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UNITED STATES POLICY TOWARD IRAQ: HUMAN RIGHTS, WEAPONS PROLIFERATION, AND INTERNATIONAL LAW

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HEARING

BEFORE THE

COMMITTEE ON FOREIGN RELATIONS
UNITED STATES SENATE

ONE HUNDRED FIRST CONGRESS

SECOND SESSION

JUNE 15, 1990

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UNITED STATES POLICY TOWARD IRAQ: HUMAN RIGHTS, WEAPONS PROLIFERATION, AND INTERNATIONAL LAW

FRIDAY, JUNE 15, 1990

U.S. SENATE,
COMMITTEE ON FOREIGN RELATIONS,
Washington, DC.

The committee met, pursuant to notice, at 10 a.m., in room SD-419, Dirksen Senate Office Building, Hon. Claiborne Pell (chairman of the committee) presiding.

Present: Senators Pell, Moynihan, Robb, Helms, Kassebaum, and Boschwitz.

The CHAIRMAN. The Committee on Foreign Relations will come to order. The purpose of this hearing is to assess current American policy toward Iraq, with particular emphasis on the United States response to Iraqi violations of treaties and other fundamental norms of the law of nations.

In particular, the Government of Iraq has undertaken the following actions in actual or apparent violation of international law. No. 1, Iraq initiated and made extensive use of chemical weapons in the Iran/Iraq war in violation of the 1925 Geneva Protocol, to which it is signatory.

No. 2, Iraq made extensive use chemical weapons against its own Kurdish population during and after the Iran/Iraq war in violation of international and standards of human decency.

No. 3, Iraq has been covertly acquiring nuclear technology with apparent intent of circumventing its obligations under the nuclear nonproliferation treaty.

No. 4, Iraq is apparently developing biological weapons in violation of the 1975 convention prohibiting the possession of such weapons.

And No. 5, Iraq is engaged in numerous human rights violations including the depopulation of the Iraqi Kurdistan, the summary execution of tens of thousands of its citizens, use of chemical weapons on its own people, the extensive use of torture and the torture and killing of children, all in violation of their obligations under the U.N. Charter and the universal declaration of human rights.

Iraq is placing itself in the position of being an outlaw nation. Unfortunately, both the past and present administrations have shied away from efforts to enforce international law against Iraq. The Reagan administration opposed my efforts to sanction Iraq for its use of chemical weapons against its Kurdish minority. As a result, Iraq paid no price for this shocking crime, and in my view,

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is being encouraged to believe it can quite literally get away with murder.

Currently, U.S. law severely restricts U.S. relations with countries that engage in a "consistent pattern of gross violations of internationally recognized human rights." In my opinion, Iraq has really about the worst human rights record of any country in the world as of now, and it certainly meets that statutory standard.

With our administration and public witnesses, we intend today to explore Iraq's human rights record and, in particular, its treatment of its Kurdish minority in light of the statutory standard. More broadly, I hope the hearing today may encourage the administration to take a more aggressive stance in securing Iraqi adherence to the basic rules of international law and human decency.

We have with us today two of my colleagues, Senator D'Amato, if he would care to come forward, and the Honorable Arlen Specter will be with us shortly.

Senator D'AMATO. Well, thank you, Mr. Chairman.

Mr. Chairman, let me commend you for calling these hearings, and also, Mr. Chairman, for your steadfastness of purpose in attempting to focus in on the incredible human rights violations that have taken place in Iraq under, what I term, the new mad dog of the Middle East replacing Qhadafi, Mr. Saddam Hussein.

Several weeks ago, Mr. Chairman, you, along with the ranking member of this committee, joined me in offering an amendment to the Chemical and Biological Weapons Control Act of 1989 imposing sanctions against Iraq for engaging in a consistent pattern of gross violations of internationally recognized human rights.

Iraq's record of abuses is so clear, so chilling and so compelling that I will only touch on some of the highlights. The attempted liquidation of Iraq's Kurdish minority is Saddam Hussein's most horrifying undertaking. Article II of the Genocide Convention defines genocide as: "any of the following acts committed with an intent to destroy in whole or in part a national, ethnic, racial or religious group, killing members of the group, causing serious bodily or mental harm to members of the group, deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part."

Hussein's so-called final offensive against the Kurds began in August 1988. It involved indiscriminate gas attacks on population centers. Untold numbers were killed. The lucky among the survivors were able to flee to Turkey. The unlucky, estimated at 500,000, were cut off by elements of the Iraqi Army and as internal exiles have been herded into barren areas of the country, where they can be more easily controlled. Hundreds, perhaps, thousands of cities, towns, and villages are known to have been put to the torch, dynamited, and bulldozed. Hussein's scorched earth policy, has created a 30-kilometer deep security zone running the entire length of Iraq's shared border with Turkey and Iran.

Hussein's wrath is not limited to the Kurds. The following passage from the State Department's Country Reports on Human Rights Practices for 1989 summarizes Iraq's abysmal human rights record, and I quote it: "Effective opposition to government policy is stifled. The intelligence services engage in extensive surveillance and utilize extralegal means, including torture and summary exe-

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cution to deal with antiregime activities. The civil rights of Iraqi citizens continue to be sharply limited. And Iraqis do not have the right to change their government. The freedoms of speech and press and of assembly and of association are virtually nonexistent. Other human rights problems include continuing disappearances and arbitrary detentions, lack of fair trial, widespread interference with privacy, excessive use of force against Kurdish civilians, and almost total lack of workers' rights."

This passage, Mr. Chairman, is as damning an indictment as any we have heard.

I have introduced my amendment along with yourself and Senator Helms and others to impose sanctions against Iraq, not to hold Iraq to some higher standard, not to place some special or inordinate burden upon Iraq, but rather to force Saddam Hussein to adhere to the body of international law, the U.N. Charter, the Universal Declaration of Human Rights, and the Geneva Convention designed to protect human rights.

Today Iraq is an outlaw nation, no different from Nazi Germany. It is time we had the courage to enforce the law of the land. Surprisingly, many rose against my amendment to defend Saddam Hussein, a man who one colleague described, and I quote: "A spokesman for peace in the Middle East." I would like to know where that spokesman has been, and what evidence of this so-called peace we can find in the record. My colleague urged us to give President Hussein the opportunity, and I quote, "to see whether or not Hussein is prepared to take the first step on the road to peace in the Middle East."

I found those arguments difficult to accept. Was this not the same Saddam Hussein who threatened to lay waste to Israel with chemical weapons, who was thwarted recently in his attempt to import a supercannon, who gloated over his illegal acquisitions of nuclear triggers and who masterminded a communique at the end of the recent Baghdad summit that included the following points: Soviet Jewish immigration to Israel was denounced, and the participants vowed to assess their relations with other states on the basis of their position on Soviet Jewish immigration, therefore very clearly threatening those countries who supported free immigration.

The administration and Congress were blamed for, I quote, "bearing the primary responsibility for tensions in the Middle East." This is the same man who we say maybe is an avenue for peace. The representative Arab states threatened to, and again, quote: "take political and economic measures against any nation that acknowledged Jerusalem as the capital of Israel," and, quote, again, "appropriate support of Arab measures were threatened against any unilateral or multilateral measures that sought to restrict technology transfers relevant to Iraq's development of chemical and nuclear weapons."

I would say that Saddam Hussein at Baghdad really got the Arab states not moving toward peace but condoning his building chemical weapons and nuclear weapons. And I ask this distinguished group, and I see my senior Senator from New York, who has been distinguished in the leadership role of fighting for human rights, as to where there is the faintest glimmer that Hussein is ready to

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accept some formula to bring about peace, rather than the building of nuclear arsenals, of chemical weapons, and the threat to use them.

And his intentions were certainly made clear at this convention. It is clear that Hussein must be stopped, and I believe that this committee, hopefully, will join in an endeavor that will bring about the kinds of sanctions that let Mr. Hussein know that we are not going to sit by idly as he continues to build these weapons of destruction that put us at the brink of war.

