Timor, see page 51).

49 Paul Ames, “NATO moves quickly, will aid Polish peacekeepers in Iraq,” Agence France Presse, May 22, 2003.

50 NATO launched its first major peacekeeping effort, Stabilization Force (SFOR), to Bosnia in December 1995 to “maintain the security environment necessary to enable the country to rebuild after . . . conflict.” SFOR operations were mandated under UN Security Council Resolution 1088 of December 12, 1996. (NATO Fact Sheet, “NATO’s Role in Bosnia and Herzegovina,” May 8, 2001; NATO Handbook, “Chapter 5: The Alliance’s Operational Role in Peacekeeping: SFOR’s Mandate.”) Following the NATO-led bombing campaign in Kosovo, NATO deployed a peacekeeping force, KFOR, to “establish a secure environment and ensuring public safety and order.” KFOR’s mandate comes from a Military Technical Agreement signed by NATO and Yugoslav commanders on June 9, 1999 and from UN Security Council Resolution 1244 of June 12, 1999. (NATO Fact Sheet, “NATO’s Role in Relation to Kosovo,” August 9, 2000.)

Finally, the European Union has developed a Rapid Reaction Force. The EU will eventually be able to deploy up to 60,000 ground troops within 60 days and maintain the presence for one year.⁵¹ The EU defense ministers announced on May 19, 2003 that this force is ready for peacekeeping duties and that they were considering a request from the UN to send troops to the Congo. The Rapid Reaction Force will have three main roles: to give assistance to civilians threatened by a crisis outside the EU, to respond to UN calls for peacekeeping forces, and to intervene between separate warring factions. In all three scenarios the EU would deploy its forces only if NATO decides not to get involved. The EU is also developing the capacity to rapidly deploy police, criminal investigators and judicial officials.

51 The European Union, "Guide for Americans: Europe in the World," <http://www.eurunion.org/infores/euguide/Chapter7.htm>.

FUTURE LEADERS: ETHNIC, RELIGIOUS, AND POLITICAL DIVERSITY IN IRAQ

The 24 million people of Iraq are ethnically, religiously, and politically diverse. Muslims compose 97 percent of Iraq's population, with Shiite Muslims making up more than 65 percent of the population and the minority Sunni Muslims more than 32 percent. The remaining 3 percent includes Christians, Jews, and other religious sects. Ethnic Arabs dominate Iraq, making up more than 75 percent of the population. Kurds, who are concentrated in the north of the country, make up more than 15 percent, while Turkomans, Assyrians and others account for the remainder.⁵² In addition, a fractious political scene encompasses both secular and religious groups from within the country as well as the diaspora community.

The diversity of the Iraqi population has complicated the establishment of an interim government that will eventually lead to a permanent democratically elected government.

FUTURE LEADERS: ETHNIC, RELIGIOUS, AND POLITICAL DIVERSITY IN IRAQ

Highlights

- Arabs are the largest ethnic group in Iraq and are divided mainly into Shiite and Sunni Muslims. Although Shiite Arabs are the largest religious group, Sunni Arabs have traditionally dominated economic and political life in Iraq.
- The Kurds, most of whom are Sunni, have been fighting for decades for independence from Turkey, Iran, and Iraq, and for the establishment of an independent Kurdish state. The Kurds have traditionally had close ties with the U.S.
- As the largest population within Iraq, many Shiites want an Islamic government; this sentiment is especially strong among high-level religious leaders with ties to Iran's Shiite government.
- Sunnis are wary that a Shiite religious revival in Iraq could produce pressure for the creation of an Islamic state; many Sunnis feel uncomfortable about the prospect of a Shiite Iraqi state.

Ethnic Groups

Arabs

Arabs are the largest ethnic group in Iraq (more than 18 million people), and are divided mainly into Shiite and Sunni Muslims. These groups are discussed below (see "Religious Divisions.")

Kurds

Concentrated in northern Iraq and divided by language and religious sect, most Kurds are Sunni, with a small mixture of Shiite, Christian, Kurdish-speaking Assyrians, and Persian-speaking Kurds known as Fails Kurds (the latter are regarded as non-Arab and non-Iraqi). The Kurds surround the cities of Mosul and Kirkuk, which contain Iraq's richest oil fields. The Kurds have been fighting for decades for independence from Turkey, Iran, and Iraq and for the establishment of an independent Kurdish state. If the Kurds were to succeed in breaking away from Iraq, one effect would be to tilt the religious balance even more strongly in favor of the Shiites, since the vast majority of Kurds in Iraq are Sunnis. Despite close and long-

standing relationships with the Kurds, the U.S. has committed to preserving Iraq's territorial integrity.

52 Unless otherwise sourced, all statistics in this section are from the CIA World Factbook 2002, <http://www.odci.gov/cia/publications/factbook/geos/iz.html>.

Turkomans

Turkomans, the third largest ethnic group in Iraq, live primarily in northern Iraq. They are Turkish-speaking and almost all are Muslims, though a small percentage is Christian. The creation of a “safe haven” for the Kurds in northern Iraq after the 1991 Gulf War effectively split the Turkomans into two groups: those dominated by the Kurds and those dominated by the Baghdad regime. The Turkomans’ political importance stems mainly from their affinity with Turkey, which has difficulties with its own Kurdish minority. The Turkomans of Iraq originally came from central Asia, in a migration that took place over several hundred years, beginning in the 7th century AD.

Assyrians

Assyrians in Iraq live mostly in the north of the country. Descended from Christians, the Assyrian people are linked to the Vatican or the Greek Orthodox Church and trace their history back to a kingdom in northern Mesopotamia—what is now Iraq—that began around 1350 BC. At its height, the empire controlled the Middle East from the Gulf to Egypt. Assyrians are primarily Christians.

Religious Divisions

The world’s Muslims are divided primarily into two sects—the majority Sunni (nearly 90 percent) and the minority Shiite (10 percent).⁵³ Both are similar in their beliefs but divided over who has the rightful claim to lead the Muslim people. The division dates back to the infancy of Islam, on the Arabian Peninsula, as a political dispute over who would succeed the prophet Mohammed. The Shiite sect felt that Mohammed’s son-in-law, Ali, and his descendants, were the rightful heirs. Ali was later named the fourth caliph, or leader, of Islam, but was murdered after five years, causing Shiism to become a minority sect. The larger Sunni sect did not recognize the heirs of Ali as having automatic right to be caliph; they preferred to elect a leader. Islam also has a third, mystical component known as Sufism, which draws followers—as well as fierce and often violent opponents—from both Shiite and Sunni Muslims. Within the Islamic world, Baghdad is seen as the heart of Sufism.

After the death of Mohammed, the Sunnis grew into power and Shiism ultimately became a minority sect. According to scholar Khalid Duran, however, this division in Islam is not merely a dispute over succession: “The conflict between Sunnism and Shiism resembles that between Judaism and Christianity...just as Christians have held Jews responsible for the killing of Christ, Shiites hold Sunnis responsible for the killing of Ali and his sons.”⁵⁴ Hence, the disputes within Islamic history are diverse and deeply profound for the tradition’s followers.

In Iraq, the Muslim population is majority Shiite (60-65 percent) and minority Sunni (32-37 percent). During the 400 years of the Ottoman Empire, the Sunnis in Iraq were favored by the Sunni Turkish governors, so they gained valuable administrative experience and have dominated the Iraqi bureaucracy since independence in 1932. Although Shiite Arabs are the largest religious group, Sunni Arabs traditionally have dominated economic and political life in Iraq, and those holding Sunni religious beliefs have experienced a distinct advantage in all areas of secular endeavor, including civil, political, military, and economic realms.

53 “Islam’s beginnings and its major sects,” *The Christian Science Monitor*, October 18, 2001.

54 Vartan Gregorian, “Islam: A Mosaic, not a Monolith,” Carnegie Corporation of New York, Annual Report 2001. [forthcoming publication in book form]

Shiite

Divided by region, class, tribal affiliation, and ethnicity, the Shiite Muslims in Iraq include Arabs, Kurds, and Turkomans. Shiites reside mostly in central and southern Iraq, which is the most productive agricultural region and encompasses the most important oil-refining center (in Al Basrah) and the main port, Umm Qasr.

As the largest population within Iraq, many Shiites want an Islamic government. This sentiment is especially strong among high-level religious leaders with ties to Iran's Shiite government. Many Shiites, however, are strict secularists who believe in the separation of religion and state.

Many Shiite religious leaders believe that the next leader of Iraq should be a descendant of the Prophet Mohammed, and there are several families which claim divine rights and the right to political leadership. Shiite leaders rise through the ranks on the basis of their scholarly mastery of Islamic law, influence within the sect, and popularity among the people. Outspoken in the past, Shiite clerics were targeted and murdered by Saddam Hussein's regime. Many of today's leaders, like Muqtada al-Sadr, are the sons of these martyrs.⁵⁵

The current supreme Shiite cleric in Iraq is the Grand Ayatollah Sayyed Ali al-Sistani. Al-Sistani has rejected any "foreign rule" over Iraq, but has urged his followers not to interfere with U.S. forces and says he will accept whatever "form of government that the Iraqi people approve of."⁵⁶

Secular and religious Shiites are trying to amass power in Iraq by filling the power vacuum left after the overthrow of Saddam. Shiite leaders have been organizing local communities, providing humanitarian assistance, paying salaries to some civil servants, retrieving looted property and sending militias to secure government buildings.

Sunni

Sunnis, who have dominated Iraqi politics since the end of World War I, reside predominantly in the north and west of Baghdad. Sunnis comprised the vast majority of Saddam Hussein's ruling Baath Party, which brutally oppressed, impoverished, and disenfranchised most middle- and upper-class Shiites.

The Iran-Iraq War of 1980-88 exacerbated religious animosities between Sunnis and Shiites. Sunnis are wary that a Shiite religious revival in Iraq could produce pressure for the creation of an Islamic state. Many Sunnis feel uncomfortable about the prospect of a Shiite Iraqi state, especially one with close ties to the Islamic Republic of Iran.

Political Groups

There are dozens of political groups in Iraq, representing a variety of religious, ethnic and political interests. Many of these groups have organized into coalitions and are now part of the formal process of selecting representatives for an Iraqi Interim Administration in Iraq.

In 1998, a piece of U.S. legislation called the "Iraq Liberation Act" established two sources of financial and material support for Iraqi opposition forces, one emanating from the Defense Department to supply defense-related training and services, and one from the Department of State to supply support funds. Seven groups were authorized to receive this funding under the provisions of the act: Iraqi National Congress, Iraqi National Accord, Kurdistan Democratic Party, Patriotic Union of Kurdistan, Supreme Council for the Islamic Revolution in Iraq, Islamic Movement of Iraqi Kurdistan,⁵⁷ and Constitutional Monarchists.⁵⁸

55 On April 10, 2003, Abdel Majid al-Khoei, a Shiite cleric newly returned from exile and cooperating with the American forces, was killed by a mob at Imam Ali Mosque in Najaf. Khoei supported the war in Iraq and was backed by the U.S., which angered some Shiites hostile to invasion. (Craig S. Smith, "U.S.-Backed Shiite Cleric Killed at Shrine in Najaf," *The New York Times*, April 11, 2003.)

56 The Associated Press, "A Who's Who of Iraqi Shiite leaders," April 22, 2003, http://www.usatoday.com/news/world/iraq/2003-04-22-shiite-who_x.htm.

57 The group is now "almost defunct." Based in Halabja, this organization has been supported by Saudi Arabia and Iran in the past, and can now muster up only 1,500 fighters at most. (Ibrahim Al-Marashi, "The Iraqi Actors in the North of Iraq," Monterey Institute for International Studies, Center for Nonproliferation, March 27, 2003, <http://cns.miis.edu/research/iraq/nactors.htm>.)

Following is a more comprehensive list of prominent Iraqi groups:

Coalition and Umbrella Groups

■ *Iraqi National Congress (INC)*

The INC, founded in 1992, is an umbrella organization of Iraqi opposition groups, which has emerged as a powerful political force with heavy U.S. backing. Headed by Ahmad Chalabi and a group of exiles who opposed the regime of Saddam Hussein, the group has received significant funding from the U.S. beginning in the early 1990s and then formally under the 1998 Iraq Liberation Act. The INC has been criticized for having little or no political support inside Iraq despite being a favorite of some Bush administration officials, predominantly in the Department of Defense.

■ *Iraqi National Accord (INA)*

Based in Amman, Jordan, INA is composed mostly of former Iraqi military and intelligence officers. INA networks inside Iraq were infiltrated and largely destroyed by Saddam Hussein's agents during the planning of a failed coup in 1996. The group is not considered to have strong support on the ground. The INA, which was created by Saudi intelligence in 1990, was reorganized by the CIA in 1996. INA, which is led by Iyad Allawi, has participated in the planning meetings for an Iraqi Interim administration.

■ *Constitutional Monarchy Movement*

The CMM grows out of the British-backed constitutional monarchy government that ruled Iraq from 1921 until a 1958 revolution. Leadership of this movement is based in London, and though the CMM is a member of the Iraqi National Congress, the INC does not support the return of the monarchy. CMM has participated in the planning meetings for an Iraqi Interim Administration.

National Islamist Groups

■ *The Supreme Council for the Islamic Revolution in Iraq (SCIRI)*

SCIRI, the major Iraqi Shiite opposition faction, is based in Tehran and led by Mohammed Baqir al-Hakim. SCIRI is particularly strong in southern Iraq, where it has strong links to fundamentalist Islamists. It is estimated that SCIRI, founded with the support of Iran in 1982, has a militia of thousands. Its leaders, however, have been criticized as unfit to lead post-conflict Iraq because they were in exile during the Hussein years. SCIRI's relations with the U.S. have been strained because of its close association with Iran. In the run-up to the U.S.-led invasion of Iraq, SCIRI moderated its calls for an Islamic republic in Iraq, and despite boycotting the first meeting of Iraqi opposition groups to establish an Iraqi Interim Administration, sent representatives to the second meeting.

58 Text of the act available at http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=105_cong_public_laws&docid=f:publ338.105

Joint statement by U.S. President George W. Bush and British Prime Minister Tony Blair, Northern Ireland, April 8, 2003:

The [Iraqi] Interim Authority will be broad-based and fully representative, with members from all of Iraq's ethnic groups, regions, and diaspora. The Interim Authority will be established first and foremost by the Iraqi people, with the help of the members of the coalition, and working with the Secretary General of the United Nations."

■ **The Daawa Group**

The Daawa Group is one of the oldest Shiite Islamist movements in Iraq, having been established in the 1950s. It was harshly oppressed by the Baathist regime. Daawa has not participated in the meetings to establish an Iraqi Interim Administration but has a strong presence in Iraq, and has held talks with U.S. officials. A spokesman said the party would consider attending subsequent meetings if invited, adding, "We want a pluralistic society based on democracy and human rights."⁵⁹

Kurdish Groups

Kurds form the largest stateless ethnic community in the Middle East today and include large, often oppressed communities in many Middle Eastern countries. Since the exit of U.S. troops after the Gulf War in 1991, the Kurds of Iraq have inhabited a relatively autonomous region loosely known as Kurdistan, though its exact boundaries are in constant dispute. Kurdistan is largely controlled by the following two oppositional parties:

■ **Kurdistan Democratic Party (KDP)**

The KDP, founded in 1946, is one of the two main Kurd opposition parties and has strong support on the ground in Iraq. Once allied with Saddam Hussein against the rival Patriotic Union of Kurdistan, the KDP severed ties with the former regime and built ties with the United States, other opposition groups and former rival Kurdish forces. Led by Masoud Barzani, the KDP enjoyed a "golden age" in the 1990s, living in the U.S.-British no-fly zone and reaping profits by smuggling Iraqi oil into Turkey. The KDP's militia of 40,000 worked with U.S. forces during Operation Iraqi Freedom. The KDP receives funding from the U.S. under the Iraq Liberation Act and has participated in the planning meetings for an Iraqi Interim Administration.

■ **Patriotic Union of Kurdistan (PUK)**

The Patriotic Union of Kurdistan emerged as a splinter group of the KDP in 1969. Based in northeast Iraq, in the autonomous region bordering Iraq, the KDP is the second of the two main Kurdish opposition parties, and has worked closely with the U.S.-led coalition, both militarily and politically, during the recent invasion of Iraq. From 1994-97, the PUK and KDP fought over territory and oil smuggling revenues, but in 1998, with help from the INC, negotiated a rapprochement. The PUK receives funding from the U.S. under the Iraq Liberation Act and has participated in the planning meetings for an Iraqi Interim Administration.

59 James Drummond, "Da'awa voices interest in talks on interim rule," *Financial Times*, April 30, 2003.

Other

■ *Mujahideen-e-Khalq (MKO)*

The MKO, also known as the National Council of Resistance and the People's Movement of Iran, was originally formed in the 1960s as an armed Islamic opposition movement against the Shah of Iran, Mohammad Reza Pahlavi. The MKO was excluded from power under the subsequent religious government of Iran, and has violently opposed the present Iranian state since 1979. Saddam Hussein was a major benefactor of the MKO, providing them with finan-

cial and logistical support and military equipment, as well as Iraqi bases from which to wage their armed struggle against Iran. The group was also used by Saddam against the Iraqi population, specifically to repress the Kurdish and Shiite uprisings after the 1991 Gulf War. The MKO has been declared a terrorist organization by Iran, the European Union, and until recently, the U.S.

When U.S. planes bombed the Mujahedin's bases at the beginning of the 2003 Iraq war, the MKO immediately agreed to a cease-fire with Washington, and the U.S. military reclassified their bases as noncombatant sites. Subsequently, the Pentagon announced a truce with the group, presumably on the assumption that an alliance with the MKO will facilitate U.S. efforts to secure and stabilize Iraq. In an agreement signed on April 15, the MKO is allowed to maintain its armed camps in Iraq, ostensibly to defend itself against Iranian-sponsored troops. The MKO, in return, has agreed to abstain from hostile acts against U.S. forces and to place their offensive weaponry in "non-threatening" positions.⁶⁰

A Council of Nine

Despite concurrent reports that Iraqi delegates would meet in late May to select new interim leaders—a meeting which has now been moved to July by Paul Bremer—on May 5, 2003, Lt. Gen. Jay Garner announced that a council of up to nine Iraqis would likely lead the country's interim government. He listed the following as probable members of the council:

Ahmad Chalabi
Iraqi National Congress

Massoud Barzani
leader of the Kurdistan Democratic Party

Jalal Talabani
Patriotic Union of Kurdistan

Iyad Allawi
Iraqi National Accord

Abdul Aziz al-Hakim
Supreme Council for Islamic Revolution in Iraq

As of May 8, reports stated that selection of the four remaining leaders would be debated in closed quarters by these five future members.

60 Dan De Luce, "Iran furious at ceasefire deal with terror group," *The Guardian*, May 1, 2003, <http://www.guardian.co.uk/iran/story/0,12858,947083,00.html>.

GOVERNANCE OF IRAQ

Establishing a transitional authority and, ultimately, a democratic government in Iraq, will constitute the most fundamental aspect of its reconstruction and re-entry into the international community. Yet it is also one of the most difficult aspects of any reconstruction effort, and contention has surrounded U.S. plans for governance in Iraq, especially with respect to the processes by which indigenous actors are being included and involved.

The following section details the administration's plans for the future government of Iraq; needs for establishing a successful transition to democracy which may be unaddressed or under-emphasized by these plans; and the UN's current and potential role in the governance process.

GOVERNANCE OF IRAQ

Highlights:

- While the UN has begun some limited humanitarian-based reconstruction activities in Iraq, it has not yet been involved in the establishment of an interim or permanent Iraqi government. The terms of Resolution 1483 are somewhat ambiguous as they relate to which entity, the Authority or the UN, will take the lead in helping Iraqis form a new government.
- U.S. plans for the transition to a democratic government in Iraq remain unclear. It is not known which individual or individuals will lead the Iraqi Interim Administration, how long the U.S. will remain involved after the Administration is established, and how much influence it will exercise in composing the make-up of a representative government.
- The Bush Administration has warned that balancing women's rights while ensuring indigenous control over the future government of Iraq will be difficult. Special efforts will be needed to ensure that future electoral bodies are not disproportionately governed by men.
- In an effort to protect future institutions and social structures from the lingering effects of Saddam Hussein's regime, the U.S. has banned all ranking members of the Baath Party from holding government jobs or leadership positions, totaling 15,000-30,000 people.

Administration Plans and Actions

U.S. plans for the transition to a democratic government in Iraq have shifted and evolved significantly since the beginning of the conflict, when little was known about how post-war Iraq would be governed. The process is still unclear in light of the recent change in U.S. leadership in Iraq and in the absence of a UN-run transitional authority. Security Council Resolution 1483 of May 22 does not completely clarify these ambiguities. The resolution states that the establishment of an "Iraqi Interim Administration" will be undertaken "by the people of Iraq with the help of the Authority and working with the Special Representative..."⁶¹ Thus it remains unclear which entity will take the lead in this process. In the period before the resolution was passed, control was firmly held by the U.S. The resolution does refer to an "internationally recognized" future government, which suggests that some sort of legitimating process will eventually take place through the UN. In the interim period, however, it seems likely that the Iraqi Interim Administration will be run by the U.S.

As noted in a previous section, tensions within the administration itself have also contributed to some uncertainties. In addition, Congress has expressed concerns about U.S. efforts. On May 23, 2003, the majority and minority leadership of the House International Relations Committee and the Senate Foreign Relations Committee issued a request to the

General Accounting Office (GAO) to conduct a detailed review of the U.S.-led reconstruction of

61 United Nations Security Council Resolution 1483, May 22, 2003, Operative Paragraph 9.

Iraq.⁶² The request letter asked GAO to seek out information that Congress has requested from the administration for months, including how long the U.S. plans to occupy Iraq and estimates for reconstruction costs. Rep. Henry Hyde (R-IL), chairman of the House International Relations Committee, stated on a separate occasion that a “lack of transparency” has made Congressional oversight difficult.⁶³

While administration officials have said that an Iraqi Interim Administration would govern in the period between the cessation of the conflict and the establishment of a permanent democratic government, it remains unclear which individual or individuals will lead the transitional authority, how long the U.S. will remain involved after an Iraqi transitional authority is established, and how much influence it will exercise in composing the make-up of a representative government. The United States has asserted that its foremost goal is to turn the governance of Iraq over to Iraqis as soon as possible.⁶⁴

Efforts Prior to Resolution 1483

Under the leadership of retired Lt. Gen. Jay Garner, U.S. officials and the Office of Reconstruction and Humanitarian Assistance (ORHA) organized and oversaw a series of meetings with Iraqi delegates to plan for an interim authority. With the arrival of L. Paul Bremer, III, as the President’s special envoy, it remains unknown whether ORHA, which had been charged with primary responsibility for humanitarian relief, reconstruction, and civil administration, will continue its efforts in this regard.

During the second meeting in this series, on April 28, nearly 300 Iraqi delegates in Baghdad voted to convene again in late May to select the leadership of an interim government. A week before this meeting was to be held, Bremer announced that it would be pushed back to July. On a separate occasion, and despite the previous impression that the Iraqi delegates would themselves select the new leadership, Garner told reporters that a council of up to nine Iraqis will “work together to provide leadership,” and announced the names of five individuals he expects to be included, all of them Kurdish or exile leaders with close working ties to the U.S. (see page 27 for a list of these leaders). The U.S. has also announced that former Baath Party members will be excluded from leadership positions in a new government.

President George W. Bush, speech to workers at a tank factory in Lima, Ohio, April 24, 2003:

“One thing is certain: We will not impose a government on Iraq. We will help that nation build a government of, by and for the Iraqi people.”

U.S. officials have met with a wide range of Iraqi representatives and in April sponsored two meetings to discuss the formation of an interim government. At a meeting on April 15, 2003, about 100 delegates issued a statement of principles, calling for the establishment of a “democratic federal system” of government that respects diversity, promotes the rule of law, and dissolves Saddam Hussein’s Baath Party.⁶⁵ At a second meeting on April 28, 2003, about 300 Iraqi delegates, both those who had remained in the country during the rule of Hussein as well as representatives of the exile community, decided that the new governing body chosen by the U.S. would be referred to as a “transitional government” instead of the Iraqi Interim Authority favored by the U.S. government. The use of the phrase “transitional government” implies a more complete and rapid turnover of governing responsibilities to Iraqis, while an “interim authority” would still be under the control of the occupying powers and would only slowly turn governing responsibilities over to Iraqis. Since the April 28 meeting, the U.S. has gradually moved away from using the term “transitional government.” Resolution 1483 uses the term “Iraqi Interim Administration.”

62 The letter, signed by Representatives Henry Hyde (R-IL) and Tom Lantos (D-CA), and Senators Richard Lugar (R-IN) and Joseph Biden (D-DE), requested information on the effectiveness of security efforts, humanitarian programs, political operations in Iraq, and economic development.

63 James Dao, “Congressman Seeks Review of U.S. Effort to Aid Iraq,” *The New York Times*, May 16, 2003.

64 President George W. Bush, Lima Army Tank Plant, Lima, Ohio, April 24, 2003, <http://www.whitehouse.gov/news/releases/2003/04/20030424-6.html>. See also Dr. Condoleezza Rice, Press Briefing, April 8 2003, “We will leave Iraq completely in the hands of the Iraqis as quickly as possible.”

65 Statement of Iraqi delegates, Nasiriyah, April 15, 2003, <http://www.state.gov/p/nea/rls/19714.htm>.

U.S. Deputy Secretary of State Richard Armitage, BBC Interview, May 7, 2003:

"...the 300 or so participants at the Baghdad conference [of April 28] seem to feel we're on a good path towards full representation for all ethnic and religious groups. If there's an area where I feel that's probably fallen short, but having realized we're going to correct it, it is in the representation of women. We need to have even higher levels of participation of women in this process. We've realized that we haven't done as well thus far in this area and we are redoubling our efforts..."

The selection of participants in these U.S.-sponsored meetings has been controversial. U.S. officials did not release a list of attendees, but asserted that all were hand-picked or vetted by U.S. officials after being nominated by fellow Iraqis. There has been criticism that the meetings are dominated by Iraqi exiles. Shiite clergy, for example, who represent a significant portion of the population, refused to participate in the first meeting held on April 15 and voiced suspicion about the effort, but sent a small delegation to the April 28 meeting.

Once established, an interim government as originally envisioned would begin to take over some governmental responsibilities from ORHA and work towards the formation of a provisional government with broader powers. Initially, control of key ministries including defense, state security and intelligence would remain with the U.S.-led coalition, but other ministries including health, education and agriculture could be handed over more quickly. The U.S. plan has been for the provisional government to draft a constitution that would be approved by the Iraqi people and then oversee the transfer of the administration and full control of Iraq to a permanent democratically elected government.

For the time being, it remains unclear how an interim government set up primarily by the U.S. would be received by the international community. Many Security Council members had previously stated reluctance to endorse any U.S. actions in Iraq until the U.S. makes clear the role the UN will have in post-conflict Iraq, and garners support for its plans from the international community. Yet Resolution 1483, as mentioned above, designates a somewhat ambiguous role for the international community and the UN in establishing the interim government.

This final resolution formally authorizes the Authority to help the Iraqi people and work with the Special Representative to set up an Iraqi Interim Administration. It authorizes the Authority to disburse funds collected from Iraqi oil revenue to finance reconstruction. The resolution stipulates that the UN's role in general will be to work with the Authority and the Iraqi Interim Administration, rather acting as the overall coordinator of the post-conflict effort.

Many parties agree that the transition to a democratic government is more likely to succeed if Iraqi reconstruction is a multilateral project backed by the UN, but even with the passage of Resolution 1483, the involvement of other parties remains uncertain. It is also unclear to what extent coalition partners of the U.S. will participate in the creation of a new government in Iraq, though they are included under the phrase "the Authority" to which much of the control is ceded in Resolution 1483.⁶⁶ Many argue that the participation of other countries would help allay fears voiced by Arab officials and commentators about U.S. intentions in Iraq. Participation would also ease the burden on the United States.

Shaping a New Iraqi Government

Despite the dominant role of the United States in post-war Iraq, many lessons from past post-conflict situations can be applied to building a new government in Iraq. There remain significant gaps between administration plans and concerns on the ground. For example, U.S. military officials and civilian leaders stress the importance of giving the Iraqi people choice in their future government. But the complex

⁶⁶ In general, UK Prime Minister Tony Blair has been more supportive of UN involvement than his American counterpart, prompting President Bush to promise Prime Minister Blair at the Azores Conference on March 16, 2003, that the U.S. would "work closely with the international community, including the United Nations."

Iraqi Principles for a Future Government

On April 15th near Nasiriyah, a group of nearly 100 Iraqis, convened by the U.S., met to discuss future governance and the best ways to achieve democracy in their nation.⁶⁷ At the end of the session, the Iraqi participants voted to approve a final statement proposing several principles for a future Iraqi government, published by the U.S. State Department as follows:⁶⁸

1. Iraq must be democratic.
2. The future government of Iraq should not be based on communal identity.
3. A future government should be organized as a democratic federal system, but on the basis of countrywide consultation.
4. The rule of law must be paramount.
5. Iraq must be built on respect for diversity, including respect for the role of women.
6. The meeting discussed the role of religion in state and society.
7. The meeting discussed the principle that Iraqis must choose their leaders, not have them imposed from outside.
8. Political violence must be rejected, and Iraqis must immediately organize themselves for the task of reconstruction at both the local and national levels.
9. Iraqis and the coalition must work together to tackle the immediate issues of restoring security and basic services.
10. The Baath Party must be dissolved and its effects on society must be eliminated.
11. There should be an open dialogue with all national political groups to bring them into the process.

array of political, religious, and ethnic groups in Iraq may make such democratic choice-making difficult, even with extensive outreach. In addition, the long-term dominance of the Baath Party makes it difficult to properly investigate the credentials of those who claim to represent new political forces or exile groups.

Following is a survey of principles which have been emphasized in previous efforts to rebuild governments in post-war states and which will likely prove necessary for a successful transition in Iraq:⁶⁹

Emphasis on the Local Level

Previous post-conflict governance efforts illustrate the value of focusing on local or community governance, and using economic and social reconstruction projects as a means of community consensus-building. Previous reconstruction efforts also illustrate the need to provide quick assistance to communities outside of the capital. Tangible evidence of assistance is an important indicator of change to those further from the center of transition efforts.

Integration and Representation of Diverse Groups

Iraq's diverse ethnic groups and religious divisions (see pages 22-27) may mean that a central government selected by a simple electoral majority will exacerbate, rather than mitigate, conflicts and rivalries. Some experts have recommended the establishment of "a geographically based, federal system of government in Iraq," which would allow certain semi-autonomous regions such as the Kurdish area in the north to retain relative independence without threatening the country's territorial integrity.⁷⁰ Others contend that such a model could be excessively divisive and might spark further interethnic or religious conflict.⁷¹

67 Statement of Iraqi delegates, Nasiriyah, April 15, 2003, <http://www.state.gov/p/nea/rls/19714.htm>.

68 In a follow-up conference held in Baghdad on April 28, 2003, U.S. officials brought together almost 300 delegates, mainly Iraqis, to decide on a process for creating a legitimate new Iraqi interim administration. According to observers, the participants—including Sunni and Shiite Muslims, Kurds, Turkomans and members of the Diaspora—were far more diverse than had been the group of 100 delegates in attendance at the April 15 conference near Nasiriyah. At the April 28 meeting, the delegates approved a statement which ordered a national conference to be held in late May and called for U.S.-led forces to improve security measures, for the United Nations to lift sanctions and for the international community to forgive Iraq's debts, including war reparations owed to Kuwait. (Alissa J. Rubin and Michael Slackman, "AFTER THE WAR: Iraqis Agree to Agree on a New Government," *The Los Angeles Times*, April 29, 2003.)

69 Major reports include the following: Center for Strategic and International Studies and the Association of the U.S. Army, "Play to Win: The Commission on Post-Conflict Reconstruction Report," January 2003; Robert Orr, "Governing When Chaos Rules: Enhancing Governance and Participation," *The Washington Quarterly*, Autumn 2002; Independent Task Force on Post-Conflict Iraq sponsored by the Council on Foreign Relations, "Iraq: The Day After," March 12, 2003; International Crisis Group, "War in Iraq: Political Challenges After the Conflict," March 25, 2003; U.S. Institute for Peace Special Report, "Bosnia Report Card," December 11, 1998; Center for Strategic and International Studies, "A Wiser Peace: An Action Strategy for a Post-Conflict Iraq," January 2003; United States Institute of Peace Special Report No. 102, "After Saddam Hussein: Winning a Peace If It Comes to War," by Ray Salvatore Jennings, February 2003.

70 Independent Task Force on Post-Conflict Iraq sponsored by the Council on Foreign Relations, "Iraq: The Day After," March 12, 2003, pp. 9-10.

71 International Crisis Group, "War in Iraq: Political Challenges After the Conflict," March 25, 2003, p. 26; in reference to an Iraqi opposition plan for a bi-national federal system along Arab-Kurd lines, the authors of the report contend that "The politicization of religious and ethnic groups coupled with the assumption that each group represents a cohesive and distinct unit is at odds with their actual plurality of views and interests."

United Nations Secretary General Kofi Annan, Vienna, April 22, 2003:

“I think you know from experience and history that the UN has played important roles in many countries regarding the reconstruction, facilitation of political processes, human rights, a whole range of issues.”

Ensuring Substantial Representation of Women

The Bush administration has warned that balancing women’s rights while ensuring indigenous control over the future government of Iraq will be difficult; women’s groups have in turn insisted that no tradeoffs be made at the expense of women’s human rights. It seems clear that at the least, special efforts will be needed to ensure that future electoral bodies are not disproportionately governed by men. The point is illustrated by the April 15 town hall meeting in Nasiriyah organized by the U.S., in which almost 100 opposition leaders and exiles met to plan the future of Iraqi democracy. Only five attendees were women.

Toward Democratic Elections

Experts generally agree that conducting national elections should not be the first step toward establishing a new Iraqi government.⁷² Before national elections can be successfully held, experts say the interim government must sponsor a national dialogue to foster acceptance of other groups and to develop understanding of common interests. They also suggest holding local-level elections for municipal and provincial leaders and business and professional associations before staging a national vote. It may be that national elections will only succeed after indigenous constitution-drafting bodies, perhaps with international guidance, and other democratic institutions have begun to take hold.

Ensuring Iraqi Participation and Ownership

Aside from ensuring Iraqi participation at every level of decision-making, another way to ensure that Iraqis have a stake in both the transition process and the future government will be to establish continuity among existing Iraqi civil servants. In some past cases, new governments have relied both locally and nationally on large numbers of existing civil servants who served a former regime, subject to proper personnel investigations.⁷³ In Iraq, this important step will entail the development of a “de-Baathification” process.

“De-Baathifying” All Sectors of Society

The need to purge future institutions and social structures from the lingering effects of Saddam Hussein’s regime will be paramount and is a stated post-conflict goal of the administration. However, the process will not be simple, as the Party’s reach was incredibly extensive and Party membership, which was frequently imposed on Iraqis, is not an automatic indicator of strong allegiance with the regime. Initially the U.S. decided to ban only the upper echelons of the former regime from posts in the new government, but on May 16, 2003 announced that all ranking members of the party—totalling 15,000 - 30,000 people—would be banned from holding government jobs. U.S. officials acknowledged that this would lead to the rejection of some talented civil servants and the ousting of some Baathists already recruited for leadership positions.

Other sections throughout this document highlight where de-Baathification will be most necessary. Some essential examples include the vetting of police before re-deploying them on streets; balancing the need to retain some continuity and expertise by re-employing previous civil servants with the need to respond to Iraqis’ concerns about reinstituting former Party members; and ensuring that adequate justice mechanisms are created to prosecute the most egregious criminals and help Iraqi society repair its social fabric.⁷⁴

⁷² For example, early elections in Bosnia after the Dayton Accords did little to resolve the ethnic divisions or promote the return of refugees and displaced persons. See U.S. Institute for Peace Special Report, “Bosnia Report Card,” December 11, 1998.