I do not believe that we should be importing 447,000 barrels of oil a day from Iraq, nor should we be making the kinds of credits available to him to purchase whatever he does from the United States, $500 million last year and $200 million in another credit line. And I think it is time that we stood up for human rights, whether they are human rights as it relates to the minorities being persecuted in Iraq, whether they are human rights for people, for those who are being persecuted in any place of the world, whether it is for our Chinese brethren, whether it is for our brethren in South Africa, and certainly, Mr. Chairman, you, have been a leader in this area.

I commend you for this, and I look forward to working with you in getting the administration to follow the law of the land.

And I thank you, Mr. Chairman.

The CHAIRMAN. Thank you, Senator, for your statement and your kind words. I have no particular questions at this time, but I would turn to the chairman of the Subcommittee on Near East and South Asia, Senator Moynihan.

Senator MOYNIHAN. I would like to commend my friend and distinguished colleague for a very powerful opening statement. I would hope that it is followed by some comparable response from the administration. You have set the tone that this hearing requires, and we thank you.

Senator D'AMATO. Thank you.

The CHAIRMAN. Thank you very much, Senator, for being with us.

Senator D'AMATO. Thank you, Mr. Chairman.

The CHAIRMAN. Is Senator Specter here? If not, we will move on to the administration witnesses, unless Senator Moynihan has an opening statement. And I hope they would be willing to step to one side if necessary, if Senator Specter is under pressure. And so if the Honorable John Kelly, Assistant Secretary of Near East and South Asian Affairs could come forward, and also Mr. Joshua Gilder, Principal Deputy Assistant Secretary for Human Rights and Humanitarian Affairs.

Mr. Kelly, maybe you could lead off.

STATEMENT OF JOHN M. KELLY, ASSISTANT SECRETARY, NEAR EASTERN AND SOUTH ASIAN AFFAIRS, DEPARTMENT OF STATE

Mr. KELLY. Thank you, Mr. Chairman.

The CHAIRMAN. And, excuse me, I would like to say, we are very lucky to have you here, we are very cognizant of the excellent job you do and the responsibility you have.

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Mr. KELLY. Thank you very much, Mr. Chairman, for those kind words. I am delighted and honored to appear before the committee this morning on this important subject. I have a brief opening statement, with your leave, Mr. Chairman.

I welcome this opportunity to review with this committee our relations with Iraq. In the 1990's, we expect the Persian Gulf and Iraq to increase in importance to United States national security and interests. Now and in the future Iraq will play a major role in the gulf, whatever United States policy is. That role may be for good or for ill. We would like to see Iraq work toward stability in the gulf, human rights for its citizens, moderation in the Middle East peace process, and effective global implementation of all international understandings and agreements regarding nuclear, biological, and chemical weapons.

Energy is a salient reason for Iraq's new role. Gulf producers account for about 30 percent of world oil production and 70 percent of world excess oil production capacity. Given trends in consumption and the depletion of resources elsewhere, we expect the gulf to provide an increasing percentage of the world's oil. Iraq's reserves are second only to those of Saudi Arabia. Iraq not only produces a large quantity of oil, but also has great influence for better or for worse over the stability of the entire gulf and its oil.

U.S. national security interests and the interests of all nations in the region are affected by the proliferation of nuclear, biological, and chemical weapons and the missile systems capable of delivering them. Iraq's programs in these areas are a matter of great concern to the United States.

Human rights are a central element in our policy worldwide. And Iraq is no exception.

Iraq's human rights record is abysmal. My colleague, Josh Gilder from the Bureau of Human Rights Affairs, will address our concerns in detail in his statement. I want to make clear that Iraq's human rights record is an integral part of our agenda with Iraq and will continue to influence the climate of our bilateral relations.

In recent years, Iraq has taken some steps the United States has wanted in an effort to improve bilateral relations for its own benefit. One step, for example, was the expulsion of the Abu Nidal gang, a group of terrorists. And as recently as the autumn of last year we could point to some modest steps in the right direction.

Iraq was cooperating with Arab League efforts to end the fighting in Lebanon. Iraq was discussing a new constitution which would potentially provide greater recognition of human rights. Iraq had participated in the January 1989 Paris Review Conference of the 1925 Geneva Chemical Weapons Protocol.

Iraq participated in the September 1989 Canberra Government Industry Chemical Weapons Conference. Iraq had joined as an observer the Conference on Disarmament in Geneva, where we are working toward a comprehensive ban on chemical weapons.

On the Middle East peace process, Iraq was not obstructing the parties more directly involved from moving forward.

Since then, a series of Iraqi actions have raised questions about Iraqi intentions. We have all noted President Saddam Hussein's criticism of the United States presence in the Persian Gulf, the arrest of smugglers in Britain, the construction of missile launch

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sites within range of Israel, our expulsion of an Iraqi diplomat from New York, and the seizure of parts of an alleged big gun by authorities in Britain, Greece, Turkey, and Italy.

We have heard President Saddam Hussein's outrageous and irresponsible threats regarding the use of chemical weapons. We have read the criticism President Saddam Hussein directed against the United States in his opening speech at the Arab Summit in Baghdad, when he raised what he called United States imperialism.

These actions and statements raise two sets of serious questions about Iraq, each of which has an impact on United States-Iraqi bilateral relations. One set of questions relates to Iraq's intentions toward the region, both the gulf and the Middle East in general, including Israel. The other relates to Iraq's intentions toward its obligations under the Nuclear Nonproliferation Treaty, under the 1925 Geneva Protocol on Chemical Weapons and under the 1972 Convention on Biological Weapons.

With regard to the region, President Saddam Hussein seeks to enhance his and Iraq's standing among Arab countries. He portrays himself as a defender of the Arab nation, whether through seeking to deter Israeli attack or through opposition to the presence of foreign fleets in the gulf or through technological advances that he says the West wants to deny to the Arabs.

Many Arab leaders may have private misgivings about President Saddam Hussein's aims and tactics, but they will stand behind their fellow Arab country that claims to be persecuted for being Arab.

Iraq's power and wealth guarantee that it will insist on playing a major role in intra-Arab politics. The question for us is whether Iraq will use that influence responsibly. Saddam Hussein's statements about burning up one-half of Israel have alerted and antagonized public opinion. Saddam Hussein has only managed to increase regional tensions and raise more questions about Iraq's ultimate intention to play a responsible role.

With regard to the proliferation issue, Iraq has demonstrated a willingness to go to great lengths to develop nonconventional weapons. In that respect, Iraq is placing itself on a collision course, not just with the United States, but with the rest of the industrialized world.

None of our friends and allies among the industrial countries is willing to impose either sanctions or an export embargo against Iraq. However, Iraq's own actions in smuggling capacitors well suited for nuclear weapons application, as well as parts for a supergun, have made licensing authorities and customs officials around the world doubly cautious.

Iraq will quickly reach a point at which its genuine economic development aims will be hampered by its clandestine attempts to procure exotic and nonconventional weapons from the West.

We do not believe, Mr. Chairman, that Iraq poses a near-term nuclear proliferation threat. Iraq's missile material is under International Atomic Energy Agency safeguards and is inspected regularly. However, Iraq's intentions and not its present capabilities are at issue here.

In considering our response to these Iraqi actions, it may be useful to review the few programs of cooperation we have with

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Iraq, none of which is aid. U.S. taxpayer dollars do not go to Iraq. Each of our programs is designed to be a benefit to the United States and its economic interest. Like other industrial countries, we have programs designed to promote United States exports to Iraq and to other countries on commercial terms in a highly competitive international market.

The first and largest program is a program of credit guarantees run by the Department of Agriculture's Commodity Credit Corporation, which has been ongoing annually since 1983. The credit guarantees that are made available to Iraq ensure against nonpayment by Iraqi purchasers of loans made by commercial banks for the purchase of United States agricultural commodities.

In past years, the program has consisted predominantly of short-term, that is up to 3-year, credit guarantees, with a small amount of intermediate term—that is 7- to 10-year credit guarantees. The entire program for this year is short-term credit.

Under this program in calendar 1989 we exported about $1 billion in agricultural commodities to Iraq. Items exported included rice and other grains. Iraq is our largest export market for rice, which comprises 23 percent of total United States exports, for cattle, eggs, chickens, lumber, tobacco, and a variety of other agricultural products.