⁷³ This has more often been the case with members of the military than with civil servants, though in Eastern Europe there was certainly retention of the workforce employed under the previous regimes. For example, see Rosenberg, Tina, *The Haunted Land: Facing Europe’s Ghosts after Communism*. New York, NY: Random House, 1995.

⁷⁴ For a more detailed discussion of vetting corrupted individuals after a military occupation, including the difference between “vetting out” and “vetting in” of former regime members, see United States Institute of Peace Special Report No. 102, “After Saddam Hussein: Winning a Peace If It Comes to War,” by Ray Salvatore Jennings, February 2003.

**Statement of the
Permanent Mission of
Germany to the United
Nations, May 22, 2003:**

“The Resolution provides the framework in which the United Nations has been strengthened and can take a central role in the political and economic process. It is important now to give the Iraqi people the perspective of building a democratic and stable government, at peace with itself and its regional neighbors, a respected member of the family of nations. The United Nations system will help them to realize it. Germany stands ready to contribute to their efforts.”

The UN’s Role in Political Reconstruction

While the UN has begun some limited humanitarian-based reconstruction activities in Iraq, it remains to be seen exactly how it will proceed on other fronts under the terms of Resolution 1483. The UN has not yet been involved in the establishment of an interim or a permanent Iraqi government. When UN General Secretary Kofi Annan was invited by the U.S. to send a representative to an April 28th meeting on the formation of a temporary government, he declined, citing the need for clarity on the UN role in reconstruction. Secretary General Annan has said the Security Council must authorize such activities. Essentially, Resolution 1483 authorizes the Authority to carry out such activities and authorizes the UN to participate in Iraqi reconstruction as a partner rather than the overall coordinator.

At the most basic level, UN involvement in any stage of the transition to governance can confer legitimacy on the process. The UN can help bring other international powers to the effort and will help to allay concerns that the U.S. wishes to control Iraq. In the pre-conflict period, some expert reports recommended that the transitional authority be governed by the UN or handed over quickly under the auspices of the UN, as in Afghanistan. The UN has not played that role in Iraq but there may still be room down the road for its involvement in governance and transition activities, including the drafting and implementation of a constitution and the conduct and monitoring of elections, though the UN is not exclusively charged with any of these activities under Resolution 1483.

The UN Speaks

In the early stages of the aftermath of conflict, Secretary General Kofi Annan spelled out a clear vision for the future of a free and self-governing Iraq.

“The international community, for its part, must be guided in its future policy and actions towards Iraq by a set of basic principles, which I believe we all share:

- the sovereignty, political independence and territorial integrity of Iraq;
- the right of the Iraqi people to freely determine their own system of government and political leadership, as well as to control their own natural resources;
- the need to help the people of Iraq, as quickly as possible, to establish conditions for a normal life, and to put an end to Iraq’s isolation;
- the need for any role entrusted to the United Nations, beyond the purely humanitarian, to be mandated by the Security Council, consistent with the Charter, and one matched by the necessary resources.
- and finally, above all, the need to give pride of place, in all our thinking, to the rights and interests of the Iraqi people. Only so can we hope to ensure a viable future for Iraq.”

— **UN Secretary General Kofi Annan, Athens, April 17, 2003**

Assessing Reconstruction Needs

While transitional administration and future governance are the most important issues for the future of Iraq, security, justice and social well-being are central to the creation of any effective government. Regardless of who administers the transition or runs a future government, there are a host of short- and

long-term needs which must be met. Without immediate humanitarian relief and adequate security, the situation on the ground will only worsen. An interim administration that fails to prepare for the future by neglecting to construct a justice system, provide for education, or rehabilitate the financial structures of the country, is likely to severely handicap a new government.

The following sections outline some commonly recognized short-, medium-, and long-term needs for Iraq, compiled from reports and NGO publications.⁷⁵

Assessing Reconstruction Needs

Highlights:

Short-term:

- Security remains one of the country's most pressing needs. In many cases the security situation has inhibited the ability of UN agencies and NGOs to move in and establish the presence they need to begin large-scale relief and assistance operations.
- Determining if there are weapons of mass destruction, and if so, securing evidence and eliminating any stockpiles, remains one of the most urgent challenges in Iraq. It remains unclear whether this task will eventually be returned to international inspectors or if the U.S. and UK will continue to take the lead.
- It will be necessary in the first months to create a temporary legal system that can adjudicate emergency claims, deal with crime on the streets, provide facilities to incarcerate individuals, and detain members of Saddam's regime.

In the Short-term: Immediate Reconstruction Needs for the First Three Months

Security: Peacekeeping, Policing, and Constabulary Forces

Provision of adequate security is one of the most basic and immediate needs in all post-conflict reconstruction situations. Without security, power vacuums can easily lead to chaos, violent reprisals against past oppressors,

inter-ethnic or political clashes, and widespread criminal activity that can further damage infrastructure and capacity for rebuilding. The "spoiler" phenomenon in security vacuums is well-documented and can significantly impede reconstruction efforts. In addition, if security is not well coordinated with other transitional and short-term administration matters, individuals or groups will likely attempt to seize power in the interim. This has already been the case in Iraq, where various individuals have tried to claim governing authority in Baghdad and elsewhere. In general, the failure to provide adequate post-conflict security has been a lingering problem in Iraq.

Security and policing currently fall to the U.S. military and its coalition partners, who must fulfill certain obligations as occupying powers under the Geneva Conventions, including preventing looting, protecting hospitals and other civilian facilities, and restoring essential services in a timely fashion (see page 6 for further information on U.S. obligations as an occupying power).

President George W. Bush, message to the Iraqi people, April 10, 2003:

"Coalition forces will help maintain law and order, so that Iraqis can live in security."

⁷⁵ Adapted from a timeframe written by Johanna Mendelson-Forman, Senior Program Officer for Peace, Security, and Human Rights at the United Nations Foundation, from an AUSA/CSIS general framework for reconstruction and attributed to additional reports accordingly. The needs in this section are drawn largely from the following list of reports. Center for Strategic and International Studies and the Association of the U.S. Army, "Play to Win: The Commission on Post-Conflict Reconstruction Report," January 2003; Independent Task Force on Post-Conflict Iraq sponsored by the Council on Foreign Relations, "Iraq: The Day After," March 12, 2003; International Crisis Group, "War in Iraq: Political Challenges After the Conflict," March 25, 2003; Center for Strategic and International Studies, "A Wiser Peace: An Action Strategy for a Post-Conflict Iraq," January 2003; United States Institute of Peace Special Report No. 102, "After Saddam Hussein: Winning a Peace If It Comes to War," by Ray Salvatore Jennings, February 2003; United Nations Association of the United States of America, "Rebuilding Iraq: How the United States and the United Nations Can Work Together," April 2003; M. Cherif Bassiouni, "Iraq Post-Conflict Justice: A Proposed Plan," International Human Rights Law Institute, Summer 2003; The Atlantic Council of the United States, "Winning the Peace: Managing a Successful Transition in Iraq," January 2003; United States Institute of Peace, "Establishing the Rule of Law in Iraq," by Robert Perito, April 2003.

In both the short- and long-term, devising the appropriate security strategy is difficult and must be tailored to the individual needs of each country, depending on factors including the existence and influence of regional alliances, the status of remaining indigenous police forces, the level of UN involvement, and the existence of a Security Council mandate. Following are several key points:

- **Providing adequate initial policing** is one of the keys to successful transitions. In Iraq, immediate post-conflict security has been provided by U.S. military and coalition forces under the direction of Lt. Gen. David D. McKiernan. Despite planning, many immediate security needs went unmet and extensive looting and attempts to seize power ensued. Rather than quickly returning Baghdad police officers to duty, about 20,000 additional U.S. troops and military police are going to the Baghdad area to join the 49,000 already there.⁷⁶

Even more than one month after the cessation of conflict, the security situation remained precarious. In initial meetings with Iraqi representatives of religious and ethnic groups, inadequate security has loomed large. In some cases, the security situation has also inhibited the ability of UN agencies and NGOs to move in and establish the presence they need to begin large-scale relief and assistance operations.

Senator Pete Domenici (R-NM), Hearing of the Defense Subcommittee of the Senate Appropriations Committee, May 14, 2003:

"I remain genuinely concerned that we are in a situation where we have won the war and we lose the battle...it is absolutely imperative that the United States maintain order regardless of how difficult it is, because without it there is a real chance that the people of [Iraq] will assume that the victory we claim is not a victory at all."

- **Seeking further Security Council authorization for security forces** may be necessary if the U.S. wants to recruit further international civilian police (CIVPOL) and peacekeeping troops, which it is currently doing on an ad hoc basis with coalition members. The U.S. has put forth a plan to divide Iraq into three sectors for the purposes of security patrols, one of which would be patrolled by the U.S., one by the UK, and another by Poland. Initially, ten nations had agreed to provide troops to this effort, but Poland, Germany, and other nations then announced that they would not send troops without a UN authorization. Reports of a NATO announcement that it will aid Poland's efforts to send troops through some technical and logistical support, though not through a full-blown NATO contribution as it has done in Afghanistan, may indicate that Resolution 1483 of May 22 will provide a sufficient mandate.

Unlike past peace enforcement missions that had Security Council authorization, such as NATO-led forces in Bosnia and Kosovo and the Australian-led InterFET operation in East Timor, the capacity of security forces in Iraq before the passage of Resolution 1483 was limited. Security Council authorization for a U.S.-led effort may help to "de-Americanize" and increase the capability of security forces by allowing other nations which insist on UN involvement to participate; but the lack of an explicit mandate for international or UN-led peacekeeping may also be a deterrent. In general, expanding the forces would help to improve cost-sharing and legitimacy, and would allow the U.S. to draw on extensive UN expertise.

- **Adding civilian police to military forces**, whether through U.S. recruitment or under UN supervision, is a widely-supported alternative to using militaries to fill local law enforcement needs. Regular military forces are often ill-suited for enforcing the peace, particularly those that have just been involved in the conflict itself. In fact U.S. military leaders have argued in the past that transitional civilian policing and police training should be undertaken by others. Civilian forces can be international, domestically retrained and redeployed police forces, or a

76 Eric Schmitt and David E. Sanger, "Looting Is Derailing Detailed U.S. Plan to Restore Iraq," *The New York Times*, May 19, 2003.

combination of both. The UN has long experience in the vetting and reintegration of indigenous police. The provision of adequate local law enforcement capabilities has long-term consequences, as it will ultimately impact the success of efforts to establish rule of law in Iraq.

Humanitarian Relief

Iraq was a country already wracked by serious humanitarian crises before this current conflict, as a consequence of internal misrule, previous wars, and a decade of economic sanctions. After the 2003 military action, both old and new problems need urgent attention.

By most accounts, the immediate humanitarian crisis in Iraq is not as serious as was feared before the conflict, when it was estimated there could be more than one million refugees and another two million internally displaced persons (IDPs). But many grave problems remain, including the hardships caused by the weeks following the conflict when there was no power in major urban areas. The sectors of the Iraqi population which have already been most affected are women and children.

In the short term, the biggest uncertainty is identifying the agency or institution that will implement the relief efforts being commissioned and directed by the Office of Reconstruction and Humanitarian Assistance (ORHA) and its leadership. Some UN agencies are already on the ground, but relatively few non-governmental relief agencies were initially involved.

The U.S. military's initial engagement in humanitarian work was marked by inefficiency and, in some cases, confusion and delay. Incidents in which MREs (meals ready to eat) and bottled water were thrown by U.S. and UK troops to crowds of hungry Iraqis from the backs of trucks demonstrate the problems inherent with military involvement in aid provision.

Following are some immediate on-the-ground humanitarian needs:

- **Water.** Some 70 percent of Iraqis live in urban areas, and they rely on centralized systems for water distribution and waste disposal.⁷⁷ Interruption of these systems by power failures or physical destruction raises the possibility of epidemic diseases. Indeed, deterioration of these systems during the past decade contributed to high infant mortality rates; between 1984 and 1999, the mortality rate for children under five in Iraq more than doubled, to 131 deaths per 1,000 births.⁷⁸

According to the UN, water in Iraq still has to be boiled before drinking and purification chemicals are in short supply. An IRC assessment found that “the whole [water] system needs rehabilitation, especially in Basra... Nobody took care of the system before the war started.”⁷⁹ In addition, a continuing problem in purifying and disseminating water is the lack of electricity. In Baghdad, only a very small percentage of water stations are getting electricity. The remainder of stations is now forced to rely on generators, which reduces productivity by 50 percent. A sharp concern is the impending summer, in which rising temperatures may exacerbate water shortages.⁸⁰

- **Food.** The UN World Food Program's rapid assessments in and around Baghdad in early April indicated that most people had enough food to last through early to mid-May, and it appears that local managers from the Ministry of Trade continued to dispatch food aid during the war. However, on May 14, the United Nations UNICEF agency warned that more than

77 Department of Defense, “News Articles: U.S., Aid Agencies Ready to Assist Impoverished Iraqis,” March 25, 2003, http://www.defenselink.mil/news/Mar2003/n03252003_200303258.html.

78 UNICEF Information Newslines, “Iraq Survey Shows Humanitarian Emergency,” August 12, 1999, <http://www.unicef.org/newsline/99pr29.htm>.

79 Ruth Gidley, “Agencies Say Iraq Needs Security, Water and Salaries,” Global Policy Forum, April 29, 2003, <http://www.globalpolicy.org>.

80 UN OCHA Integrated Regional Information Network, “Iraq: Struggle to Restore Basic Services,” May 15, 2003, <http://www.reliefweb.int/w/rwb.nsf/480fa8736b88bbc3c12564f6004c8ad5/ea52d8fdc0626a3b85256d270057ef13?OpenDocument>.

300,000 Iraqi children face death from acute malnutrition, twice as many as before U.S. and British forces invaded the country in March.⁸¹

Most initial estimates pointed to the need for the Oil for Food program to be continued into the near future as an emergency relief program; it remains to be seen whether the six months allocated by Resolution 1483 will prove sufficient. In the meantime, assessments of the Oil for Food program's Public Distribution System (PDS) have found that the network remains largely undamaged. Insecurity is the biggest hurdle to resuming use of the PDS, due to the vulnerability of warehouse and food agents.

- **Power.** According to the International Committee for the Red Cross, power shortages are a continuing problem in Iraq, particularly for hospitals in Baghdad, where electricity capacity is at only 30-40 percent.⁸² In major cities, military engineers have restored electricity to 100 percent in the center of Basra (but not in the suburbs), to 80 percent in Mosul, and to 100 percent in Kirkuk.⁸³ Despite these successes, the IRC warns that electricity is not stable anywhere and power shortages have had a serious effect on Iraq's modern water system, as many experts predicted before the war.
- **Refugees and Internally Displaced Persons (IDPs).** Though the recent war did not create significant refugee problems, nearly one million Iraqis had been displaced in the northern part of the country as a result of the earlier conflicts and the discriminatory ethnic policies of the Baghdad regime, and significant refugee communities exist in neighboring countries, including Iran and Jordan. UNHCR is now on the ground in Iraq and will primarily deal with IDPs.
- **Public health.** The coalition was careful to exclude Iraq's humanitarian infrastructure from military targeting lists, but inadequate provision of security immediately after the war led to looting of hospitals, clinics and other health care institutions. Although experts say that Iraq's health professionals are generally well-trained and competent, the institutions they staff need repair as well as basic medical supplies.

In the short-term, sanitation is also a major problem. UNICEF reported on May 15 that hundreds of thousands of tons of raw sewage were being pumped into the Tigris and Euphrates rivers every day, due to large numbers of inoperative treatment plants affected by looting. The WHO has confirmed 16 cases of cholera in Basra as of May 9, 2003, and a cholera task force has been assembled, bringing together WHO, UNICEF, the Ministry of Health, and NGOs.

- **Psychosocial trauma.** There has not been time to assess the psychological needs of Iraq's people. But given the traumas of the past decades, these needs are likely to be extensive. Conflicts, including wars and civil strife, as well as abusive and repressive regimes, affect a large portion of society and often result in widespread mental illness. According to the WHO, conflict situations take a heavy toll on the mental health of the people involved, most of whom live in developing countries, where capacity to take care of these problems is extremely limited. Between a third and half of all the affected persons experience mental distress and, more specifically, often suffer from post-traumatic stress disorder.⁸⁴

81 Robert Evans, "Iraqi children face death from malnutrition – UN," Reuters, May 14, 2003.

82 Ruth Gidley, "Agencies Say Iraq Needs Security, Water and Salaries," Global Policy Forum, April 29, 2003, <http://www.globalpolicy.org>.

83 Ruth Gidley, "Agencies Say Iraq Needs Security, Water and Salaries," Global Policy Forum, April 29, 2003, <http://www.globalpolicy.org>.

84 The World Health Report, 2001: Mental Health; New Understanding, New Hope, "Burden of Mental and Behavioural Disorders, Determinants of Mental and Behavioural Disorders, Conflicts and Disasters," <http://www.who.int/whr2001/2001/main/en/chapter2/002h4.htm>.

Weapons Inspections and Destruction

President Bush's oft-stated reason for the war in Iraq was to disarm the country of its nuclear, chemical, and biological weapons and materials. Despite extensive searches during and after the war, no weapons have been found. And on May 11, reports stated that the U.S. weapons team—charged with finding evidence of the weapons programs described by Secretary of State Colin Powell in his statement before the UN Security Council on February 5—would be returning home within a month, without success. Resolution 1483 initially leaves weapons inspections in the hands of the Authority, and states that relevant Security Council resolutions on weapons of mass destruction (WMD) may be “revisited,” though it is unclear if this means they will be implemented or dismantled. One preambulatory clause of 1483 also reaffirms “the eventual confirmation of the disarmament of Iraq,” but fails to specify whose certification would suffice.

Hans Blix, Executive Chairman of UNMOVIC, United Nations, April 22, 2003:

“I think the inspectors [the U.S. and UK] are using are professional people. They will seek as objective information as they can. But clearly there is a difference. International inspectors operate under UN rules. They are under statutory obligations not to take instructions from any government, and governments are also under obligation not to instruct them. Therefore, testimony by international inspections, provided that it has been prepared professionally, carries I think greater credibility with the international community.”

Determining if there are WMD, and if so, securing evidence and eliminating stockpiles, remains one of the most urgent short-term challenges in Iraq. Reports of looting at some Iraqi nuclear sites, particularly at the Tuwaitha Nuclear Research Center 30 miles south of Baghdad, led the General Secretary of the International Atomic Energy Agency (IAEA), Mohamed ElBaradei, to issue a statement on May 19, 2003 that “nuclear and radioactive materials may no longer be under control” in Iraq.⁸⁵ The U.S. has agreed to begin talks with the IAEA to make arrangements for IAEA teams to return to Iraq to determine what may have been stolen from nuclear sites. These teams are trained to not only examine what remains at the site and what is missing, but also to try to determine where the missing items went.

The stance of the United States on international inspectors has varied somewhat, but is generally characterized by a firm desire to control and execute the inspections. Speaking to reporters on April 24, 2003, U.S. Ambassador to the UN John Negroponte stated that there would be no immediate role for UN inspectors and asserted that the U.S. coalition “had assumed responsibility for the disarming of Iraq...for the time being and for the foreseeable future, we visualize that as being a coalition activity.”⁸⁶

The Bush administration has since been toning down its objections to UN inspectors. Undersecretary of State John Bolton has stated that though he does not foresee a role for the UN “in the short term in searching for, or identifying, or securing weapons of mass destruction,” he nonetheless will not “necessarily rule out some kind of UN role down the road.”⁸⁷

Other countries such as France have demanded that UN weapons inspectors be the ones to certify that Iraq's WMD have been discovered and destroyed. They argue that international inspectors can bring unique credibility to the search and validate what is discovered. It remains unclear exactly how the process of disarmament will unfold under the terms of Resolution 1483.

Justice Package for Immediate Needs

Though much of the rebuilding and restructuring of Iraq's legal system will have to take place in the medium- and long-term, it will be necessary in the first months to create a temporary system which can adjudicate emergency claims and deal with crime on the streets, including facilities to incarcerate individuals and detain members of Saddam's regime.

85 Walter Pincus, “U.S., IAEA Negotiate Sending Teams to Iraq,” *The Washington Post*, May 21, 2003.

86 CNN.com, “Powell: France faces consequences,” April 24, 2003, <http://www.cnn.com/2003/WORLD/europe/04/23/sprj.nilaw.france.sanctions/>.

87 John Bolton, “Weapons Hunt,” *Newshour With Jim Lehrer*, May 5, 2003.

Though under the Geneva Conventions, Iraqi law is in effect and the U.S. as an occupying force has very limited authority to change its provisions, U.S. forces in Iraq have begun to “arrest” certain individuals such as the would-be mayor of Baghdad, and Gen. David D. McKiernan issued a proclamation stating that “the coalition alone retains absolute authority within Iraq.”⁸⁸ The process of creating and implementing a permanent legal code will continue into later phases of reconstruction, but these early incidents of legal disputes demonstrate the need for that process to begin as soon as possible.⁸⁹

Typical recommendations for short-term “justice packages” include the provision of effective police, courts, and prisons. Lessons learned about the difficulty of quickly establishing such institutions in past post-conflict situations have led some experts to recommend that the UN form a rapidly deployable set of individuals and a working legal code to take effect in the immediate and interim period of post-conflict situations. But in the absence of such a capacity, the need remains for justice specialists such as legal experts, judges, prosecutors, defense lawyers, and corrections officials who can immediately begin to administer justice. In Iraq, this need is particularly urgent given the numbers of arrests in security clampdowns and the fact that the U.S. is beginning to vet possible criminals from the thousands of Iraqis who held membership in the Baath Party.

The other short-term necessity is to begin to document and preserve evidence of war crimes or mass atrocities, especially as the country begins to embark on rebuilding efforts which may disturb or destroy important sites.⁹⁰ The UN Security Council can establish a Commission similar to that established under Resolution 780 in 1992 in the former Yugoslavia, which would begin to collect such evidence. The disturbing discoveries of large mass graves around the country between May 11-14 have amply demonstrated this necessity; indeed, Human Rights Watch issued a report on May 14 charging that the U.S. had knowledge of one particular grave for more than a week but did not respond to pleas from local officials to protect the site and crucial evidence that it undoubtedly contains.⁹¹

Cultural Restoration and Protection

While original estimates for the loss of cultural artifacts incurred by looting of the National Museum of Iraq and fire damage to the National Library were much higher than has actually been the case, a significant number of irreplaceable artifacts remain missing and Iraq’s cultural institutions are still endangered. The bulk of the task of repair and reconstruction of the facilities is likely to take place in the medium- and long-term, but in the immediate period, the U.S. has begun to facilitate the return of looted goods and artifacts. Some artifacts have already been returned to U.S. officials through this process.

A U.S. investigation of the antiquity loss from the Baghdad Museum began on April 22, 2003. The goal of the investigation, according to the team leader Col. Matthew Bogdanos, is “not criminal prosecution but the return of these antiquities to the Iraq people.”⁹² Hundreds of pieces have been recovered from Iraqi citizens through an amnesty program. At the end of May 2003, the team—made up mostly of military and civilian investigators from the Bureau of Immigration and Customs Enforcement—had nearly completed the preliminary phase of its investigation to identify the losses

88 Michael R. Gordon and John Kifner, “U.S. Warns Iraqis Against Claiming authority in Void,” *The New York Times*, April 24, 2003.

89 This need is further demonstrated by the recent events in Baghdad in which 300 Iraqis, allegedly violent criminals who had been released by Saddam Hussein in a massive prison exodus before the conflict began, were arrested and jailed by U.S. forces between May 14-15. According to Bremer, the mass arrests were part of a security clampdown in Baghdad. See Terence Neilan, “Bremer Says U.S. Is Tackling Security Problem in Baghdad,” *The New York Times*, May 15, 2003.

90 Examples of successful efforts to preserve evidence of war crimes can be seen in the cases of Sierra Leone, Rwanda, and Yugoslavia. In each of these cases, a truth and reconciliation commission was established to collect available evidence and record the experiences of both victims and aggressors. War crimes were then adjudicated by Special Courts (Sierra Leone) or International Criminal Tribunals (Yugoslavia and Rwanda). For more information on the International Criminal Tribunal for Yugoslavia, see <http://www.un.org/icty/>; For ICT for Rwanda, see <http://www.icttr.org/>. Failures also exist, for example in the case of El Salvador, see Mark Ensalaco, “Truth Commissions for Chile and El Salvador: A Report and Assessment,” *Human Rights Quarterly*, November 1994, Vol. 16, No. 4, pp. 597-675.

91 Human Rights Watch, “Iraq: U.S. Unresponsive on Mass Graves,” May 14, 2003. <http://www.hrw.org/press/2003/05/iraq051303.htm>. See also Associated Press, “3,000 Bodies Exhumed at Iraq Mass Grave,” May 14, 2003.

and was ready to begin tracking down the missing artifacts, which U.S. officials stated would “require the cooperative and concerted effort of all nations.”⁹³

Efforts to begin repairing the damage and extending future protection to Iraq’s cultural heritage have also been made by the British Museum, in conjunction with UNESCO, which has called for a meeting of top curators from around the world to address the issue. The Museum director issued a statement on April 15 saying that the Museum had made its expertise available to UNESCO and “as soon as possible, our Iraqi colleagues should be able to determine priorities and establish a programme for reconstruction.”⁹⁴

According to the Director-General of UNESCO, Koichiro Matsuura, UNESCO is also preparing to reopen a Baghdad office as soon as possible to help with the recovery effort. On May 2, 2003 the Director announced that negotiations were underway with the U.S. State Department to send a team of antiquities experts to Iraq to assist in cataloging and tracing items looting from the country’s museums. The UNESCO director has also requested that UN Secretary General Kofi Annan ask the Security Council for a resolution placing a temporary embargo on the acquisition of any Iraqi cultural objects and calling for such goods to be returned if acquisitions or exports have already taken place. The terms of Resolution 1483 do contain some provisions for the protection of cultural artifacts.

Assessing Reconstruction Needs

Highlights:

Medium- and Long-term:

- Reforming and revitalizing Iraq’s economy will be essential, including the need to remove structures of entrenched cronyism that characterized the Iraqi economy under Saddam Hussein’s regime, as well as the need to restructure debt servicing and to overhaul the agricultural system.
- According to the U.S. government, the most urgent needs for rebuilding Iraq’s infrastructure include assessment and repair of power generation facilities, electrical grids, municipal water systems and sewage systems, and rehabilitating or repairing airports and seaports.
- Reforming Iraq’s existing legal system and implementing accountability mechanisms for egregious war crimes and crimes against humanity are high priorities.

In the Medium- and Long-term: Reconstruction Needs for the First Three to Twelve Months

Financial and Monetary Needs

Reforming and revitalizing Iraq’s economy will be a formidable but vital reconstruction need.⁹⁵ One of the most important and far-ranging tasks will be to remove the structures of entrenched cronyism and favoritism that characterized the Iraqi economy under Saddam Hussein’s regime and which worsened in the sanctions era as the economy became more distorted by illegal markets.

Resolving the issue of vast international arrears that Iraq has amassed from previous wars and foreign debt will also be paramount. Overall, Iraq’s total financial obligations are estimated at over \$383 billion. This number includes Gulf War compensations (52 percent), *total* foreign debt (mainly government-to-government loans, and including IFIs) (33 percent) and

the value of pending contracts (15 percent).⁹⁶ Figures given for Iraq’s *foreign debt*, which is a major component of the *total* debt, range from \$62-\$130 billion.⁹⁷ As part of this foreign debt, Iraq owes

92 Colonel Matthew Bodganos, “Department of Defense News Briefing,” May 16, 2003.

93 Colonel Matthew Bodganos, “Department of Defense News Briefing,” May 16, 2003.

94 Statement by the British Museum Director, “Iraqi Cultural Heritage,” April 15, 2003, <http://www.thebritishmuseum.ac.uk/newsroom/current/iraq.doc>.

95 For further information on economic rebuilding, please see pp. 14-17 on the possible role that international financial institutions such as the IMF and World Bank may play.

96 Center for Strategic and International Studies, “A Wiser Peace: An Action Strategy for Post-conflict Iraq,” January 23, 2003, based on information collected in writing and phone interviews from the United Nations Compensation Commission (UNCC).

97 Note that the range in estimate foreign debt revolves around disputed assistance given by the Gulf States to Iraq during the Iran-Iraq war (approx. \$30 billion); specifically, whether this money was given as a grant or a loan. Susanna Mitchell, “Jubilee Research Briefing on Debt in Iraq,” April 17th, 2003. See also Center for Strategic and International Studies, “A Wiser Peace: An Action Strategy for a Post-Conflict Iraq Supplement I: Background Information on Iraq’s Financial Obligations,” January 23, 2003, pg. 3, figure 3.

\$82 million to the World Bank and \$52 million to the IMF, which some experts expect could be paid off with Iraqi oil revenues.⁹⁸

It is still somewhat unclear in what forum Iraq's debt will be addressed but Iraq is not expected to begin repayment of debts until after 2004.⁹⁹ Resolution 1483 "calls upon the international financial institutions to assist the people of Iraq" and further welcomes efforts by the Paris Club, an informal group of sovereign creditors, to "seek a solution to Iraq's sovereign debt problems." At their annual meeting on April 13, 2003, the World Bank and IMF invited the Paris Club to take up the issue of Iraq's debt.

Before any debt restructuring or servicing will take place, all parties agree that an official number for the extent of Iraqi debt will have to be reached. Some reports indicate that the IMF will take the lead on providing this figure, but the Paris Club has also indicated that it will assess Iraqi debt as the first step in its continuing efforts. It seems clear that either one of the two bodies, or some combination of both, will be called upon to assess Iraqi debt to Paris Club countries. Further, the IMF has agreed to assess debts to countries outside the Paris Club, including others in the Middle East.

The Paris Club's organizational mandate is to find coordinated and sustainable solutions to the payment burden of debtor nations. At their monthly meeting on April 24, 2003, Paris Club creditors agreed that they stood ready to engage on Iraq's debt. However, there is some uneasiness in the international community about having the Paris Club fix the terms of repayment because engagement with the Paris Club usually results only in debt rescheduling for troubled countries and not any debt cancellation.

Some experts are advocating for the cancellation of "odious" debts related to Saddam Hussein's military expenditure. U.S. Treasury Secretary John Snow has remarked that "certainly the people of Iraq shouldn't be saddled with those debts incurred through the regime of the dictator who is now gone."¹⁰⁰ One option being discussed is an immediate suspension of reparation payments to the UN Compensation Committee (UNCC), and a moratorium on debt payments until the completion of an arbitration process in which claimants would have to prove that the loans for which they seek repayment are not "odious." This is unlike the Paris Club, which would either provide its own figure or accept the IMF's assessment of Iraq's debt, rather than require creditors to substantiate their claims.

Additionally, the Paris Club does not deal with debts of non-member creditors, and a portion of Iraq's debt is owed to non-Paris Club nations. Some experts have suggested that an alternative to using the Paris Club for debt restructuring might be to form an ad-hoc group of creditors to restructure Iraq's debt, after assessing what portion of the debt should be considered odious. Additionally, debt to banks will be handled through the London Club, which restructures commercial debt, to reach an agreement similar to the Paris Club for repayment of unpaid Iraqi loans to commercial creditors.

Other vital components of economic reconstruction include the following:

- Convening a donors conference through the UN to raise additional funds and organize those already contributed upon appeal by the Secretary General;

98 For example, World Bank Director James D. Wolfensohn, "Press Conference: 2003 Spring Meetings of the World Bank and the IMF," Washington, D.C., April 10, 2003; Wolfensohn states that "there are significant cash flows in Iraq that I think would make \$82 million a sum that they could pay if they were keen to do so." See <http://www.worldbank.org/>.

99 Reports on May 27 indicated that the Group of 8 (G8) made preliminary agreements to impose a moratorium on repayment of Iraqi debt through 2004. See Kathleen Ridolfo, "G-8 Reportedly Set to Grant Moratorium on Iraq's Foreign Debt," *Iraq Report: Radio Free Europe/Radio Liberty*, May 23, 2003. <http://www.rferl.org/iraq-report/> Also based on comments by Undersecretary of the Treasury, John Snow, from a mid-May meeting of finance ministers in Deauville, France. Ed Crooks, "International Economy: Ministers Agree Iraq Needs more Time to Service Debt," *Financial Times (FT.com)*, May 19, 2003.

100 Undersecretary of the Treasury John Snow, speaking to Fox News and quoted in Alan Beattie, "US in push for Iraqi debt relief," *Financial Times*, April 10th 2003.

- Generating enough jobs and income — for example, by ensuring that large numbers of civil servants returning to work receive remuneration immediately —to enable a revitalized flow of cash and goods;
- Reforming the banking sector to facilitate credit and cash flow;¹⁰¹
- Reforming the agricultural sector, upon which 25-30 percent of the Iraqi populace depends for livelihood, and which has been hard hit by years of overdependence on oil, lack of functional or environmentally-friendly irrigation, mechanization of production, and large-scale rural-to-urban migration.
- Reforming or replacing Iraq's currency, which will become more important after the immediate reconstruction period. Reports have indicated that while a new Iraqi currency may be eventually introduced, the U.S. has no immediate plans to replace the Saddam-era banknotes, and instead will leave that option to the future Iraqi Interim Administration. In addition to the U.S. dollar, two forms of currency are currently in circulation in Iraq: the first is the "Saddam" dinar and the second, the "Swiss" dinar, is an older form of currency which has been used in Kurdistan and has generally been preferred in the post-conflict era.

Legal System

Far from a failed state, Iraq under Saddam Hussein had a highly centralized government, a functioning bureaucracy with a large body of able civil servants, and a fairly extensive set of legal codes. Many of the same post-conflict reconstruction processes for convening a constitutional commission and creating and implementing a legal code will be duplicated in Iraq, but these efforts will not begin with a blank slate. Not only will it be important to integrate Iraqis, both from within and without the country, in the creation of a legal order, but several expert reports recommend working from existing documents and salvaging as much as possible from them.

Specialists recommend that the bulk of this task be controlled and organized by the United Nations, which has extensive experience, and that the deployment of legal teams with Arabic-speaking capabilities will be necessary, if not for the immediate administration of justice, then for the process of judicial reform. Yet Security Council Resolution 1483 does not specify how a legal process will take place, except to say that the Special Representative should encourage international reform efforts.

In the first six months, experts say three major legal initiatives should be launched: an internationally and Iraqi staffed commission should begin reviewing the existing constitution with an eye toward developing a new charter, modeled after the constituting process in Afghanistan; a similarly staffed body should complete the code and statutory reform; and teams with language capabilities should be deployed around the country to educate Iraqis about the rule of law, human rights, and the role of the two aforementioned bodies in reforming the existing code.

One ongoing effort on Iraqi legal reform is the London-based Iraqi Jurist Association (IJA), which is composed of jurists both inside and outside Iraq who research and publicize human rights and legal issues in Iraq. During the Hussein era, the IJA conducted and published studies on Saddam Hussein's oppressive regime, his crimes against humanity and Iraq's violations of international law. Prior to the 2003 war in Iraq, the IJA worked to bring together Iraqi opposition groups to advocate for a unified program for reform in a post-Saddam administration. The IJA is currently working with members of

¹⁰¹ A special report by the United States Institute of Peace, for example, states that "the banking system in Iraq is virtually non-existent." United States Institute of Peace Special Report No. 102, "After Saddam Hussein: Winning a Peace If It Comes to War," by Ray Salvatore Jennings, February 2003, p. 9.

the international community to convene a tribunal in which to try Saddam Hussein for war crimes. The IJA has also participated in the State Department's "Future of Iraq Project," outlining their plans for a post-Saddam Iraqi legal system.