In the current fiscal year, we have provided Iraq some $500 million in credit guarantees under this program. At present, release of further CCC guarantees for this fiscal year has been deferred, pending the outcome of investigations by the Departments of Agriculture and Justice into allegations of past irregularities.

The second program involves the U.S. Export/Import bank which has a short-term revolving credit insurance program of $200 million. Like the CCC, Ex/Im Bank ensures U.S. exporters and banks against nonpayment. The program finances the purchase of U.S. commercial goods, and a large number of American companies have used it.

In other areas, trade with Iraq is limited. As a matter of policy, we do not sell items on the Munitions List to Iraq. We do not cooperate with Iraq's nuclear program. An interagency committee reviews licensing requests on the Department of Commerce's nuclear referral list and rejects all of those which it determines would contribute to Iraqi capabilities to develop nuclear weapons.

All items on the missile technology control regime annexes are reviewed for possible use in Iraq's missile programs—50 chemicals are now on the list of CW precursors whose export to Iraq and certain other countries is controlled.

Mr. Chairman, this brings me to the question of sanctions. There have been several bills drafted to impose sanctions against Iraq. One, the Inouye-Kasten amendment, would impose a total trade embargo against Iraq. It goes beyond sanctions we have imposed on Cambodia, Vietnam, Cuba, Iran, or Libya, or any other country outside of wartime.

Its sanctions are so extensive that an Iraqi citizen permanently residing in the United States could not visit his family in Iraq without incurring a $500,000 penalty. Any company that sold him an airline ticket to do so would risk a $1 million fine.

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A second piece of legislation is S. 2480. This would impose certain restrictions on trade with Iraq until Iraq submits to international inspection of various facilities and ratifies the 1972 BW—Biological Weapons—Convention.

Based on past experience, we do not believe that legislating unilateral trade and economic sanctions would help us to achieve United States goals with Iraq. We believe Iraq has clearly received the important message of United States Government concern, from both the administration and from the Congress over its recent actions.

To be effective, economic sanctions should be imposed on a multilateral basis. There is no prospect of this in the case of Iraq. Most of the major industrialized countries provide credit programs to assist their exporters in penetrating the Iraqi market. A significant effect of suspending our export promotion programs would be to deny U.S. exporters the ability to compete with foreign exporters who continue to benefit from their government's export promotion programs. Our competitors in Canada, Australia, Europe, and Japan would step in quickly to fill the breach.

Regarding our agricultural programs, U.S. policy in both this administration and in the previous one has been not to single out farm exports as a tool of foreign policy. Our trade with Iraq has not been a favor to Iraq. It is a two-way street that benefits both U.S. companies and the overall trade balance. Sanctions would worsen our trade deficit by reducing exports.

For these reasons, the administration continues to oppose imposition of legislated sanctions. They would hurt U.S. exporters and worsen our trade deficit. Sanctions would not improve our ability to exercise a restraining influence on Iraqi actions.

The Government of Iraq is well aware that its recent actions have caused a deterioration in United States-Iraqi relations. The visit of Senator Dole and his colleagues to Baghdad helped to bring home to Iraqi leaders the damage which has been done. We believe it is important to give the Government of Iraq an opportunity to demonstrate that it can act to reverse this deterioration in relations.

We are therefore opposed to legislation which would impose economic sanctions. The administration will continue to review the entire range of options available to it, should Iraq continue to fail to conduct itself responsibly.

Thank you, Mr. Chairman.

[The prepared statement of Mr. Kelly follows:]

PREPARED STATEMENT OF JOHN H. KELLY

I welcome this opportunity to review with this committee our relations with Iraq. In the 1990's we expect the Persian Gulf—and Iraq—to increase in importance to U.S. national security and interests.

Now and in the future, Iraq will play a major role in the gulf, whatever U.S. policy is. That role may be for good or for ill, however. Thus the fundamental goal of U.S. policy toward Iraq is to influence Iraq to play a responsible regional role. We would like to see Iraq work toward stability in the gulf, toward moderation in the Middle East peace process, and toward effective global implementation of all international understandings and agreements regarding the proliferation of nuclear, biological, and chemical weapons, and the missile systems that deliver them.

Energy is a salient reason for Iraq's new role. Gulf producers account for about 70 percent of world excess oil production capacity. Given trends in consumption and

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the depletion of resources elsewhere, we expect the gulf to provide an increasing percentage of the world's oil. Among Gulf oil producers1 Iraq's reserves are second only to those of Saudi Arabia. As the gulf region's strongest military power, Iraq not only produces a large quantity of oil, but also has great influence for better or for worse over the stability of the entire Gulf and all its oil.

U.S. national security interests—and the interests of all nations in the region—are affected by proliferation of nuclear, biological, and chemical weapons, and the missile systems that deliver them. Iraq has made itself of concern to the U.S. in these areas.

Human rights are a central element in our policy worldwide, and Iraq is no exception. Iraq's human rights record is abysmal. My colleague Josh Gilder from the Bureau of Human Rights Affairs will address our concerns in detail in his statement. But I want to make clear that human rights are an integral part of our approach to Iraq, and will continue to influence the climate of our bilateral relations.

In recent years, both the U.S. and Iraq have seen the advantage in developing relations. We don't do Iraq any favors.

By the same token, Iraq has taken steps the U.S. has wanted in an effort to improve bilateral relations for its own benefit. The first of these was the expulsion of the Abu Nidal terrorist gang. As recently as October of 1989, when Secretary Baker first met the Iraqi foreign minister, we could point to some modest positive developments on issues of concern to us. Iraq was cooperating with Arab League efforts to end the fighting in Lebanon; it was discussing a new Constitution which would potentially provide greater recognition of human rights; Iraq had participated in the January, 1989 Paris Review Conference of the 1925 Geneva CW protocol, and in the September, 1989 Canberra government-Industry CW Conference. It had joined (as an observer) the Conference on Disarmament at Geneva, where we are working toward a comprehensive ban on chemical weapons; and on the Middle East peace process Iraq was deferring to the parties more directly involved, including Egypt and the PLO.

Since then, a series of Iraqi actions raised new questions about Iraqi intentions. You are well aware of Saddam's criticism of the U.S. presence in the Persian Gulf, and of the arrest of smugglers in Britain, the construction of missile launch platforms within range of Israel, the expulsion of an Iraqi diplomat from New York, and the seizure of parts of an alleged "big-gun" by authorities in Britain, Greece, Turkey, and Italy. You are also well aware of President Saddam Hussein's outrageous and irresponsible threats regarding the use of chemical weapons. You have also seen the bellicose language President Hussein directed against the United States at the Arab League Summit in Baghdad. We understand Iraq played a negative role in seeking to insert hard-line language on the U.S. and Israel into the Summit's communique.

These actions and statements raise two sets of serious questions about Iraq, each of which has a great impact on U.S. Iraqi bilateral relations. One set of questions relates to Iraq's intentions toward the region, including both the gulf and the Middle East in general, including Israel. The other relates to Iraq's intentions toward its obligations under the NPT, the 1925 Geneva Protocol on chemical weapons, and the 1972 convention on biological weapons (Iraq signed this convention but has not deposited an instrument of ratification). This also impacts on efforts to develop a global ban on the production and stockpiling of chemical weapons.

Regarding regional goals, President Saddam Hussein seeks to enhance his and Iraq's standing among Arab countries. He enhances his prestige by portraying himself as the defender of the Arab nation, whether through seeking to deter an Israeli attack, through opposition to the presence of foreign fleets in the gulf, or through technological advances that he says the West wants to deny Arabs. Saddam has rallied support by claiming there is a U.S.-British-Israeli plot to find a pretext for an Israeli attack on Iraq. This was a major theme at the Arab League Summit, May 28–30. It was a relatively successful theme. Many Arab leaders may have private misgivings about President Hussein's aims and tactics, but they will stand behind a fellow Arab country that claims to be persecuted for being Arab.

We have told Iraq there is no truth to these charges. However, it is clear that Saddam's tough rhetoric does strike a chord with his primary audience.