Justice, War Crimes, and Reconciliation

The Bush administration has suggested three types of accountability mechanisms for crimes committed by Iraqis in conflict and during the regime of Saddam Hussein:¹⁰²

- ***Trials for crimes against U.S. forces during this war or the 1991 Gulf War***, to be conducted solely by the U.S., most likely through military commissions;
- ***Trials for crimes against citizens of other nations***, mainly Kuwaitis, conducted by those nations or possibly through a joint Iraqi-Kuwaiti process; and,
- ***Trials for crimes against humanity committed against Iraqis during the Hussein regime.*** While previous post-conflict models for prosecutions against egregious criminals have resulted in such ad hoc international tribunals as the International Criminal Tribunal for Yugoslavia (ICTY) and Rwanda (ICTR), or more recently, in hybrid tribunals such as in Sierra Leone, the case for Iraq promises to be somewhat divergent and less multilateral. Pierre-Richard Prosper, Ambassador-at-Large for War Crimes Issues, has testified that the administration favors an as-yet unspecified "Iraqi-led process that will bring justice for the years of abuses that have occurred."¹⁰³ The administration has said that this could range from tribunals to truth and reconciliation commissions.

The administration has been working with exiled Iraqi jurists on post-war accountability issues and says that it will consult at an appropriate time with Iraqis still in the country. Ambassador Prosper has stated further that the administration acknowledges there "will be a question as to whether or not the system within Iraq has the capacity to address these abuses" and has offered to provide Iraq with "technical, logistical, human and financial assistance."¹⁰⁴ The administration encourages the international community to "step forward and be prepared to assist" this Iraqi-led process, but has argued that a multilateral tribunal is neither necessary nor desirable in Iraq.¹⁰⁵ Resolution 1483 did not contain any specific mechanisms for establishing systems of accountability, nor did it indicate whether the UN or the U.S. would lead such an effort; the only mention of accountability is a call to member states to deny safe haven to alleged criminals and to "support actions to bring them to justice."¹⁰⁶ Previous statements by the administration, as cited above, seem to point away from the involvement of the UN in establishing justice mechanisms.

Yet many scholars and experts argue that post-conflict justice in Iraq will require international credibility; national support; and support for capacity-building of the justice system. Regardless of which model for post-conflict justice will be applied in Iraq, many questions remain, including:

- Who will be prosecuted (including both major offenders as defined by international law and minor offenders);
- What substantive and procedural law will apply (international criminal law, Iraqi law, or both);
- Which penalties will be applicable (including the death penalty); and

102 All information on the plans of the Administration for justice mechanisms are drawn from the following statements: Pierre-Richard Prosper, testimony before the Senate Committee on Governmental Affairs, April 10, 2003; Pierre-Richard Prosper, "Humane Treatment of Iraqi and U.S. POWs Under Geneva Conventions," Department of Defense Briefing, April 7, 2003, <http://www.state.gov/s/wci/rm/19448.htm>; and Richard Willing, "Prosecution of war crimes could get complicated," *USA Today*, April 15, 2003.

103 Pierre-Richard Prosper, testimony before the Senate Committee on Governmental Affairs, April 10, 2003.

104 Pierre-Richard Prosper, "Humane Treatment of Iraqi and U.S. POWs Under Geneva Conventions," Department of Defense Briefing, April 7, 2003. <http://www.state.gov/s/wci/rm/19448.htm>.

105 Pierre-Richard Prosper, "Humane Treatment of Iraqi and U.S. POWs Under Geneva Conventions," Department of Defense Briefing, April 7, 2003. <http://www.state.gov/s/wci/rm/19448.htm>.

106 Also, one preambulatory clause did affirm that there was a "need for accountability for crimes and atrocities committed by the previous regime."

- How to deal with the perpetrators of lesser crimes, who will not be tried criminally, especially given that the administration has begun to vet lower echelons of the Baathist Party from participation in rebuilding efforts.

Some experts have proposed that prosecutions of major Baathist offenders—most notably Saddam Hussein himself if he is captured—take place under the auspices of a mixed national/international criminal tribunal, established by the UN, resembling the Sierra Leone model. The judges for this court would be competent in Arab criminal law, and would be drawn from Iraq, Arab states and from others elsewhere. They argue that a system established by the U.S., even if led by Iraqi exiles, will be seen as illegitimate by many. A UN-backed tribunal with many nations participating, including Arab states, would help avoid the perception of “victor’s justice.” Many nations would also be more likely to cooperate with such a tribunal, including surrendering defendants, locating witnesses and providing financial support; and furthermore, as some experts note, a mixed tribunal rather than a wholly international body would also likely increase Iraqi participation and support.

Experts propose that other lower-level offenders be prosecuted before Iraqi criminal courts, presuming that such courts could be adequately reformed and staffed with judges who have the same core competencies as those who would try major offenders. Other reports in favor of a multilateral approach with many of the same advantages already mentioned, argue that an International Criminal Tribunal for Iraq, modeled after those in Rwanda and Yugoslavia, would be the preferable option and could be established more quickly than a hybrid court.

The other aspect of implementing justice and promoting reconciliation is the possibility of establishing truth commissions, modeled after those most famously employed in South Africa.¹⁰⁷ A “Truth and Reconciliation Commission” for Iraq could be established by the interim government. In light of the large scale of violations committed under the regime of Saddam Hussein, this commission could be expected to deal with several thousand cases. Outcomes could include restitution from admitted perpetrators or victim compensation from a general fund that could be established for this purpose.

Putting this package in place would be a complex operation requiring adequate administrative support and facilities, comprehensive record-keeping capacity, and support from international experts. It is also essential to preserve evidence of mass crimes in the interim period, as evidenced by the post-conflict discovery of several mass graves sites and charges that the U.S. did not adequately protect them.

Health, Education, and Human Welfare

Apart from immediate disaster relief, several humanitarian concerns which collectively contribute to the well-being of Iraqi society will need to be addressed on a longer timeframe. These include:

- **Health and Medical Systems.** The re-staffing and repairs of the hospital and medical system will need to extend past the short-term period. In the recent past, medical supplies have been provided as emergency humanitarian relief through the Oil for Food program. Just as with the agricultural/market sectors, Iraq’s medical infrastructure will need to be weaned from reliance on international relief agencies and programs. In fact, Physicians for Human Rights has called for the cessation of certain relief actions—such as the current plans for delivery of field hospitals by various non-U.S. donor governments—which create a “parallel health system,” erode pre-existing health facilities, and operate based on donor supplies rather than assessment of on-the-ground need.¹⁰⁸

107 For an overview of truth and reconciliation commissions, see Henry J. Steiner, ed., *Truth Commissions: A Comparative Assessment*, WPF Reports 16, Cambridge, MA: World Peace Foundation, 1997. For Iraq, see, for example, United States Institute of Peace, “Establishing the Rule of Law in Iraq,” by Robert Perito, April 2003, p. 8.

108 Physicians for Human Rights, “Iraq Bulletin #4: Donated Field Hospitals Unresponsive to Iraqi Needs: Creates Parallel Health System,” April 19, 2003, http://www.phrusa.org/research/iraq/bulletin_041903.html.

A USAID contract was awarded on April 30, 2003, to Abt Associates Inc., to normalize health provision in the short-term and strengthen the overall health system in the longer range. According to USAID, the contract is meant to support “Iraqi-led initiatives,” reform and reinstate an Iraqi Ministry of Health, and determine the specific needs of the health sector and vulnerable segments of the populace. USAID also notes that the research and consulting firm will coordinate with ongoing efforts by international agencies such as UNICEF, the World Food Program, and the World Health Organization.

The difficulty of reforming the health system with the help of skilled Iraqi professionals was well illustrated by the protests by doctors and health professionals in Baghdad over the U.S. appointment of former Baath Party member Ali Shnan as the new Minister of Health. On May 14, the U.S. forced him to resign in the face of his refusal to denounce the Party, though his medical qualifications were not in question.

- **Education.** At present, schools are only partially reopened in Iraq and some fear that the necessary but lengthy processes of curriculum revision and “de-Baathification” of educational materials will further delay their openings. The executive director of UNICEF and others have strongly recommended that schools in Iraq be reopened as soon as possible, as they serve important community functions beyond just schooling children; schools can serve as centers for community-based support, as the location for health interventions, and can help to keep children out of harm’s way in dangerous and unstable security situations.

Reopening and improving schools in Iraq will not be easy. According to UNICEF, damages wrought by the present conflict and subsequent looting only added to pre-existing conditions. UNICEF notes that two decades of conflict and one decade of economic sanctions have left 70 percent of Iraqi schools in dire need of renovation and repair, and that many of these schools pose health hazards to the students. The current U.S. strategy for revamping Iraq’s educational system is to award a contract through USAID to a U.S.-based private sector consulting firm. It remains unclear how coordination with UNICEF will take place.

Infrastructure

According to the U.S. government, the most urgent needs for rebuilding Iraq’s infrastructure include assessment and repair of power generation facilities, electrical grids, municipal water systems and sewage systems, as well as rehabilitating or repairing airports, and dredging, repairing and upgrading the Umm Qasr seaport. These needs were outlined in a USAID description of the terms of its largest reconstruction contract to date, awarded to the Bechtel Corporation on April 17, 2003. According to the USAID website, “through all of its activities, [Bechtel] will also engage the Iraqi population and work to build local capacity,” though it remains unclear how these efforts will commence.¹⁰⁹

In addition, the United Nations Development Program, which since 1997 has had extensive experience in direct rehabilitation and observation of infrastructural needs in Iraq under the auspices of the Oil for Food Program, has developed a detailed plan for assistance in both the short- and long-term phases of reconstruction. Now that Resolution 1483 establishes a Special Representative, UNDP may be able to put some aspects of this plan into place.¹¹⁰

109 United States Agency for International Development (USAID), “USAID Awards Reconstruction Contract,” April 17, 2003, <http://www.usaid.gov/press/releases/2003/pr030417.html>.

110 For further information on UNDP’s plan for rebuilding infrastructure, see <http://www.undp.org/dpa/journalists/postconflictiraq.html#UNDP%20Presence>.

There is not yet a clear plan for the control and distribution of water in Iraq. Traditionally UNICEF and the World Health Organization facilitate the decontamination and distribution of water during post-conflict reconstruction. UNDP is working to repair a chlorine plant to treat drinking water.

Gender Issues

As experts and members of the administration have noted on many occasions, women were often the target of brutal human rights and gender abuses during Saddam Hussein's regime, facing such horrors as beheading, rape, and torture. Reconstructing Iraq with a mind to gender issues will involve efforts to rectify past atrocities and disproportionate, gender-based suffering as well as looking ahead to the future by ensuring equality and representation for Iraqi women. Following are some examples of issues that will need attention in order to redress the current situation:

- **Retaining rights which have been afforded to Iraqi women under the secular regime.** Unlike some neighboring Arab countries, Iraqi women under the Baathist regime were able to work, vote, drive, attend school, and hold political office. In order not to risk the loss of these rights, an interim authority will have to balance representation and inclusive politics with guarantees for rights of women. The extent of representation of religious Islamic elements in the future government will play a large role in determining these policies.
- **Closing the gap in education and illiteracy.** Though women were permitted education under Saddam's regime, the current gaps between illiteracy rates in men and women in Iraq are significant. Literacy rates for men are approximately 71 percent, while rates for women are only 45 percent.¹¹¹ Improving general opportunity and closing the gender gap will be essential to advancing the role of women in Iraq.
- **Ensuring substantial representation in elected office.** The Bush administration has warned that balancing women's rights while ensuring indigenous control over the future government of Iraq will be difficult; women's groups have in turn insisted that no tradeoffs be made at the expense of women's human rights. It seems clear that at the least, special efforts will be needed to ensure that future electoral bodies are not disproportionately governed by men. The point is illustrated by the April 15 town hall meeting in Nasiriyah organized by the U.S., in which almost 100 opposition leaders and exiles met to plan the future of Iraqi democracy. Only five attendees were women.

Control of Natural Resources

Two vital resources and their industries will need to be rebuilt and governed in both the interim and permanent governance period.

- **Water.** Bechtel Group is the primary party in charge of rebuilding water infrastructure in Iraq. There are no current plans to privatize water systems. Bechtel was awarded a contract by USAID to cover many major projects in Iraq, including improving and ensuring the potable water supply. The Bush administration said the restricted bidding was based solely on companies that were most qualified to do the work and on the need for expedited selection and security clearances. However, the two-month process drew complaints from Congress and from European companies about the secrecy and the decision to restrict bidding to a handful of the largest U.S. construction companies. (For more on contracts, see page 47.)

111 CIA World Fact Book 2002, <http://www.cia.gov/cia/publications/factbook/geos/iz.html#People>.

Awarding Contracts for Reconstruction

The United States began awarding Iraqi reconstruction contracts in early March 2003, although the U.S. Agency for International Development (USAID) had been soliciting bids since January 2003 from a select group of American contractors. These initial contracts cover eight areas: bridge, road and port rehabilitation and repair; seaport administration; airport administration; primary and secondary education; public health; local governance; theater logistical support; and personnel support. A list of all contracts awarded to date is available at <http://www.usaid.gov/iraq>.

USAID procedures require that contracts be awarded through a “full and open” competition, but in this case, USAID exercised its authority to waive the competitive bid process because of national security interests. This move also allowed USAID to act quickly by limiting competition to experienced U.S. firms that had the necessary security clearances. USAID waived the same competitive bid requirements for contracts for the reconstruction of Afghanistan and Bosnia.

The contracting process for Iraq has been criticized by Members of Congress for being both secretive and exclusionary, and Representative Maxine Waters (D-CA) and Senator Ron Wyden (D-OR) have in fact introduced legislation to require full public disclosure of non-competitive bidding.¹¹² In addition, on April 8, 2003, Representatives Henry Waxman (D-CA) and John Dingell (D-MI) asked the General Accounting Office to conduct a review of the administration’s process for awarding reconstruction contracts for Iraq; Rep. Waxman also asked that GAO investigate allegations of special treatment for Halliburton, a company with close ties to Vice President Dick Cheney. Rep. Waxman said, “I find it perplexing and inexplicable that we are not getting information except in dribs and drabs, and with each new piece of information the whole notion of the contract is changed.”¹¹³

The U.S. procedures for awarding contracts in Iraq has also raised ire from many foreign countries, particularly those which had been awarded large contracts for work in Iraq which had yet to be implemented and for which they have not been remunerated. Iraq currently has pending contracts with Russian, Dutch, Egyptian, United Arab Emirates, Chinese and French public and private entities. The sum total of these contracts is estimated at \$57.2 billion, or 15 percent of Iraq’s total post-war financial burden.¹¹⁴ These contracts are primarily related to the energy and telecommunications sectors, and Russia possesses an overwhelming majority of them at 90 percent, or \$52 billion worth.¹¹⁵ Resolution 1483 leaves the status of all present and outstanding Iraqi contracts at the discretion of the Secretary General in his efforts to dismantle and transfer the Oil for Food program to the Authority.

Foreign governments and companies, particularly in Europe, have also raised concerns that non-U.S. based companies will be excluded from further contracts awarded by the U.S. government. U.S. foreign assistance law governing the contracts that have been awarded so far allows only U.S. companies to be awarded prime contracts, but permits using foreign companies as subcontractors. USAID administrator Andrew Natsios has estimated that some 50 percent of U.S. reconstruction funds (equaling \$900 million) could go to foreign subcontractors.¹¹⁶ Iraqi firms were ineligible for subcontracts until United Nations sanctions were lifted, which occurred under the terms of Resolution 1483 of May 22, 2003.

- **Oil.** Resolution 1483 authorizes the U.S. to collect and disburse all Iraqi oil revenue in the interim period (for more on the terms of the resolution, see pp. 2-5). Former Iraqi oil ministry director of planning Thamir Abbas Ghadhban has been appointed by the U.S. led-coalition to run the country’s oil industry. The Bush administration plans to structure the post-war Iraqi oil industry like a U.S. corporation, with a chairman and chief executive and a 15-member board of international advisers. Large scale decisions on investment, capital spending and production are likely to need the approval of the advisory board, which will act like a board of directors.

This advisory board has already been created and will be led by Phillip Carroll, the former head of Royal Dutch/Shell in the United States. Mr Ghadhban will take control of day-to-day management, marketing and sales, effectively becoming Iraq’s oil minister until there is a new government. The U.S.

112 See S. 876, introduced by Senator Ron Wyden (D-OR), April 10, 2003 and H.R. 1901, introduced by Rep. Maxine Waters (D-CA) on April 30, 2003, to require public disclosure of noncompetitive contracting for the reconstruction of the infrastructure of Iraq, and for other purposes. Bill text can be found at <http://thomas.loc.gov>.

113 Elizabeth Becker, “Iraq Reconstruction is Assailed,” *The New York Times*, Saturday, May 24, 2003.

114 Center for Strategic and International Studies, “A Wiser Peace: An Action Strategy for a Post-Conflict Iraq,” January 2003, p. 1, based on United Nations Compensation Commission Data.

115 Center for Strategic and International Studies, “A Wiser Peace: An Action Strategy for a Post-Conflict Iraq,” January 2003, p. 1, based on United Nations Compensation Commission Data.

116 Edmund F. Scherr, “U.S. Aid Effort for Iraq Largest Since Marshall Plan,” U.S. Department of State International Information Programs, March 26, 2003.

headed advisory board's job will be to provide advice and guidance and ensure openness and accountability. The country currently is pumping only 310,000 barrels a day (bpd), as compared to 2.5 million before the war. It needs 550,000 bpd to meet domestic energy needs.¹¹⁷

According to one senior Iraqi oil official, looting and inadequate security have hampered efforts to restore Iraqi oil output. The official said goals for oil output were to reach 1.3 million bpd by mid-July, of which 750,000 bpd would be allotted for export.¹¹⁸ He went on to say that "the pillage and looting at the oil installations this time was much more devastating than in 1991," in reference to sustained damage during the Gulf War.¹¹⁹

Fostering an Independent Media

Media in Iraq under the Baathist regime was state-owned, censored and ultimately a conduit for "disinformation" propagated by the regime. Reforming and building a new system of independent journalism will not only help the Iraqi political system flourish, but will likely work to the advantage of the occupying forces and any international entities attempting to engage in reconstruction in Iraq, by broadcasting changes being implemented and allowing the Iraqi citizenry to chart progress. However, the U.S. and other foreign powers should be careful of attempting to control or use a media system to paint reconstruction efforts in a bright, uncritical light.

Building a free Iraqi media will require dismantling the state-controlled structures of the Hussein era, while simultaneously training new Iraqi journalists and relying on the expertise of international and Arabic-speaking specialists in the meantime. One report recommends the formation of an international media advisory board, composed of both Iraqi and international specialists, to ensure that any new system of information dissemination is independent and trusted by the Iraqi populace.

Other efforts include the convening of a conference to design the legal framework for a democratic media in Iraq, which will take place June 1-3, 2003 in Athens, Greece. The conference will be organized by Internews Network, a non-profit organization which supports open media worldwide, and hosted by Greece.¹²⁰ Other major participants in the three-day event will be UNESCO, the U.S. Agency for International Development, the German Foreign Office, and the Russian Ministry of the Press. The conference will bring together Iraqi, Arab and Western media professionals to develop a policy platform for legal and regulatory reform in Iraq. These reforms will seek to establish constitutional guarantees for a free and independent Iraqi media, including a journalistic code of ethics and privacy protection laws. According to Internews, working groups will produce a draft legal framework for media and Internet policy for Iraq.

Depleted Uranium

U.S. and British tanks used depleted uranium (DU) shells and armor in Iraq. When a weapon equipped with DU strikes a solid object, like the side of a tank, it goes straight through before erupting in a burning cloud of vapor. This vapor settles as chemically poisonous and radioactive dust. Both the U.S. and the UK acknowledge that the dust can be dangerous if inhaled, though they say the danger is short-lived, localized, and much more likely to lead to chemical poisoning than to irradiation (a potentially more damaging, cancer-causing effect). The U.S. has announced that it has no plans to remove the debris left over from depleted uranium weapons used in Iraq. It says no clean-up is needed because research shows DU has no long-term effects, and that a 1990 study suggesting health risks

117 Peg Mackey, "Iraq Puts Back Oil Output Targets," Reuters, May 19, 2003, <http://www.alertnet.org/thenews/newsdesk/L1989998.htm>.

118 Peg Mackey, "Iraq Puts Back Oil Output Targets," Reuters, May 19, 2003, <http://www.alertnet.org/thenews/newsdesk/L1989998.htm>.

119 Peg Mackey, "Iraq Puts Back Oil Output Targets," Reuters, May 19, 2003, <http://www.alertnet.org/thenews/newsdesk/L1989998.htm>.

120 Greece will host the conference in its capacity as President of the European Union.

COSTS OF RECONSTRUCTION

Estimates of the monetary costs of war, humanitarian aid, and reconstruction of Iraq have varied widely. Depending on the data and the methodology used, the estimated total costs of *Operation Iraqi Freedom* and post-war reconstruction and humanitarian aid have ranged from \$12 billion to \$1.9 trillion. The differences lie not only in data analysis, but also on assumptions regarding the number of troops, length of the war, deployment and redeployment of troops, as well as post-conflict occupation, humanitarian aid, and reconstruction. Resolution 1483 authorizes the Authority to use Iraqi oil revenue to finance reconstruction and development. It remains unclear, given current production rates, whether this revenue will be sufficient to bear the entire reconstruction burden. The U.S. will rely on taxpayers and international donors to make up any shortfalls between actual needs and revenue collected.

On March 25, 2003, President Bush requested a supplemental appropriation of \$74.7 billion to pay for the war in Iraq, the ongoing war on terror, and reconstruction efforts in Iraq through September 2003. Of the total, \$2.4 billion is for reconstruction in Iraq—bringing the total commitment of resources for Iraq relief and reconstruction to \$3.5 billion. The remaining funds are divided between military operations (\$62.6 billion) both in Iraq and in the war on terrorism, and homeland security (\$4.25 billion).¹²¹

The Bush administration has been criticized for being deliberately tight-lipped about the estimated cost of both the war in Iraq and post-war reconstruction. In September 2002, White House economic advisor Lawrence B. Lindsey predicted that the total cost for the conflict and reconstruction would be between \$100 and \$200 billion. This was countered days later by Mitch Daniels, Director of the Office of Management and Budget (OMB), who called the estimate “very, very, high.”¹²² (Lindsey’s resignation in December, 2002 is widely believed to have been forced in part because of his comments regarding the cost of war in Iraq). Lindsey’s estimates are in line with those of the House Budget Committee Democratic Staff for both the conflict and reconstruction. They are low compared to Yale University economist William D. Nordhaus’s worst case scenario estimate of \$1.9 trillion for the conflict, reconstruction and other costs.¹²³

Other prominent estimates on costs include:

- The Council on Foreign Relations (CFR) estimates that annual post-conflict costs may range from \$16.8 to \$20 billion per year. The CFR study suggested that President Bush allocate \$3 billion to post-conflict reconstruction and humanitarian assistance for the initial year with the promise of additional funding.¹²⁴
- The Center for Strategic and Budgetary Assessments estimates that five years of post-war occupation could cost between \$25 billion and \$105 billion and that humanitarian and other relief efforts could cost between \$84 billion and \$498 billion.¹²⁵

to local people and veterans is out of date.

According to a United Nations study, DU was still contaminating air and water even seven years after it was used. Many veterans from the Gulf and Kosovo wars believe DU has made them seriously ill. According to the WHO, the kidneys are considered to be the main site of potential damage from chemical toxicity of uranium. Other potential health risks from depleted uranium affect the lungs and the central nervous system.

The United Nations Environment Program (UNEP) is recommending that a scientific assessment of sites targeted with weapons containing DU be conducted in Iraq as soon as conditions permit. The UNEP plans to publish a “desk study” on the Iraq environment that will provide the necessary background information for conducting field research. This research will examine risks to groundwater, surface water, drinking water sources, waste-management and other environment-related infrastructure, factories and other potential sources of toxic chemicals, and biodiversity.

Landmines and Unexploded Ordnance (UXO)

Landmines and unexploded ord-

121 Office of Management and Budget, “Fact Sheet: Iraq Relief and Reconstruction,” March 27, 2003, accessed at http://www.whitehouse.gov/omb/iraq_2.pdf; White House Fact Sheet, “Bush Requests \$74,700 Million in Added Funding,” March 25, 2003, <http://usinfo.state.gov/regional/nea/iraq/text2003/0325bush.htm>.

122 Letter from Representative John Spratt to the House Budget Committee Democratic Caucus, September 23, 2002, http://www.house.gov/budget_democrats/analyses/spending/iraqi_cost_report.pdf

123 Letter from Representative John Spratt to the House Budget Committee Democratic Caucus, September 23, 2002, http://www.house.gov/budget_democrats/analyses/spending/iraqi_cost_report.pdf; Mark Gongloff, “How much will war cost?” CNNMoney.Com, March 19, 2003, http://money.cnn.com/2003/03/17/news/economy/war_cost/.

124 Independent Task Force on Post-Conflict Iraq sponsored by the Council on Foreign Relations, “Iraq: The Day After,” March 12, 2003.

125 Testimony of Steven Kosiak, Director of Budget Studies, The Center for Strategic and Budgetary Assessments, House of Representatives Budget Committee, February 27, 2003.

nance (UXO) hindered Iraq's recovery from the first Gulf War and will again complicate Iraq's reconstruction. In order to ensure the safety of Iraqi civilians and humanitarian aid workers as they rebuild Iraq, workers must identify and mark off areas for landmine and UXO contamination. The local population must also receive UXO awareness training to alert them to the dangers of UXO and how to recognize potentially hazardous devices.

The United Nations Mine Action Service (UNMAS) is preparing an emergency response team to survey and clear landmines and UXO. UNMAS's work will cover a number of areas. It will survey and clear mines and unexploded ordnance to make access routes and infrastructure safe. It will provide support for the search and removal of booby traps and other improvised explosive devices, and it will undertake UXO awareness training with the local population and offer assistance to victims.

Before the current conflict, Iraq was already severely affected by landmines and UXO as a result of the 1991 Gulf War, the 1980-1988 Iraq-Iran War, and two decades of internal conflict. The highest concentration of landmines has been reported in Northern Iraq and along the borders with Iran, Kuwait, Jordan, Syria and Turkey. U.S.-led forces did not use landmines in the recent conflict, but there have been reports that Iraqi forces did lay mines on the Kuwaiti border and around Kirkuk in the north.

Controversy has also arisen over "cluster bombs" used by U.S. forces during the attack on Iraq, and a number of "dud" bomblets that may not have exploded on impact as intended. While the U.S. military has said that only 26 of the approximately 1,500 cluster bombs landed near civilian neighborhoods, there has been a large outcry from the NGO community to ban cluster bombs because their failure rate causes them to be an immense danger to civilians.

History of Past Reconstruction Efforts

There are many arguments on both sides of the spectrum as to who should control and administer reconstruction. This section is intended to provide some historical background on past efforts by both the UN and the U.S. in reconstruction and nation-building.

Past UN Efforts

Recent history demonstrates that the UN can play a vital role in helping to design and implement transitional tasks that range from restoring the legal system, to providing emergency health care, to dealing with refugee return, to providing a network of volunteers to help bring government institutions back into operation. While less than perfect, UN efforts from Somalia to Haiti to Bosnia to East Timor demonstrate that the UN has been a central institution in the reconstruction of countries emerging from conflict and can play a constructive role in a wide range of activities.

The UN system possesses considerable expertise and its presence increases the perceived legitimacy of the operation in the eyes of the international community. In addition to bringing international support, the UN can attract additional funds through its convening power and its leadership.¹²⁶

What remains clear is that UN programs on the ground are often the only international presence to remain in the field after other nations move on to the next crisis. It is this staying power that differentiates UN development activities on the ground from the shorter-term commitments of others, including the U.S.

It should be noted, however, that the UN has not always succeeded in meeting one of the most difficult gaps in post-conflict reconstruction: providing for internal security through policing. This was the case in Bosnia, and continues to be an issue in Afghanistan. For example, even after 18 months, security in Afghanistan still remains so precarious that many of the non-governmental organizations providing support to the reconstruction effort are often barred from travel around the country (see pp. 53-54 for more on Afghanistan).

The following two cases provide brief summaries of the UN's largely successful involvement in two post-conflict environments—East Timor and Kosovo.¹²⁷

History of Past Reconstruction Efforts

Highlights:

- UN efforts from Somalia to Haiti to Bosnia to East Timor demonstrate that, while not perfect, the UN has been a central institution in the reconstruction of countries emerging from conflict and can play a constructive role in a wide range of activities.
- UN programs on the ground are often the only international presence to remain in the field after other nations move on to the next crisis; this staying power differentiates UN activities on the ground from the shorter-term commitments of others, including the U.S.
- Provision of adequate security and policing has been a lingering problem in post-conflict reconstruction efforts, as was the case in Bosnia and Afghanistan.
- The United States has a poor success rate in democratic nation building, having created democracies that were sustained for ten years or longer after the departure of U.S. forces in only four of the sixteen nations it has attempted to reconstruct in the last century.

126 This assertion is based on the “UN-plus” concept, which states that international response works best when one nation is willing to take the lead role with the UN providing legitimacy and support. For a discussion of the UN-plus concept, see Stanley Foundation, *Laying a Durable Foundation for Post Conflict Societies*. New York, NY: Stanley Foundation, 2002, <http://reports.stanleyfoundation.org/UNND02.pdf>.

127 For a comprehensive list of UN peacekeeping and peace-building efforts, please visit <http://www.un.org/peace/index.html>, the source from which these case studies were largely drawn. Another main source for the section on East Timor is the Coalition for International Justice, <http://www.cij.org>.

East Timor

The 24-year Indonesian occupation of East Timor was responsible for the deaths of up to 200,000 East Timorese. In 1999 the UN, which had closely monitored Timorese affairs for decades, was charged with overseeing an electoral process that culminated with the people of East Timor voting to become an independent nation.

Immediately after release of the results, however, local militias supported by Indonesia forces began a final, systematic campaign of destruction that left hundreds dead, hundreds of thousands displaced, and up to 80 percent of East Timor's infrastructure destroyed. In response, the Security Council, acting under its Chapter VII authority, intervened to restore peace and stability in the region by dispatching a multinational peacekeeping force of twenty nations, the Australian-led InterFET. This mission was followed by the establishment of a UN-run mission, the UN Transitional Administration in East Timor (UNTAET).

On May 20, 2002, East Timor was declared an independent nation, and the UN handed over its authority to the newly formed East Timor National Parliament. A UN presence remains in East Timor to ensure security and stability of this new state during its first two years. Among its activities there is continued cooperation with the UNTAET-established, mixed international/East Timorese panels of judges to try anyone accused of committing serious violations of international humanitarian law during the period of the occupation and the violence following the 1999 referendum. The tribunal is one of the first such bodies to incorporate a hybrid set of judges and governing law.

Kosovo

UNMIK, the UN Mission in Kosovo, was created in 1999 through Security Council authorization of a mission to bring peace, stability, democracy, and, eventually, self-government to the embattled region. Kosovo had suffered decades of unrest, culminating in military action led by the North Atlantic Treaty Organization (NATO) to eliminate Serbian repression.

This UN undertaking is unique in its scope and structure, for it divides major tasks among the UN and other international organizations, all under the UNMIK mandate. The UN is charged with providing humanitarian assistance, police and justice, and civil administration; the Organization for Security and Cooperation in Europe (OSCE) led democratization and institution-building efforts; the European Union led reconstruction and economic development efforts; and a military force under NATO authority remains charged with maintaining security in Kosovo.

The mission has achieved the following results: local elections in all of Kosovo's 30 municipalities in October 2000; the adoption of a new Constitutional Framework for Kosovo in May 2001; province-wide elections in November 2001; and the formation of a democratically elected government, including a President and Prime Minister, in March 2002.

The international community recognizes there are still considerable hurdles to clear in Kosovo, including strengthening of civil institutions and establishing the law and order necessary to help democracy and economic development. Additionally, the possibility of an eventual partition of Kosovo into separate Serb and Albanian entities due to ongoing ethnic tensions in the region remains to be settled by the international community.

Past U.S. Efforts

*The following is excerpted from a recent report by the Carnegie Endowment for International Peace on the record of U.S. nation-building:*¹²⁸

Few national undertakings are as complex, costly, and time consuming as reconstructing the governing institutions of foreign societies. Even a combination of unsurpassed military power and abundant wealth does not guarantee success, let alone quick results. Historically, nation-building attempts by outside powers are notable mainly for their bitter disappointments, not their triumphs. Among great powers, the United States is perhaps the most active nation builder.

The record of past U.S. experience in democratic nation building is daunting. The low rate of success is a sobering reminder that these are among the most difficult foreign policy ventures for the United States. Democracy has been sustained for ten years or longer after the departure of U.S. forces in only four of the sixteen nations and areas that the U.S. has attempted to reconstruct during the last century. Two of these followed the total defeat and surrender of Japan and Germany after World War II, and two were in the relatively small societies of Grenada and Panama.

Unilateral nation building by the United States has met with even less success — perhaps because unilateralism has led to surrogate regimes and direct U.S. administration during the post-conflict period. Not one American-supported surrogate regime has made the transition to democracy, and only one case of direct American administration has managed this feat. Importantly, many of the factors that experience shows are most crucial to success are absent in Iraq.¹²⁹

Afghanistan: A Case in Progress

The experience of stabilization and reconstruction in Afghanistan offers clear illustration of the benefit to U.S. security interests of systematic multilateral cooperation beginning early in the post-conflict phase. The experience in Afghanistan also offers a modest cautionary example against the absence of such cooperation.

To an even greater extent than in Iraq, the United Nations, through its humanitarian agencies, was present on the ground in Afghanistan for many years. The benefit to U.S. diplomatic, political, humanitarian and security objectives of using this infrastructure and credibility cannot be overestimated. Security personnel were relieved of many civil affairs responsibilities, and U.S. civilian assistance programs found ready-made frameworks for partnership and delivery of supplies. There were, however, complications due to ongoing military operations, lack of coordination between planning for military and humanitarian operations, and inefficiencies in aid delivery. The sort of well-established operational coordination between UN agencies and NGOs that has characterized previous humanitarian operations was largely absent from this case. These types of problems can be most easily solved by working toward cooperative mechanisms for consultation, planning and operational coordination.

The contribution made by the multinational security force in Afghanistan known as the International Security Assistance Force (ISAF) to overall security and to the interim Afghan government also deserves note.¹³⁰ By assuming responsibility for the security of the Kabul region, ISAF allowed U.S. armed forces to concentrate on the conduct of military operations against Taliban forces in the provinces. The security provided by ISAF allowed the Afghan government to function,

128 Excerpted with permission from Carnegie Endowment for International Peace, “Lessons From the Past: the American Record on Nation-Building,” by Minxin Pei and Sara Kaspar, May, 2003. See <http://www.ceip.org>.

129 According to later excerpts from the CEIP report, such factors include three main categories. The first, *favorable internal characteristics*, involve such characteristics as a strong national identity, a high degree of ethnic homogeneity, relative socioeconomic equality, existing state capacity, and previous experience with constitutional rule. The second, *convergence of geopolitical interests*, involves the need for the outside power to have a compelling strategic interest in success, the need for this strategic interest to be “broadly aligned” with the national interests of the target country, and the need for consensus on shared strategic interests within the target society. The third factor is *commitment to economic development*, where pre-existing economic resources and the possibility for economic development are paramount.

130 For information on peace-building in Afghanistan, refer to <http://www.unama-afg.org>. See also Center For Defense Information, “CDI Fact Sheet: International Security Assistance Force,” December 2002, http://www.cdi.org/terrorism/isaf_dec02-pr.cfm.

Afghan President Hamid Karzai, Senate Foreign Relations Committee testimony, February 26, 2003:

“Afghanistan is not yet out of the woods.... President Bush ... assured me that, even if the United States and the rest of the world get engaged in other regions of the world, Afghanistan will not be forgotten, that Afghanistan will continue to receive assistance.”

and bolstered its authority. It also provided the conditions for a national political consultative process to take place at the Loya Jirga. Many UN staff and others have been pushing to expand ISAF operations beyond Kabul, but the UN Security Council has not authorized such an expansion due to U.S. objections. Expanding ISAF operations beyond Kabul could have prevented or lessened the impact of many of the security problems reported in the provinces. Insecurity beyond Kabul has been a lingering problem.

In Afghanistan, within weeks of the start of hostilities, the United Nations along with the World Bank and the Asian Development Bank, were able to mobilize an international effort to raise the financial and technical resources to stabilize the country.