Iraq's power and wealth guarantee that it will insist on playing a major role in intra-Arab politics. The question for us is whether Iraq will use that influence responsibly. Saddam's statements about "burning up half of Israel" have only antagonized public opinion in the U.S. One theory is that he made his statements in an attempt to deter what he genuinely fears is an imminent Israeli attack. Saddam has only managed to increase regional tensions. He has raised questions about Iraq's ultimate intention to play a responsible role.

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With regard to the second set of questions, on Iraq's proliferation aims, Iraq has demonstrated a willingness to go to great lengths to develop all sorts of non-conventional weapons. In that respect Iraq is placing itself on a collision course not just with the U.S., but with the rest of the industrialized world. None of our friends and allies among the industrial countries is willing to impose either sanctions or an export embargo against Iraq. However, Iraq's own actions in smuggling capacitors well suited for nuclear weapons application, and parts for a "super gun," make licensing authorities and customs officials around the world doubly cautious. Iraq will quickly reach a point at which its genuine economic development aims will be hampered by its clandestine attempts to procure exotic and non-conventional weapons from the West.

For the record, we do not believe that Iraq poses a near-term nuclear proliferation threat. Iraq's missile material is under IAEA safeguards, and is inspected regularly. Most recently, the IAEA published the finding that there was no evidence of diversion following the inspection that took place in April of this year. However, Iraq's intentions, and not its present capabilities, are at issue here.

In considering our response to these Iraqi actions it may be useful to review the few programs of cooperation we have with Iraq, none of which is aid. U.S. taxpayer dollars do not go to Iraq. Each of our programs is designed to be of benefit to the U.S. and its economic interests.

Like other industrial countries we have programs designed to promote U.S. exports to Iraq on commercial terms, in a highly competitive international market.

The first, and the largest, is a program of credit guarantees run by the Department of Agriculture's Commodity Credit Corporation (CCC). The credit guarantees that are made available to Iraq under the CCC GSM 102 and 103 programs insure against nonpayment by Iraqi purchasers on loans made by commercial banks for the purchase of U.S. agricultural commodities, thereby facilitating U.S. farm exports. In past years the program has included a small amount of GSM 103, or 4–7 year guarantees; the entire FY 90 program is in GSM 102, or short-term guarantees up to 3 years. Iraq has never defaulted on CCC-insured loans. Under this program, in calendar 1989 we exported about $1 billion in agricultural commodities to Iraq.

Items exported included rice and other grains (Iraq is our largest export market for rice), cattle, eggs and chickens, lumber and a variety of other agricultural products. In the current fiscal year, we have provided Iraq some $500 million in credit guarantees under this program. Iraq has used almost all of these credit guarantees. At present, the Department of Agriculture has suspended consideration of further CCC guarantees for FY 90 pending the outcome of investigations into allegations of past abuses.

The U.S. Export-Import Bank has a short term revolving credit insurance program of $200 million. Like CCC, Eximbank insures U.S. exporters and banks against nonpayment. The program finances the purchase of U.S. commercial goods. A large number of U.S. companies have used it.

In other areas, trade with Iraq is limited. As a matter of policy we do not sell items on the munitions list to Iraq. We do not cooperate with Iraq's nuclear program. An interagency committee reviews license requests on the Department of Commerce's nuclear referral list, and rejects all those which it determines will contribute to Iraqi capabilities to develop nuclear weapons. Likewise, all items on the missile technology control regime annexes are reviewed for possible use in Iraq's missile programs. Fifty chemicals are now on the list of CW precursors whose export is controlled to Iraq and certain other countries. We continue to work within the Australia Group—an informal group of 21 like-minded industrialized countries—to harmonize the export controls of many nations to deny Iraq materials for its chemical weapons program.

Iraq is a signatory to the 1972 convention banning biological weapons (although it has not deposited an instrument of ratification). We have denied Iraqi license requests for technology, such as cell dryers, which could conceivably be used in furtherance of a biological weapons program.

The United States is active in trying to prevent the spread of missiles, especially in volatile areas such as the Middle East. We work with our allies through our Missile Technology Control Regime to deny missile-related technology to a number of countries, including Iraq.

This extensive network of controls is not perfect. Efforts are underway to improve them and to remind our allies to the dangers of contributing to Iraq's weapons programs. But as the recent arrests of Iraqi smugglers in London shows, controls can work effectively.

Mr. Chairman, this brings me to the question of sanctions. There have been several bills drafted to impose sanctions against Iraq. One, the InouyeKasten amend-

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ment, would impose a total trade embargo against Iraq. It goes beyond sanctions we have imposed on Cambodia, Vietnam, Cuba, and Iran. I believe it goes beyond sanctions we have imposed against Libya or any other country outside of wartime. Its sanctions are so extensive that an Iraqi citizen permanently residing in the U.S. could not visit his family in Iraq without incurring a $500,000 penalty. Any company that sold him an airline ticket to do so would risk a $1 million fine.

A second piece of legislation is S. 2480. It would impose certain restrictions on trade with Iraq until Iraq submits to international inspection of various facilities and ratifies the 1972 BW Convention.

In the Executive Branch we believe in taking whatever measures are appropriate to deal with the particular problems Iraqi actions have raised. We do not believe that legislating trade and economic sanctions would help us to achieve any U.S. goals with Iraq. We believe Iraq has clearly received the important message of U.S. Government concern—from both the Administration and Congress—over its recent actions.

Experience has shown that economic sanctions are most effective when they are imposed on a multilateral basis. There is no prospect of this in the case of Iraq. Most of the major industrialized countries provide credit programs to assist their exporters in penetrating the Iraqi market. A significant effect of suspending our export promotion programs would be to deny U.S. exporters the ability to compete with exporters who continue to benefit from their governments' export promotion programs. Our competitors in Canada, Australia, Europe, and Japan would step in quickly to fill the breach. Regarding our agricultural programs, U.S. policy in both this administration and the previous one has been not to single out farm exports as a tool of foreign policy.

Our trade with Iraq has not been a "favor" to Iraq. It is a two-way street that benefits both U.S. companies and the overall trade balance. Sanctions would worsen our trade deficit by reducing exports.

For these reasons, the administration continues to oppose imposition of legislated sanctions. They would hurt U.S. exporters and worsen our trade deficit; they would not improve our ability to exercise a restraining influence on Iraqi actions. As the discussions at the Arab League summit indicate, sanctions would weaken the position of Arab moderates, with potentially negative effects on the Middle East peace process.

The Government of Iraq is well aware that its recent actions have caused a deterioration in U.S.-Iraq relations. The visit of Senator Dole and his colleagues to Baghdad helped bring home to Iraqi leaders the damage which has been done. We believe it is important to give the Government of Iraq an opportunity to demonstrate that it does indeed wish to reverse this deterioration in relations, and we are therefore opposed to legislation to impose economic sanctions. The Administration continues to review the entire range of options available to it, should Iraq continue to fail to conduct itself responsibly.

Iraq's own reckless words and actions have raised new questions about Iraq's activities in the region and towards its international commitment to the 1925 Geneva Protocol banning chemical weapons use and to the Non-Proliferation Treaty. To dispel these questions and avoid further damage to Iraq's international standing, it is up to Iraq to observe scrupulously its NPT and other international commitments. It is similarly up to Iraq to demonstrate in practice its professed commitment to respect internationally recognized human rights standards.

Iraq will have a significant influence on the political and economic landscape of the Persian Gulf and the Middle East in the years to come, for better or for worse. If Iraq should threaten the security of Israel and other countries in the area and continue to violate human rights on a widespread scale, the United States and Iraq would become increasingly at odds. We would take appropriate action on behalf of American interests. If, however, Iraq plays an increasingly responsible role and cooperates with international efforts to control proliferation of non-conventional weapons, and improve its abysmal human rights record, the U.S.-Iraq relationship will improve, with benefits for both countries.

Thank you.

The CHAIRMAN. Thank you very much. Mr. Gilder.

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STATEMENT OF JOSHUA R. GILDER, PRINCIPAL DEPUTY ASSISTANT SECRETARY FOR HUMAN RIGHTS AND HUMANITARIAN AFFAIRS, DEPARTMENT OF STATE

Mr. GILDER. Mr. Chairman, members of the committee, I appreciate the opportunity to appear before the committee to discuss the human rights situation in Iraq, and I am especially pleased to have the chance to testify before the two distinguished Senators from New York, which is my home State.

Ambassador Schifter has asked me to convey his regrets that he cannot be with you today. He left this week for a long-scheduled trip to Eastern Europe and the Soviet Union. In the interest of saving time, I thought rather than read my testimony in its entirety, I would submit a written statement for the record and summarize some of its major points.

The CHAIRMAN. I thank you very much.

Mr. GILDER. With your permission, I would also like to submit for the record a copy of our latest country report on Iraq.

The CHAIRMAN. Without objection.

[The information referred to follows:]

EXCERPT FROM COUNTRY REPORTS ON HUMAN RIGHTS PRACTICES FOR 1989—FEBRUARY 1990

Iraq is in effect a one-party state governed by the Arab Ba'ath Socialist Party (ABSP) through a Revolutionary Command Council (RCC) which has both executive and legislative authority under the provisional Constitution of 1968. Saddam Hussein holds decisive power as President of the Republic, Chairman of the RCC, and Secretary-General of the Regional Command of the ABSP. Two other small parties are essentially support groups for the Government. In 1989 the Government announced its intention to adopt a multiparty system enshrined in a new constitution. Elections for the National Assembly—which has few powers—were held April 1. A draft constitution which would reportedly allow a multiparty system was completed in 1989 and is expected to be put to a referendum in early 1990. It remains to be seen, however, whether this will dilute the monopoly of power held by Saddam Hussein and the ABSP. Iraq's population comprises many disparate groups, most notably Shi'a and Sunni Muslim Arabs, Kurds, Turcomans, and various Christian sects, predominantly Assyrians and Chaldeans.

Iraq's military is large and well trained, and parts of it, notably the Fursan, or Kurdish tribal levies, have responsibility for security within the Kurdish autonomous region. The National Police is responsible for civil order.

The Government exerts a high degree of control over the economy, dominated by the petroleum sector, and owns all major industries. The Government has been carrying out a program of divestiture and privatization in agriculture, tourism, services, and light industry, and is trying to attract investor capital and expertise in the operation of the economy. However, close government regulation of economic activity is expected to continue.

Iraq's human rights record remained abysmal in 1989. Effective opposition to government policy is stifled; the intelligence services engage in extensive surveillance and utilize extralegal means, including torture and summary execution, to deal with anti regime activity. The civil rights of Iraqi citizens continue to be sharply limited, and Iraqis do not have the right to change their government. The freedoms of speech and press and of assembly and association are virtually nonexistent. Other important human rights problems include continuing disappearances and arbitrary detentions, lack of fair trial, widespread interference with privacy, excessive use of force against Kurdish civilians, and an almost total lack of worker rights. In addition to the repressive domestic controls that predate the war with Iran, tight wartime controls, including travel restrictions, remain in effect despite the August 1988 cease-fire with Iran.

An armed Kurdish insurgency continued in 1989, but at a reduced level. Although there were no allegations that the Government used chemical weapons against Kurdish civilians in 1989, as it did in 1988, in its efforts to crush the rebellion, it continued to violate the human rights of elements of the Kurdish population. The

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Government announced in June that in its campaign to suppress the rebellion it has pursued a program since 1987 of establishing a depopulated security zone along the full length of Iraq's borders with Iran and Turkey. Under this program, the Government has destroyed villages within a 30-kilometer-wide zone and relocated approximately 500,000 Kurdish and Assyrian inhabitants into more easily controlled and protected towns, cities, and newly constructed settlements in traditional Kurdish areas.

RESPECT FOR HUMAN RIGHTS

Section 1 Respect for the Integrity of the Person, Including Freedom from:

a. Political and Other Extrajudicial Killing

For years execution has been an established Iraqi method for dealing with perceived political and military opponents of the government, including, but not limited to, members of the outlawed Da'wa organization (an Iran-supported fundamentalist Shi'a Muslim group that has engaged in acts of international terrorism). In some cases, a family only learns that one of its members has been executed when the security services return the body and require the family to pay a fine.

Amnesty International (AI), in its presentation before the U.N. Subcommission on the Prevention of Discrimination and Protection of Minorities in August, stated that it had received allegations that some 80 army deserters were executed in December 1988 and charged that the Government executed 11 of its Kurdish opponents in March and April 1989.

In its February report, "Iraq: Children: Innocent Victims of Political Repression," AI stated that it receives allegations of hundreds of executions in Iraq each year. AI cited the case of 29 Kurdish children and youths allegedly executed in January 1987. In addition, AI, in its 1989 Report covering 1988, cited allegations that hundreds of civilians, including women and children, were executed at Tanjaro Military Garrison, Sulaimaniya province. Independent information to confirm the allegations cited in AI reports is not available.

b. Disappearance

In the February report, AI asserted that thousands of people arrested over the years by Iraqi security or intelligence forces reportedly have "disappeared" while in detention, with many feared executed. In its August presentation to the U.N. Subcommission, AI reported the disappearance in mid-April of Mulla Muhammad Dalgayi, described as the iman of Qal'at Diza, who was among delegates from Kurdistan who reportedly net with government officials to appeal against forced settlement of the Kurds at Qal'at Diza. He was reportedly arrested in Baghdad and has since disappeared. An Assyrian organization based in the United States charged in March that the whereabouts of 33 Assyrians, who took advantage of the amnesty issued by the Government and returned to Iraq from Iran and Turkey, were unknown.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment

The Constitution prohibits torture and prescribes stiff punishment for it, but it is clear that both physical and psychological torture are used by the authorities, especially the security police. Given the rigid chain of command within the Government and the security services, torture could not be practiced without the knowledge or authorization of senior officials.

Emigre groups and former prisoners assert that persons detained by the security police for political or security-related matters are frequently tortured arid mistreated. Treatment is reported to be worst immediately following arrest and during the period of interrogation and investigation, which can last for months. Torture and brutal treatment are not limited to political cases.

Security-related offenses are broadly defined and include such routine criminal matters as currency violations.

In its 1989 Report, AI stated that the routine torture and ill-treatment of prisoners continues to be widely reported. It said the victims included detainees below the age of 18 who were reportedly beaten, whipped, given electric shocks, and deprived of food. The Government categorically denied any use of torture against children as an official policy or as a practice, and stated its readiness to consider folly any individual allegation with a view to bringing perpetrators to justice. Impartial observers have so far been unable to look into those allegations.

d. Arbitrary Arrest, Detention, or Exile

While the Constitution and legal code provide for the rights of citizens and place checks on police powers in such seas as arrest, detention, imprisonment, and search,

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these provisions have virtually no weight in political or national security cases, although they are generally respected in ordinary criminal cases. Security police not only make arbitrary arrests but also secretly detain suspects, whose fate sometimes becomes known only after they have her executed. Security charges have included espionage, treason, and conspiracy against Iraq, often in collaboration with unnamed foreign enemies.

The relocation of 500,000 Kurdish villagers to other areas of Kurdistan since 1987 may be considered a form of internal exile. The Government declared in June 1989 that it was creating an uninhabited security zone to ensure the safety and security of citizens in the border regions (who were subjected to shelling and military operations during the war with Iran) and to provide better services to the villagers.

Although the Government has ceased expelling Iraq's of supposed Iranian descent, most of the few remaining Iranians have been imprisoned or live under the fear of deportation or incarceration. Spouses of Iraqis of Iranian origin are required to obtain a divorce or suffer the same consequences. Moreover, other Iraqis, whose grandparents are shown not to be of Iraqi origin, are subject to arbitrary detention and deportation.

With regard to forced or compulsory labor, see Section 6.c.

e. Denial of Fair Public Trial

Iraq's legal system provides for investigation by police and then by an inquiry judge who may refer a case to the courts or dismiss it. Judges try criminal cases; there are no juries. Convictions may be appealed to the Court of Appeal and then to the Court of Cassation, the supreme court. There are no Shari'a courts per se in Iraq; however, family courts administer Shari'a law modified by Iraqi custom.