Multilateral efforts were central to U.S. security interests and helped to relieve the widespread suffering of civilians, help launch collaborative infrastructure reconstruction, and helped legitimize indigenous Afghan political authority. Of course, all these remain central to U.S. security interests in Afghanistan. Among the outcomes of multilateral efforts were the Afghanistan Reconstruction Trust Fund.

The continuing value and viability of this type of multilateral process is demonstrated in the current Transitional Assistance Plan for Afghanistan (TAPA), which is a partnership between the Interim Transitional Government of Afghanistan (ITGA), and the international community. The UN Assistance Mission for Afghanistan has assisted ITGA in developing and implementing a needs-based budget and plan, appealing for the necessary resources, and bringing together the efforts of 15 UN specialized agencies. This kind of effort can help integrate agencies, including NGO and bilateral programs, and increase accountability and efficiency.

This multilateral cooperation has leveraged limited U.S. resources to a total of more than \$800 million. It also offers more favorable means for realizing U.S. political and security objectives in Afghanistan. Nonetheless, security continues to be a concern. In addition, World Bank findings suggest that today only 23 percent of Afghans have access to safe water, 12 percent have sanitation, 6 percent have electricity, and 7 million people remain vulnerable to hunger.¹³¹

This is the context in which the Afghan transitional government is approaching the planning and conduct of the first free elections in decades. The Electoral Assistance Division of the UN department of Political Affairs is working with the Afghan government to plan for these. The UN's relative neutrality has helped the international community balance U.S. interests in the emergence of a stable political order with the need for the future government to be perceived authentic.

The U.S. and the UK have announced the establishment of Provincial Reconstruction Teams in three provinces and the intention to deploy them in four others. These will consist of U.S. military civil affairs units, political officers from the U.S. embassy, and USAID-funded assistance teams. These have been developed in consultation with the UN Assistance Mission in Afghanistan, and it remains stated U.S. policy to seek the widest possible participation in these from other bilateral donors.

In the almost certain event that U.S. bilateral funding for Afghan aid will decline—for example, the Emergency Response Fund which provided the lion's share of initial U.S. civilian assistance in FY 2002 is eliminated entirely in the administration's budget request for FY 2003—the argument for preserving past U.S. investments by continuing multilateral cooperation will be all the more compelling.

131 World Bank, “Afghanistan Update,” <http://www.worldbank.org>.

PUBLIC OPINION

PUBLIC OPINION

Highlights:

- More Americans favor the UN, not the U.S., taking the lead role in establishing a new government in Iraq.
- An overwhelming majority of Americans (86 percent) say that with Saddam Hussein's regime no longer in power, the United States "has the responsibility to remain in Iraq as long as necessary until there is a stable government."
- Americans are not optimistic about the prospects for "the U.S. and its allies to install a stable democratic government in Iraq;" more than seven in ten say this task will be very or somewhat difficult.

Public opinion surveys in the United States have found that most Americans feel that the United States must take responsibility for helping Iraq rebuild politically and economically. At the same time, the majority of Americans prefer that the United Nations, and not the U.S., play the lead role in reconstruction efforts.

Americans also voice fears about the costs of reconstruction and threats to U.S. military forces remaining in Iraq. Surveys have continued to find, both before and after the war, strong support for an active U.S. role in the United Nations, as well as favorable attitudes toward the UN itself.

U.S. Responsibility and Planning

- The public is evenly divided on the question of whether the Bush Administration has developed "a clear plan for rebuilding Iraq." A *New York Times* survey found that 42 percent of adults say the U.S. has such a plan while 45 percent disagreed. The administration has made no progress on this question since late March.¹³²
- Almost three-quarters of Americans (73 percent) agree with the statement that "it would be unwise and immoral for the U.S. to overthrow the government of Iraq and then just leave." This contrasts with the 24 percent who say "we shouldn't spend money on rebuilding Iraq when we have so many problems here at home."¹³³
- An overwhelming majority of Americans, 86 percent, say that with Saddam Hussein's regime no longer in power, the United States "has the responsibility to remain in Iraq as long as necessary until there is a stable government." This proportion has held steady from February to April of 2003.¹³⁴
- 72 percent of Americans say that the U.S. should remove its troops from Iraq only when "a democratic government has been elected and there are laws that protect human rights." Only 12 percent back immediate withdrawal, while another 12 percent say the U.S. should remove its troops even if a government is established but is not democratic or laws to protect human rights have not been passed.¹³⁵
- On more specific activities:
 - 62 percent say it is "absolutely essential" that the U.S. "provide humanitarian aid like food, water and medical supplies." 68 percent say that the U.S. is doing the right amount in providing humanitarian aid.¹³⁶

132 A poll conducted March 20-24, 2003 found 41 percent saying the U.S. had a clear plan, with 46 percent disagreeing. An earlier poll (March 7-9, 2003) found only 29 percent of respondents who said the U.S. had a clear plan, while 49 percent disagreed. *The New York Times*, April 11-13, 2003, 898 adults.

133 PIPA/Knowledge Networks, April 18-22, 2003, 865 adults.

134 PIPA/Knowledge Networks, April 18-22, 2003, 865 adults.

135 PIPA/Knowledge Networks, April 18-22, 2003, 865 adults.

136 Sixteen percent say the U.S. is doing too little, 9 percent say too much. *The New York Times*, April 11-13, 2003, 898 adults.

- 51 percent say the U.S. must “restore civil order” throughout the country, while 43 percent say it is important but not essential.
 - A plurality of 47 percent say it is “absolutely essential” that the U.S. “help establish a new government in Iraq,” but 42 percent say it is important but not essential. When worded differently, however, a majority of 55 percent says the U.S. “has a responsibility to set up the new government of Iraq,” while 39 percent disagree.¹³⁷
 - One of three Americans (34 percent) say the U.S. must “rebuild the infrastructure in Iraq, like damaged roads, power plants and schools,” but a plurality of 43 percent say this is important but not essential.¹³⁸
- Despite diverging views over the war itself, overwhelming majorities in the United States and most western European countries believe that the Iraqi people will be better off without Saddam Hussein in power. (79 percent U.S., 76 percent of British, 73 percent of French, 71 percent of Germans).¹³⁹

Most Favor UN Taking the Lead in Reconstruction

- More Americans favor the UN, not the U.S., taking the lead role in establishing a new government in Iraq.
 - Fifty percent say the UN “should temporarily govern Iraq and work with Iraqis to write a new constitution and build a new democratic government” while 47 percent said the U.S. should have this responsibility.¹⁴⁰
 - 55 percent of Americans say the United Nations should be in charge of “helping establish a new government in Iraq,” with 39 percent saying the U.S. should take the lead.¹⁴¹ Support is even higher when respondents are asked to compare an “international coalition” to the U.S. (66 percent to 27 percent).
 - 61 percent of Americans say that the United Nations should “take the leading role in rebuilding Iraq and helping its people set up a new government” while 31 percent say the United States should.¹⁴²
- UN should have charge of relief and reconstruction.
 - 57 percent say the UN “should direct humanitarian relief and reconstruction,” while only 40 percent say the U.S. should play this role.¹⁴³
 - 54 percent say the military should provide security “but the UN and international aid organizations should be in charge of relief and reconstruction”; 29 percent say the U.S. should be in charge of security, relief and reconstruction; and 14 percent say the military should withdraw “shortly after the war is over.”¹⁴⁴
 - A slim majority of 51 percent say the UN should have charge of “awarding contracts to companies for building the infrastructure,” with 41 percent saying the U.S. should have this responsibility.¹⁴⁵

137 *The New York Times*, April 11-13, 2003, 898 adults.

138 PIPA/Knowledge Networks, April 18-22, 2003, 865 adults.

139 Pew Global Attitudes Project, March 10-17, 2003.

140 PIPA/Knowledge Networks, April 18-22, 2003, 865 adults.

141 *The Washington Post/ABC News*, April 16, 2003, 504 adults. An earlier *The New York Times* survey found 61 percent saying the UN should have responsibility, with 34 percent for the U.S. *The New York Times*, April 11-13, 2003, 898 adults.

142 *The Washington Post/ABC News*, March 27, 2003, 508 adults.

143 PIPA/Knowledge Networks, April 18-22, 2003, 865 adults.

144 PIPA/Knowledge Networks, April 18-22, 2003, 865 adults.

145 *The Washington Post/ABC News*, April 16, 2003, 504 adults.

- UN forces should take charge of security. A majority of 54 percent say “a UN police force of police officers from various countries” should be in charge of “maintaining civil order in Iraq until a new government is established,” while 43 percent say the U.S. should do this.¹⁴⁶ Another survey found 49 percent saying the UN should maintain civil order, with 45 percent opting for the U.S.¹⁴⁷
- Two-thirds of Americans (68 percent) believe that the UN or an international coalition should “have the lead responsibility for rebuilding the economy in Iraq,” compared to 26 percent who say the U.S.¹⁴⁸

Recognition that Installing a Democracy Will Be Difficult

- Americans are not optimistic about the prospects for “the U.S. and its allies to install a stable democratic government in Iraq.” Polls conducted in February and April 2003 found that more than seven in ten Americans say this task will be very or somewhat difficult.¹⁴⁹
- A pre-war survey found that only 40 percent of voters said it was very or somewhat likely that “democracy will be established in Iraq” but that 64 percent would not consider the war a success if Iraq returned to a dictatorship.¹⁵⁰

Fears about Threats to U.S. Military Forces Remaining in Iraq

- Two-thirds of Americans (67 percent) say they worry that “there will be an ongoing campaign of guerrilla warfare against U.S. forces after the war comes to an end.”¹⁵¹
- Nearly three in four Americans (72 percent) say they are concerned that the U.S. “will get bogged down in a long and costly peacekeeping mission in Iraq,” with 27 percent expressing little or no concern. Polls in late April 2003 showed a sharp increase in concern from earlier in the month, when 62 percent said they were concerned, and 35 percent disagreed.¹⁵²
- A plurality of 46 percent say U.S. troops will have to remain in Iraq for one year or longer, with 30 percent saying six months to one year, and 20 percent six months or less.¹⁵³

Concern over Cost of War and Reconstruction

- More than seven in ten Americans (71 percent) say they worry that “the cost of the war in Iraq will be difficult for [the U.S.] to afford,” with 33 percent saying this worries them a great deal.¹⁵⁴ A pre-war survey found a slim majority of 52 percent who said that the war would not be a success if the United States ended up financing the entire war and “must spend billions more to rebuild the country.”¹⁵⁵
- Seventy percent of Americans say that “all in all, considering the costs to the United States versus the benefits to the United States,” the war with Iraq was worth fighting, with 27 percent disagreeing.¹⁵⁶

146 PIPA/Knowledge Networks, April 18-22, 2003, 865 adults.

147 *The Washington Post*/ABC News, April 16, 2003, 504 adults.

148 *The New York Times*, April 11-13, 2003, 898 adults.

149 Pew Research Center, April 10-16, 2003, 924 adults; Time-CNN, February.

150 Vietnam Veterans of America Foundation, March 3-8, 2003, 1005 registered voters.

151 Pew Research Center, April 10-16, 2003, 924 adults.

152 *The Washington Post*, April 27-30, 2003, 1105 adults.

153 *The New York Times*, April 11-13, 2003, 898 adults.

154 Pew Research Center, April 10-16, 2003, 924 adults.

155 VVAFA, March 3-8, 2003, 1005 registered voters.

156 Surveys conducted following the Gulf War in 1991 revealed similar opinions. *The Washington Post*, April 27-30,

- Seventy-seven percent of Americans say Congress should retain oversight over U.S. funds for relief and reconstruction while 19 percent say Congress should “give the President full control” over these resources.¹⁵⁷

Support for Multilateral Approach

- Nearly three in four Americans (73 percent) say that it is “necessary to get the participation of a substantial number of other countries in the process of reconstructing Iraq.” Similarly, 66 percent say it is necessary to get Arab countries involved.¹⁵⁸
- Sixty-nine percent of adults say that, when it comes to rebuilding Iraq, the U.S. should “take the views of other countries into account,” while 27 percent say the U.S. should “do what it thinks is right no matter what other countries think.”¹⁵⁹
- More than seven in ten Americans maintain that the U.S. should “share in efforts to solve international problems together with other countries,” rather than “continue to be the preeminent world leader in solving international problems.”¹⁶⁰ The public is divided over whether the U.S. should take the leading role in helping other countries solve international conflicts.¹⁶¹
- Gallup notes that despite recurrent public support for the UN and multilateral action, Americans “will still be ready to accept whatever the president actually decides to do.” If President Bush decided that the U.S. must exercise control in reconstructing Iraq, a total of 80 percent of Americans would accept that decision. This include nearly two-thirds of those who actually prefer that the UN, not the U.S., play the primary role.¹⁶²

2003, 1105 adults.

157 PIPA/Knowledge Networks, April 18-22, 2003, 865 adults.

158 PIPA/Knowledge Networks, April 18-22, 2003, 865 adults.

159 *The New York Times*, April 11-13, 2003, 898 adults.

160 PIPA/Knowledge Networks, April 18-22, 2003, 865 adults.

161 A plurality (48 percent) agreed that the U.S. should take the lead role while 43 percent said the U.S. should not. *The New York Times*, April 11-13, 2003, 898 adults.

162 David W. Moore, Senior Editor, The Gallup Poll, “Post-Iraq: Do Americans Really Care About the United Nations,” PollTalk, May 27, 2003.

APPENDIX 1

Security Council Resolution 1483¹⁶³

Resolution 1483 (2003) Adopted by the Security Council at its 4761st meeting, on 22 May 2003

The Security Council,

Recalling all its previous relevant resolutions,

Reaffirming the sovereignty and territorial integrity of Iraq,

Reaffirming also the importance of the disarmament of Iraqi weapons of mass destruction and of eventual confirmation of the disarmament of Iraq,

Stressing the right of the Iraqi people freely to determine their own political future and control their own natural resources, *welcoming* the commitment of all parties concerned to support the creation of an environment in which they may do so as soon as possible, and *expressing* resolve that the day when Iraqis govern themselves must come quickly,

Encouraging efforts by the people of Iraq to form a representative government based on the rule of law that affords equal rights and justice to all Iraqi citizens without regard to ethnicity, religion, or gender, and, in this connection, recalls resolution 1325 (2000) of 31 October 2000,

Welcoming the first steps of the Iraqi people in this regard, and noting in this connection the 15 April 2003 Nasiriyah statement and the 28 April 2003 Baghdad statement,

Resolved that the United Nations should play a vital role in humanitarian relief, the reconstruction of Iraq, and the restoration and establishment of national and local institutions for representative governance,

Noting the statement of 12 April 2003 by the Ministers of Finance and Central Bank Governors of the Group of Seven Industrialized Nations in which the members recognized the need for a multilateral effort to help rebuild and develop Iraq and for the need for assistance from the International Monetary Fund and the World Bank in these efforts,

Welcoming also the resumption of humanitarian assistance and the continuing efforts of the Secretary-General and the specialized agencies to provide food and medicine to the people of Iraq,

Welcoming the appointment by the Secretary-General of his Special Adviser on Iraq,

Affirming the need for accountability for crimes and atrocities committed by the previous Iraqi regime,

Stressing the need for respect for the archaeological, historical, cultural, and religious heritage of Iraq, and for the continued protection of archaeological, historical, cultural, and religious sites, museums, libraries, and monuments,

163 All Security Council resolutions can be found on the UN website, arranged by year, at <http://www.un.org/documents/scres.htm>

Noting the letter of 8 May 2003 from the Permanent Representatives of the United States of America and the United Kingdom of Great Britain and Northern Ireland to the President of the Security Council (S/2003/538) and recognizing the specific authorities, responsibilities, and obligations under applicable international law of these states as occupying powers under unified command (the “Authority”),

Noting further that other States that are not occupying powers are working now or in the future may work under the Authority,

Welcoming further the willingness of Member States to contribute to stability and security in Iraq by contributing personnel, equipment, and other resources under the Authority,

Concerned that many Kuwaitis and Third-State Nationals still are not accounted for since 2 August 1990,

Determining that the situation in Iraq, although improved, continues to constitute a threat to international peace and security,

Acting under Chapter VII of the Charter of the United Nations,

1. **Appeals** to Member States and concerned organizations to assist the people of Iraq in their efforts to reform their institutions and rebuild their country, and to contribute to conditions of stability and security in Iraq in accordance with this resolution;
2. **Calls upon** all Member States in a position to do so to respond immediately to the humanitarian appeals of the United Nations and other international organizations for Iraq and to help meet the humanitarian and other needs of the Iraqi people by providing food, medical supplies, and resources necessary for reconstruction and rehabilitation of Iraq’s economic infrastructure;
3. **Appeals** to Member States to deny safe haven to those members of the previous Iraqi regime who are alleged to be responsible for crimes and atrocities and to support actions to bring them to justice;
4. **Calls upon** the Authority, consistent with the Charter of the United Nations and other relevant international law, to promote the welfare of the Iraqi people through the effective administration of the territory, including in particular working towards the restoration of conditions of security and stability and the creation of conditions in which the Iraqi people can freely determine their own political future;
5. **Calls upon** all concerned to comply fully with their obligations under international law including in particular the Geneva Conventions of 1949 and the Hague Regulations of 1907;
6. **Calls upon** the Authority and relevant organizations and individuals to continue efforts to locate, identify, and repatriate all Kuwaiti and Third-State Nationals or the remains of those present in Iraq on or after 2 August 1990, as well as the Kuwaiti archives, that the previous Iraqi regime failed to undertake, and, in this regard, directs the High-Level Coordinator, in consultation with the International Committee of the Red Cross and the Tripartite Commission and with the appropriate support of the people of Iraq and in coordination with the Authority, to take steps to fulfil his mandate with respect to the fate of Kuwaiti

and Third-State National missing persons and property;