Trials of ordinary cases are held in civil, criminal, and religious courts and are open. Defendants are entitled to counsel—at government expense if the defendant is indigent. Charges and evidence are available for review by the lawyer. Appellate courts hear cases not under the jurisdiction of the Revolutionary Courts.

In contrast to ordinary cases, security cases are handled by the Revolutionary Courts, which usually hold closed trials. Security cases include espionage, treason, smuggling, currency exchange violations and drug trafficking. The right of defense in such courts is said to be severely restricted. The "special courts" constituted by the RCC for specific incidents, such as the reported conspiracy against the regime in 1979, are also closed. These special tribunals are apparently exempt from constitutional safeguards of defendants' rights; defendants are held incommunicado, and confessions extracted by torture are admissible. Appeals can be taken only to the chairman of the RCC. However, the utility of this appeal is questionable, since there are reports that executions take place shortly after trial.

Political dissent in Iraq is taken by the authorities to encompass a wide range of activities and, in an environment where public acknowledgement of arrest or imprisonment is rare, it is extremely difficult to estimate the number of political prisoners. In its 1989 Report, AI stated that "thousands" of political prisoners continued to be arbitrarily arrested and detained, especially members of prohibited political parties, Army deserters, and draft resisters. Relatives, including children of suspects, are said to be held as hostages to compel confessions.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence

The Constitution provides protections for the inviolability of the home, and strong cultural values reinforce these protections. Police must obtain a search warrant before entering the hone of a criminal suspect. However, warrants are not required for the arrest of security suspects. Although most arrests occur outside the home, there have been reports of forced entry and arrest by the security police, particularly of suspected members of the outlawed Da'wa organization.

Although the Constitution provides for the confidentiality of mail and telegraphic and telephone correspondence, many Iraqi believe that the monitoring of telephones is a common practice and that all mail is subject to review by censors. The security services and Ba'ath Party maintain pervasive networks of informers. The Government maintains a close watch against Iranian attempts to exploit dissatisfaction among Iraqi Shi'a, who adhere to the branch of Islam prevalent in Iran.

g. Use of Excessive Force and Violations of Humanitarian Law in Internal Conflicts

Elements of Iraq's Kurdish population have engaged in armed struggle with all governments of Iraq periodically since the 1920's. The outbreak of the Iran-Iraq war in 1980 sparked a new antigovernment insurgency by Kurdish elements, many of whom fought with or aided Iran during the war. From 1981 to 1989, the Govern-

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ment's efforts to crush the rebellion militarily resulted in approximately 8,000 deaths, many of them civilians killed indiscriminately by chemical weapons in 1988.

Although the fighting was at a reduced level in 1989, Kurdish military operations continued, as did government measures to contain them. Kurdish rebels continued to announce their hostility towards the central Government. On August 29, 1989, the leader of one group of insurgents stated to the press in Geneva that his group would target foreign interests in Iraq supporting the Iraqi regime. At year's end, the cycle of Kurdish rebellion and government repression remained unresolved.

Section 2 Respect for Civil Liberties, Including:

a. Freedom of Speech and Press

The freedoms of speech and press are not respected. The Constitution prohibits "any act aimed at undermining the national unity of the people, provoking racial, sectarian, and regional bigotry, or violating gains and achievements of the country." The Government views political dissent as a threat to its security and strictly controls speech and all information media. All publications are subject to censorship. The Government and the Ba'ath Party own and operate the press, radio, and television. The media do not criticize the Government, and news reporting is strongly biased. There is no presentation of opposition viewpoints.

Few foreign periodicals reach Iraq and those that do may be censored. Western newspapers are not sold. Foreign visitors' magazines, newspapers, cassettes, cameras, and video cassettes may be confiscated at the airport. To control the dissemination of political leaflets, word processors and computers must be registered. Failure to register is a criminal offense. Iraqis no longer need to register their typewriters or photocopiers, hut foreigners in Iraq must do so Taking photographs of military installations, government buildings, or areas near sensitive locations is forbidden arid punishable by imprisonment. Journalists and photographers visiting Iraq at the invitation of the Government are required to present film taken in Iraq for inspection by the authorities.

b. Freedom of Peaceful Assembly and Association

These freedoms are severely limited. public meetings may only be organized under the auspices of the Government or the Ba'ath Party. Association for nonreligious purposes and demonstrations without government approval have met with severe repression. Professional organizations are subject to control by the Ba'ath Party Central Vocational Bureau.

For a discussion of freedom of association as it applies to labor unions, see Section C.a.

c. Freedom of Religion

Iraq is an ethnically and religiously diverse society. Since its rise to power in 1968, the Ba'ath Government, while carefully controlling religious groups, has enforced tolerance of religious diversity, seeking to submerge religious differences in the promotion of secular nationalism. A 1981 law gave the Ministry of Endowments and Religious Affairs the authority to promulgate laws and regulations governing places of worship, appointment of clergy, publication of religious literature, and participation in religious councils and meetings. Muslim religious leaders operate under close government supervision, are considered government employees, and receive their salaries through the Government. The Government administers the principal Muslim shrines and mosques and has provided allotments to them and to churches for maintenance and refurbishing. There are no penalties under Iraqi law for changing one's religion, although there is a social stigma for Muslims who convert to another faith.

While the Government has assumed much greater authority in Islamic religious affairs since 1981, it has been less intrusive into the religious affairs of Iraq's Christians, who number more than 500,000 and constitute nearly 4 percent of the population. Their freedom of worship in churches of established denominations is legally protected, but they are not permitted to proselytize or to hold meetings outside church premises. Convents and monasteries exist, and some new churches have been constructed, in some cases with government financial support. The Jewish community has decreased from 150,000 following World War II to under 400. There is no evidence of recent persecution. One synagog in Baghdad still functions.

d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation

Iraqis are generally free to travel within the country and to change their residences or workplaces. However, they are likely to be constrained by social, cultural, and religious traditions which define the areas occupied by the various ethnic and

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religious groups. Sensitive border and other security areas are off limits. There are police checkpoints on highways and outside major towns, but Iraqis and nondiplomatic foreigners travel freely in nonrestricted areas.

The Government's harsh campaign to suppress Kurdish rebels, involving mass relocations of Kurdish villagers, has nullified the right of hundreds of thousands of Kurds to choose their place of residence. Since the Government began its program of forced relocation in 1987, an estimated 500,000 people have been uprooted. Since traditional Kurdish culture has been deeply embedded in the rural village, the forced removals and razing of villages has had a destructive impact on the lives of some one-half million Kurds.

Most foreigners who remain in the country for more than 30 days and all Iraqis must obtain exit permission. Travel has been severely limited since September 1986, when the Government imposed tight restrictions on currency exchange. These restrictions were eased somewhat in 1989, but the most an Iraqi may exchange is 1,000 dinars ($3,220). Because of the drain on the economy caused by the war and reconstruction, permission to travel abroad is restricted to a few categories of Iraqis, including officials, businessmen, government-approved students, and persons needing medical treatment. In 1989 the Government eased restrictions to permit one parent to visit his or her offspring who is studying or working abroad.

While permission for medical treatment abroad may be granted, permission to transfer hard currency abroad to pay for it may not be. In cases of those desiring medical treatment in the United States, the Government now requires a bond to be posted by an American friend or relative with the Iraqi embassy in Washington before exit permission is granted. The minimum amount of this bond is $10,000. The Government sometimes limits the countries an Iraqi traveler may visit and, should the traveler visit a nonauthorized country, a small fine may be levied upon his return. Iraqis who have residences abroad may depart the country, provided they originally left before the war began. A married woman must have the permission of her husband to travel abroad.

The Government can require a prospective traveler to post a substantial bond to assure his return. The RCC decreed in 1987 that Iraqi students abroad who refuse to return to Iraq must reimburse the Government for all education received in Iraq or abroad at government expense. The decree is applicable retroactively to students who have refused to return since May 16, 1983, the date the Government began requiring employees leaving government jobs before 20 years of service to reimburse the State for the cost of their education. Amounts due can be recovered by confiscation; nonpayment may result in imprisonment. Each student must provide a guarantor before traveling abroad. This guarantor and the student's parents may be held liable if the student fails to return.

There is no specific ban on emigration or special restrictions for members of minority groups; however, emigration is discouraged. For the past several years, almost all of those given permission to emigrate have been Christian Iraqi wives of former Iraqi citizens now living abroad as citizens of another country. Prospective emigrants have had travel permission delayed and have been harassed. Many emigrants leave behind substantial property because of the difficulty of exporting assets. Currency exchange violations are considered national security offenses, and penalties can be severe.

Non-Iraqi spouses of Iraqi citizens who have resided in Iraq for 5 years are required to take Iraqi nationality or leave Iraq. Many people, including several Americans, have thus been obliged to accept Iraqi citizenship and are therefore subject to the present travel restrictions. In March 1984, an order by the RCC reduced the residency period before naturalization to 1 year for the spouses of Iraqi citizens employed in government offices. The Iraqi spouse faces penalties for noncompliance, including loss of job, a fine of approximately $10,000, and repayment of the costs of education. Iraq does not recognize the concept of dual nationality, and many Iraqi "dual nationals," especially the children of an Iraqi father and a mother of non-Iraqi birth, have been denied permission to leave Iraq to visit the country of their other nationality.

In recent years, the Government has instituted special programs to encourage repatriation of qualified professionals. Aliens of Iraqi origin can apply for a document permitting them to enter and exit from Iraq without a visa.

Other persons of Iraqi origin are permitted to return, including many persons who were admitted to other countries as refugees. A number of such people, especially Assyrian Christians, have returned on temporary visits. They are free to come and go, within the limits of the present travel restrictions, since they are not considered to have violated Iraqi laws. However, those who emigrated only after the beginning of the Iran-Iraq war, including several U.S. permanent resident aliens, have

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been unable to depart from Iraq after returning. In September and November 1988 and in February and March 1989, the Government announced amnesties for Kurds who fled the country for any reason. Approximately 2,000 have voluntarily returned from refugee camps in Turkey.

Section 3 Respect for Political Rights: The Right of Citizens to Change Their Government

Iraqi citizens do not have the ability peacefully to change their government. President Saddam Hussein and the RCC rule Iraq through the Ba'ath Party. It reportedly has some 1.5 million adherents, representing about 9 percent of the population.

There are two other small legal political parties, both Kurdish. They and the Ba'ath Party constitute the Patriotic and Progressive National Front, essentially a vehicle of support for the Government. Members of the military or security services may engage in political activities only within the Ba'ath Party. Association with the party is not required for appointment to senior government positions or military ranks or election to the National Assembly, but is normally necessary to attain political influence. Opposition groups, including various Kurdish groups and splinter parties, are severely repressed. The Communist Party was removed from the National Front and declared illegal in 1979. The Da'wa organization, a violent Shi'ite group, is still proscribed, and its members are subject to incarceration and execution, as are members of other parties believed to be cooperating with Iran. Plans the Government announced in 1988 to permit legal formation of opposition parties were not implemented in 1989.

General elections were held for the 250-seat National Assembly in April. Though in theory possessing a wide range of official duties, the Assembly exercises little real authority. The majority of the more than 900 candidates were independents, although all supported current government policies. The elections by secret ballot were more open than in the past, and some high-ranking Ba'ath party officials were defeated.

The biennial elections for the Legislative Assembly of the Kurdish Autonomous Region were held in September 1989. All 174 candidates, from the three legal parties and independents, had to satisfy the same requirements as National Assembly candidates. The Legislative Assembly does not exercise meaningful authority.

In October 1989, an Experts Commission finished drafting a new Constitution to replace the provisional Constitution of 1970. Iraqi officials assert that the new Constitution will provide more guarantees of human rights. However, the new Constitution has not yet been made public pending approval by President Saddam Hussein and the RCC.

Section 4 Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

The Government allows one human rights group to operate inside Iraq, but this is largely under government control. The Government has rarely cooperated with private foreign groups or international organizations in investigating events or practices in Iraq.

The Government denies charges that it violates human rights, and claims that the information on which AI and other human rights groups base their charges comes from pro-Iranian and Kurdish Iraqi exile groups in London and Paris. In its 1989 report on children in Iraq, AI cited several instances in which Iraqi authorities had commented on AI reports or responded to AI inquiries, but in each case these authorities had defended the Government's actions as justifiable or denied the accuracy of AI's information. A resolution before the U.N. Subcommission on the Prevention of Discrimination and protection of Minorities in August 1989, recommending that the U.N. Commission on Human Rights study the human rights situation in Iraq, was narrowly defeated.

Iraq does cooperate with the International Committee of the Red Cross in efforts to resettle Iranian civilian refugees in third countries, and the U.N. High Commissioner for Refugees has had a permanent representative in Iraq since April 1988 who registers Iranian refugees and works for their resettlement.

Section 5 Discrimination Based on Race, Sex, Religion, Language, or Social Status

The Ba'ath Party is committed to the equality of the sexes, and a series of laws since it came to power in 1968 has steadily improved the status of women. There have been laws to protect women from exploitation in the workplace; grant subsidized maternity leave; permit women to join the regular army, popular army, and police forces; and equalize women's rights in divorce, land ownership, taxation, suffrage, and election to the National Assembly. In the 1970's, the Government imposed legal penalties on families that opposed sending their women to literacy

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schools, and on men who were seen harassing women. While the application of these laws has resulted in significant tangible improvements for women, a number of problems remain. Married women may still travel abroad only with the permission of their husbands. School enrollment of females has been increasing in recent years, reaching 45 percent in elementary schools and 36 percent in secondary schools in 1985–86.

Women represent about 47 percent of agricultural workers and about 25 percent of the total work force. The war accelerated the Government's drive to elevate the status of women, and it appears to have significantly reduced, if not removed, barriers to the acceptance of women in traditional male roles. Women are increasingly employed as architects, construction engineers, oil engineers, air traffic controllers, and factory and farm managers. Their role in the armed forces is limited to the medical field.

Violence against women, such as wife beating and rape, is known to occur but little is known about its extent. Such abuse is customarily dealt with within the tightly knit Iraqi family structure because of the value attached to personal privacy in this conservative society. Consequently, there is no public discussion of the subject, and there are no official statistics. Excessive violence against women would be grounds for divorce and criminal charges, but suits brought on these charges in Iraq are believed to be rare.

The use of minority languages is unrestricted. Kurdish is an official language used in schools and media in Kurdish areas. Turcomans publish in their dialect of Turkish, and Christians often use Aramaic as well as Arabic.

The Shi'a, who make up roughly 55 percent of the population, have historically been economically, politically, and socially disadvantaged throughout much of the Middle East. The Government has a declared policy to raise their living standards and equalize opportunities for their economic and professional advancement. For four centuries, political power in Iraq has been concentrated in the hands of the Sunni minority. Sunni Arabs, who comprise 20 to 25 percent of Iraq's population, dominate the RCC, the Regional Command of the Ba'ath Party, and the Cabinet. However, increasing numbers of Shi'as hold prominent positions, and the economic status of the Shi'a has improved through intensive government investment in the economic and educational infrastructure of southern Iraq.

Although Christians sometimes allege discrimination in education and jobs, adherence to their religion has not prevented many from obtaining wealth and professional advancement. The Deputy Prime Minister and Foreign Minister, a Chaldean Christian, has represented Iraq at meetings of the foreign ministers of the Organization of the Islamic Conference. Other Christians hold important official and private positions.

Citizens considered to be of Iranian origin carry special identification. They are often precluded from desirable employment and their advancement may be impeded. Many "Iranian" families have been in Iraq for generations. The two holiest shrines of Shi'a Islam, the prevalent sect in Iran, are located in Iraq. For generations Iranians have come to Najaf and Karbala on pilgrimage or to study in the seminaries, and many settled there. Some "Iranians" say their forebears were not from Iran but claimed Iranian nationality to evade Ottoman military conscription.