7. **Decides** that all Member States shall take appropriate steps to facilitate the safe return to Iraqi institutions of Iraqi cultural property and other items of archaeological, historical, cultural, rare scientific, and religious importance illegally removed from the Iraq National Museum, the National Library, and other locations in Iraq since the adoption of resolution 661 (1990) of 6 August 1990, including by establishing a prohibition on trade in or transfer of such items and items with respect to which reasonable suspicion exists that they have been illegally removed, and calls upon the United Nations Educational, Scientific, and Cultural Organization, Interpol, and other international organizations, as appropriate, to assist in the implementation of this paragraph;
8. **Requests** the Secretary-General to appoint a Special Representative for Iraq whose independent responsibilities shall involve reporting regularly to the Council on his activities under this resolution, coordinating activities of the United Nations in post-conflict processes in Iraq, coordinating among United Nations and international agencies engaged in humanitarian assistance and reconstruction activities in Iraq, and, in coordination with the Authority, assisting the people of Iraq through:
 - (a) coordinating humanitarian and reconstruction assistance by United Nations agencies and between United Nations agencies and non-governmental organizations;
 - (b) promoting the safe, orderly, and voluntary return of refugees and displaced persons;
 - (c) working intensively with the Authority, the people of Iraq, and others concerned to advance efforts to restore and establish national and local institutions for representative governance, including by working together to facilitate a process leading to an internationally recognized, representative government of Iraq;
 - (d) facilitating the reconstruction of key infrastructure, in cooperation with other international organizations;
 - (e) promoting economic reconstruction and the conditions for sustainable development, including through coordination with national and regional organizations, as appropriate, civil society, donors, and the international financial institutions;
 - (f) encouraging international efforts to contribute to basic civilian administration functions;
 - (g) promoting the protection of human rights;
 - (h) encouraging international efforts to rebuild the capacity of the Iraqi civilian police force; and
 - (i) encouraging international efforts to promote legal and judicial reform;
9. **Supports** the formation, by the people of Iraq with the help of the Authority and working with the Special Representative, of an Iraqi interim administration as a transitional administration run by Iraqis, until an internationally recognized, representative government is established by the people of Iraq and assumes the responsibilities of the Authority;

10. **Decides** that, with the exception of prohibitions related to the sale or supply to Iraq of arms and related materiel other than those arms and related materiel required by the Authority to serve the purposes of this and other related resolutions, all prohibitions related to trade with Iraq and the provision of financial or economic resources to Iraq established by resolution 661 (1990) and subsequent relevant resolutions, including resolution 778 (1992) of 2 October 1992, shall no longer apply;
11. **Reaffirms** that Iraq must meet its disarmament obligations, encourages the United Kingdom of Great Britain and Northern Ireland and the United States of America to keep the Council informed of their activities in this regard, and underlines the intention of the Council to revisit the mandates of the United Nations Monitoring, Verification, and Inspection Commission and the International Atomic Energy Agency as set forth in resolutions 687 (1991) of 3 April 1991, 1284 (1999) of 17 December 1999, and 1441 (2002) of 8 November 2002;
12. **Notes** the establishment of a Development Fund for Iraq to be held by the Central Bank of Iraq and to be audited by independent public accountants approved by the International Advisory and Monitoring Board of the Development Fund for Iraq and looks forward to the early meeting of that International Advisory and Monitoring Board, whose members shall include duly qualified representatives of the Secretary-General, of the Managing Director of the International Monetary Fund, of the Director-General of the Arab Fund for Social and Economic Development, and of the President of the World Bank;
13. **Notes further** that the funds in the Development Fund for Iraq shall be disbursed at the direction of the Authority, in consultation with the Iraqi interim administration, for the purposes set out in paragraph 14 below;
14. **Underlines** that the Development Fund for Iraq shall be used in a transparent manner to meet the humanitarian needs of the Iraqi people, for the economic reconstruction and repair of Iraq's infrastructure, for the continued disarmament of Iraq, and for the costs of Iraqi civilian administration, and for other purposes benefiting the people of Iraq;
15. **Calls upon** the international financial institutions to assist the people of Iraq in the reconstruction and development of their economy and to facilitate assistance by the broader donor community, and welcomes the readiness of creditors, including those of the Paris Club, to seek a solution to Iraq's sovereign debt problems;
16. **Requests** also that the Secretary-General, in coordination with the Authority, continue the exercise of his responsibilities under Security Council resolution 1472 (2003) of 28 March 2003 and 1476 (2003) of 24 April 2003, for a period of six months following the adoption of this resolution, and terminate within this time period, in the most cost effective manner, the ongoing operations of the "Oil-for-Food" Programme (the "Programme"), both at headquarters level and in the field, transferring responsibility for the administration of any remaining activity under the Programme to the Authority, including by taking the following necessary measures:
 - (a) to facilitate as soon as possible the shipment and authenticated delivery of priority civilian goods as identified by the Secretary-General and representatives designated by him, in coordination with the Authority and the Iraqi interim administration, under

approved and funded contracts previously concluded by the previous Government of Iraq, for the humanitarian relief of the people of Iraq, including, as necessary, negotiating adjustments in the terms or conditions of these contracts and respective letters of credit as set forth in paragraph 4 (d) of resolution 1472 (2003);

- (b) to review, in light of changed circumstances, in coordination with the Authority and the Iraqi interim administration, the relative utility of each approved and funded contract with a view to determining whether such contracts contain items required to meet the needs of the people of Iraq both now and during reconstruction, and to postpone action on those contracts determined to be of questionable utility and the respective letters of credit until an internationally recognized, representative government of Iraq is in a position to make its own determination as to whether such contracts shall be fulfilled;
- (c) to provide the Security Council within 21 days following the adoption of this resolution, for the Security Council's review and consideration, an estimated operating budget based on funds already set aside in the account established pursuant to paragraph 8 (d) of resolution 986 (1995) of 14 April 1995, identifying:
 - (i) all known and projected costs to the United Nations required to ensure the continued functioning of the activities associated with implementation of the present resolution, including operating and administrative expenses associated with the relevant United Nations agencies and programmes responsible for the implementation of the Programme both at Headquarters and in the field;
 - (ii) all known and projected costs associated with termination of the Programme;
 - (iii) all known and projected costs associated with restoring Government of Iraq funds that were provided by Member States to the Secretary-General as requested in paragraph 1 of resolution 778 (1992); and
 - (iv) all known and projected costs associated with the Special Representative and the qualified representative of the Secretary-General identified to serve on the International Advisory and Monitoring Board, for the six month time period defined above, following which these costs shall be borne by the United Nations;
- (d) to consolidate into a single fund the accounts established pursuant to paragraphs 8 (a) and 8 (b) of resolution 986 (1995);
- (e) to fulfil all remaining obligations related to the termination of the Programme, including negotiating, in the most cost effective manner, any necessary settlement payments, which shall be made from the escrow accounts established pursuant to paragraphs 8 (a) and 8 (b) of resolution 986 (1995), with those parties that previously have entered into contractual obligations with the Secretary-General under the Programme, and to determine, in coordination with the Authority and the Iraqi interim administration, the future status of contracts undertaken by the United Nations and related United Nations agencies under the accounts established pursuant to paragraphs 8 (b) and 8 (d) of resolution 986 (1995);
- (f) to provide the Security Council, 30 days prior to the termination of the Programme, with a comprehensive strategy developed in close coordination with the Authority and

the Iraqi interim administration that would lead to the delivery of all relevant documentation and the transfer of all operational responsibility of the Programme to the Authority;

17. **Requests further** that the Secretary-General transfer as soon as possible to the Development Fund for Iraq 1 billion United States dollars from unencumbered funds in the accounts established pursuant to paragraphs 8 (a) and 8 (b) of resolution 986 (1995), restore Government of Iraq funds that were provided by Member States to the Secretary-General as requested in paragraph 1 of resolution 778 (1992), and **decides** that, after deducting all relevant United Nations expenses associated with the shipment of authorized contracts and costs to the Programme outlined in paragraph 16 (c) above, including residual obligations, all surplus funds in the escrow accounts established pursuant to paragraphs 8 (a), 8 (b), 8 (d), and 8 (f) of resolution 986 (1995) shall be transferred at the earliest possible time to the Development Fund for Iraq;
18. **Decides** to terminate effective on the adoption of this resolution the functions related to the observation and monitoring activities undertaken by the Secretary-General under the Programme, including the monitoring of the export of petroleum and petroleum products from Iraq;
19. **Decides** to terminate the Committee established pursuant to paragraph 6 of resolution 661 (1990) at the conclusion of the six month period called for in paragraph 16 above and **further decides** that the Committee shall identify individuals and entities referred to in paragraph 23 below;
20. **Decides** that all export sales of petroleum, petroleum products, and natural gas from Iraq following the date of the adoption of this resolution shall be made consistent with prevailing international market best practices, to be audited by independent public accountants reporting to the International Advisory and Monitoring Board referred to in paragraph 12 above in order to ensure transparency, and decides further that, except as provided in paragraph 21 below, all proceeds from such sales shall be deposited into the Development Fund for Iraq until such time as an internationally recognized, representative government of Iraq is properly constituted;
21. **Decides further** that 5 per cent of the proceeds referred to in paragraph 20 above shall be deposited into the Compensation Fund established in accordance with resolution 687 (1991) and subsequent relevant resolutions and that, unless an internationally recognized, representative government of Iraq and the Governing Council of the United Nations Compensation Commission, in the exercise of its authority over methods of ensuring that payments are made into the Compensation Fund, decide otherwise, this requirement shall be binding on a properly constituted, internationally recognized, representative government of Iraq and any successor thereto;
22. **Noting** the relevance of the establishment of an internationally recognized, representative government of Iraq and the desirability of prompt completion of the restructuring of Iraq's debt as referred to in paragraph 15 above, further **decides** that, until December 31, 2007, unless the Council decides otherwise, petroleum, petroleum products, and natural gas

originating in Iraq shall be immune, until title passes to the initial purchaser from legal proceedings against them and not be subject to any form of attachment, garnishment, or execution, and that all States shall take any steps that may be necessary under their respective domestic legal systems to assure this protection, and that proceeds and obligations arising from sales thereof, as well as the Development Fund for Iraq, shall enjoy privileges and immunities equivalent to those enjoyed by the United Nations except that the above-mentioned privileges and immunities will not apply with respect to any legal proceeding in which recourse to such proceeds or obligations is necessary to satisfy liability for damages assessed in connection with an ecological accident, including an oil spill, that occurs after the date of adoption of this resolution;

23. **Decides** that all Member States in which there are:
- (a) funds or other financial assets or economic resources of the previous Government of Iraq or its state bodies, corporations, or agencies, located outside Iraq as of the date of this resolution, or
 - (b) funds or other financial assets or economic resources that have been removed from Iraq, or acquired, by Saddam Hussein or other senior officials of the former Iraqi regime and their immediate family members, including entities owned or controlled, directly or indirectly, by them or by persons acting on their behalf or at their direction,
- shall freeze without delay those funds or other financial assets or economic resources and, unless these funds or other financial assets or economic resources are themselves the subject of a prior judicial, administrative, or arbitral lien or judgement, immediately shall cause their transfer to the Development Fund for Iraq, it being understood that, unless otherwise addressed, claims made by private individuals or non-government entities on those transferred funds or other financial assets may be presented to the internationally recognized, representative government of Iraq; and **decides further** that all such funds or other financial assets or economic resources shall enjoy the same privileges, immunities, and protections as provided under paragraph 22;
24. **Requests** the Secretary-General to report to the Council at regular intervals on the work of the Special Representative with respect to the implementation of this resolution and on the work of the International Advisory and Monitoring Board and **encourages** the United Kingdom of Great Britain and Northern Ireland and the United States of America to inform the Council at regular intervals of their efforts under this resolution;
25. **Decides** to review the implementation of this resolution within twelve months of adoption and to consider further steps that might be necessary;
26. **Calls upon** Member States and international and regional organizations to contribute to the implementation of this resolution;
27. **Decides** to remain seized of this matter.

Appendix 2

Past Security Council Resolutions on Iraq¹⁶⁴

Reconstruction

Resolution 1483, 22 May 2003 – authorizes a range of reconstruction activities in Iraq (see Appendix 1, page 59).

WMD / Disarmament / Inspections

Resolution 686, 2 March 1991 - demands Iraq's compliance with past resolutions.

Resolution 687, 3 April 1991 - imposes strict cease-fire terms for Iraq. Sets up the United Nations Special Commission (UNSCOM), to implement the non-nuclear provisions of the resolution and to assist the International Atomic Energy Agency (IAEA) in the nuclear areas. -sponsored by U.S. (France, Romania, UK, U.S., Zaire)

Resolution 689, 9 April 1991 - approves a six-month observer unit to enter Iraq.

Resolution 699, 17 June 1991 - further implements plans for disclosing and destroying weapons of mass destruction in Iraq.

Resolution 700, 17 June 1991 - calls on states to enforce arms and technology embargo in Iraq.

Resolution 707, 15 August 1991 - demands Iraq's compliance with weapons inspection teams.

Resolution 715, 11 October 1991 - requests UN action on inspections in Iraq for weapons of mass destruction.

Resolution 949, 15 October 1994 - demands that Iraq immediately complete the withdrawal of all military units recently deployed to southern Iraq to their original positions and that Iraq not utilize its military or any other forces again in a hostile or provocative manner to threaten its neighbors.

Resolution 1060, 12 June 1996 - demands unconditional access to military bases for UN special commission of inspectors looking for weapons of mass destruction.

Resolution 1137, 12 November 1997 - demands that Iraq stop interfering with UN weapons inspections.

Resolution 1154, 2 March 1998 - affirms Iraq's responsibility to comply with UNSCOM weapons inspectors.

Resolution 1205, 5 November 1998 - condemns Iraq's noncompliance with UNSCOM weapons inspectors.

¹⁶⁴ All Security Council resolutions can be found on the UN website, arranged by year, at <http://www.un.org/documents/scres.htm> .

Resolution 1284, 17 December 1999 - establishes UNMOVIC, the United Nations Monitoring, Verification, and Inspections Commission. UNMOVIC replaced the former UN Special Commission (UNSCOM) and continued the mandate to disarm Iraq of its weapons of mass destruction (chemical, biological weapons and missiles with a range of more than 150 km), and to operate a system of ongoing monitoring and verification to check Iraq's compliance.

Resolution 1441, 8 November 2002 – finds Iraq in material breach of resolution 687, calls on Iraq to allow UNMOVIC to resume inspections.

Resolution 1472, 28 March 2003 – reminds parties in conflict of obligations under Geneva Convention. Requests humanitarian aid for Iraq. Begin planning for the establishment of UN humanitarian and reconstruction missions in and around Iraq.

Oil for Food

Pre-Oil For Food

Resolution 706, 15 August 1991 - approves Iraqi oil revenues to pay for war damages.

Resolution 712, 19 September 1991 - allows \$1.6 billion worth of Iraqi oil to be sold to benefit UN-approved operations.

Oil for Food Mandate

Resolution 986, 14 April 1995 - regarding the authorization to permit the import of petroleum and petroleum products originating in Iraq, as a temporary measure to provide for humanitarian needs of the Iraqi people.

Other Oil for Food Resolutions

Resolution 1129, 12 September 1997 - authorizes states to permit the import of petroleum and petroleum products originating in Iraq within certain limits under the UN Oil for Food program.

Resolution 1143, 4 December 1997 - extends the Oil for Food program under which Iraq is allowed to sell oil in exchange for food to prevent humanitarian crisis.

Resolution 1153, 20 February 1998 - increases the amount of oil—from USD 2 billion to more than USD 5 billion over a six month period—that Iraq will be allowed to sell to ensure that it can meet the needs of its people.

Resolution 1158, 25 March 1998 - raises the ceiling temporarily on Iraqi oil exports.

Resolution 1175, 19 June 1998 - allows Iraq to rebuild its oil industry.

Resolution 1210, 24 November 1998 - extends Oil for Food program for another 180 days.

Resolution 1242, 21 May 1999 - extends Oil for Food for another 180 days U.S., UK, and others.

Resolution 1266, 4 October 1999 - modifies paragraph 2 of resolution 1153 (as extended by resolution 1242) to the extent necessary to authorize States to permit the import of petroleum and petroleum products originating in Iraq.

Resolution 1275, 19 November 1999 - extends Oil for Food program as stated in Resolution 1242 and 1266.

Resolution 1280, 3 December 1999 - extends Oil for Food program as stated in Resolution 1242 and 1266.

Resolution 1293, 31 March 2000 - authorizes \$600 million to be used for reasonable expenses in the production of petroleum in Iraq.

Resolution 1302, 8 June 2000 - decides that earlier provisions of resolution 986 shall remain in force.

Resolution 1330, 5 December 2000 - decides that earlier provisions of resolution 986 and others shall remain in force.

Resolution 1352, 1 June 2001 - extends the provisions made in resolution 1330 and expresses its intention to consider new arrangements for the sale and supply of commodities to Iraq for the facilitation of civilian trade and economic cooperation in civilian sectors.

Resolution 1360, 3 July 2001 - extends the provisions made in resolution 986, calls upon excess funds to be put toward humanitarian purchases, and calls for funds to be transferred into a Compensation Fund and for that money to be used to help the Iraqi people.

Resolution 1443, 25 November 2002 - extends earlier provisions of resolution 1409 until 4 December 2002.

Resolution 1447, 4 December 2002 - extends earlier provisions of resolution 986 for an additional 180 days.

Resolution 1454, 30 December 2002 - extends earlier provisions of resolution 986 for an additional 180 days, approves implementation of Goods Review List.

Economic Sanctions

Resolution 1051, 27 March 1996 - regarding the approval of the mechanism for monitoring Iraqi imports and exports, pursuant to Security Council resolutions and decisions 715.

Resolution 1134, 23 October 1997 - threatens new sanctions unless Iraq cooperates with UN weapons inspectors.

Resolution 1194, 9 September 1998 - suspends plans for sanctions review scheduled for October until Iraq shows signs of compliance to UN demands.

Resolution 1382, 29 November 2001 - under Chapter 7, reaffirms embargo against Iraq, but calls for changes in limited items to provide for humanitarian needs of Iraqi citizenry. Also calls on Iraq to fulfill its responsibility to provide for its citizens.

Resolution 1409, 14 May 2002 - under Chapter 7, continues trade sanctions against Iraq for 180 more days. Adopts new list of goods that can be sold to Iraq. Allows the use of funds held in escrow to be used to finance humanitarian related purchases by Iraq.

Appendix 3

List of Experts¹⁶⁵

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¹⁶⁵ Inclusion as an expert on these topics does not necessarily reflect an official endorsement of all the contents of this document.

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Appendix 4

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