Section 6 Worker Rights

a. The Right of Association

Trade unions independent of government control do not exist in Iraq. Under the trade union organization law of June 2, 1987, a new single trade union structure was prescribed for organized labor. Workers in private and mixed enterprises and in cooperatives—but not public employees or workers in state enterprises—have the right to join a local union committee. The committees form trade unions which in turn are part of provincial trade union federations. At the top is an umbrella organization, the Iraqi General Federation of Trade Unions, which is organically linked to the Ba'ath Party and required to promote party principles and policies among union members. The General Federation is affiliated with the International Confederation of Arab Trade Unions and the Communist-controlled World Federation of Trade Unions. It is also active in the tripartite Arab Labor Organization, headquartered in Baghdad.

Although workers legally have the right to strike, after providing notice to the Labor Ministry, no such strikes were reported in 1989. There was a 1-day wildcat walkout by Egyptian workers protesting excessive work hours.

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b. The Right to Organize and Bargain Collectively

The right to bargain collectively is not recognized. Salaries for public sector workers (i.e. the bulk of the employed) are set by the Government. Wages in the private sector are set by the employers or negotiated individually with workers.

Iraq, which has ratified International Labor Organization (ILO) Convention 98 on the Right to Organize and Bargain Collectively, was criticized by the ILO's Committee of Experts (COE) in 1989 for the fact that its new labor code of 1987 fails to provide workers with protection against antiunion discrimination. The COE also expressed regret that the 1987 Act on trade onion organizations did not provide for collective bargaining.

There are no export processing zones in Iraq.

c. Prohibition of Forced or Compulsory Labor

Although compulsory labor is prohibited by law, during and shortly after the war with Iran the Popular Army, the militia of the Ba'ath Party, employed press-gang methods to draft recruits. However, these activities ceased in November 1988, and the Popular Army was for the most part demobilized in 1989.

ILO supervisory bodies again in 1989 expressed concern that the Penal Code permits the punishment of civil servants with imprisonment, including compulsory prison labor, for breaches of labor discipline, which include resigning from one's job. A November cabinet meeting, reported in the government-directed press, quoted the remark of a minister that resignation from government jobs should be free, confirming that heretofore civil servants have had to buy their way out of government service.

d. Minimum Age for Employment of Children

Children are frequently encouraged to work as necessary to support the family, but the employment of children under age 14 is forbidden in all enterprises other than small-scale family enterprises. Children between the ages of 14 and 18 who are employed are protected by law: they work fewer hours and have more privileges than adult workers.

e. Acceptable Conditions of Work

The workweek in urban areas is 6 days, 7 to 8 hours a day, for workers in the private and mixed sectors. These provisions do not apply to agricultural workers whose workweek and hours of work per day can vary according to individual employer-employee agreements. Hours for government employees are set by the head of the ministry for which the employee works. Many government employees routinely work longer than 8 hours a day, some of them as much as 12 hours per day.

Occupational safety programs are in effect in state-run enterprises, and inspectors make visits irregularly to private establishments. Enforcement varies widely. A government decree to extend occupational safety and health protection was issued and subsequently withdrawn in December 1988, reportedly resulting in the dismissal of the Labor Minister.

A special problem arose after the Government decided in June to reduce drastically the amount of hard currency foreign workers could remit. It is widely believed that the Government took this measure to "encourage" foreign workers to leave the country, thus freeing jobs for demobilized Iraqi soldiers. Workers not on contract were particularly hard hit. Most of the over 2 million Egyptian workers in Iraq were manual laborers. When they learned they would be able to transfer only $32 per month, they began to leave Iraq in droves, an estimated 2,000 per day by air alone. Egyptian and other foreign workers in Iraq have claimed that some Iraqi employers forced them to work 12 to 15 hours a day for 8 hours' pay or refused to pay wages. The Government has admitted that Iraqi banks have been slow to pay remittances. Egyptian workers are in fact receiving their savings a year after leaving Iraq.

Mr. GILDER. Once again this year we found Iraq's human rights practices were abysmal. Human rights, as such, are not recognized in Iraq. As our report details, the ordinary Iraqi citizen knows no personal security against government violence. Disappearances followed by secret executions appear to be common. In some cases, a family only learns that one of its loved ones has been executed when the security services return the body and, in line with the Iraqi regime's view of justice, require the family to pay a fine.

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The penalty for expressing opinions deemed objectionable by the regime is swift and brutal. We believe that over the past 10 years many thousands to tens of thousands—and I will speak to the inexactitude of our figures in a moment—many thousands to tens of thousands have been arrested by the secret police on suspicion of opposing the government. Torture is routine for security offenses and ordinary crimes alike, and confessions extracted under torture are admissible in court.

Compiling accurate information on the human rights situation in Iraq is made extremely difficult by the highly secretive and repressive nature of the regime. Diplomatic travel is severely restricted, and most Iraqis are quite understandably fearful of speaking their minds to foreigners or anyone else, for that matter. The Iraqi regime is authoritarian in the extreme. There are some exceptions. The practice of religion is largely free. There has been some attempt to relax the worst aspects of the statist command economy. In general, however, the regime is ruthless in its efforts to maintain absolute control over the population.

Perhaps the most shocking demonstration of this was the use of chemical weapons against parts of the Kurdish population suspected by the regime. Thousands of defenseless men, women, and infants died as a result. Many more thousands fled across the border into neighboring nations. Those attacks have been accompanied by the large-scale razing of villages and the relocation of villagers into easily watched settlements. Some 500,000 Kurds, about one-seventh of the Kurdish population in Iraq, has been displaced as a result of this policy.

During the last 2 years the Government of Iraq has announced its intention to institute reforms. Wartime travel restrictions have been relaxed, permitting large numbers of Iraqis to travel abroad for the first time in 8 years. Elections for the National Assembly and the Kurdistan Autonomy Council were held in April and September 1989 respectively. Independents were allowed to run, and some Ba'ath party members were defeated. However, all candidates were carefully screened for support for the government, and in any event neither body has any real legislative function as we would understand the term.

A new constitution has been drafted and was submitted to the president last January, according to a recent Iraqi press report. The draft has undergone the finishing touches by a panel of six members of the Iraqi leadership and it will soon be submitted to the National Assembly and to a popular referendum. It is, however, one thing to adopt a constitution, and another thing to respect it. The current Iraqi Constitution includes clauses on respect for human rights, a ban on torture, and the independence of the judiciary. None of these has had any apparent effect on practice.

If Iraq wishes to end international criticism of its human rights record, it must take steps that are real and not cosmetic. It must end the climate of fear imposed by its security apparatus and hold meaningful elections that are more than a mere charade. It must institute a truly independent judiciary and allow for a truly free press that does more than simply parrot the government line. Most important of all, it must treat its citizens with dignity and give them a chance to live secure in their own homes and persons, free

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from the omnipresent threat of government repression and violence.

Thank you.

[The prepared statement of Mr. Gilder follows:]

PREPARED STATEMENT OF JOSHUA A. GILDER

Human rights, as such, are not recognized in Iraq. As our report details, the ordinary Iraqi citizen knows no personal security against government violence. Disappearances, followed by secret executions, appear to be common. In some cases, a family only learns that one of its loved ones has been executed when the security services return the body and, in line with the Iraqi regime's view of justice, require the family to pay a fine.

The penalty for expressing opinions deemed objectionable by the regime is swift and brutal. We believe that over the past 10 years many thousands to tens of thousands—and I will speak to the inexactitude of our figures in a moment—have been arrested by the secret police on suspicion of opposition to the government. While the judicial system seems to function fairly well by regional standards for people accused of crimes with no political implications, there is not even the charade of due process for those charged with security-related offenses. I should add that security-related offenses are broadly defined to include such routine criminal matters as currency violations.

Torture is routine, for security offenses and ordinary crimes alike, and confessions extracted under torture are admissible in court. Treatment is reported to be the worst immediately following arrest and during the period of interrogation and investigation, which can last for months.

Compiling accurate information on human rights in Iraq is made extremely difficult by the highly secretive and repressive nature of the regime. Diplomatic travel is severely restricted, and most Iraqis are, quite understandably, fearful of speaking their minds to foreigners—or to anyone else for that matter.

The Iraqi regime is authoritarian in the extreme. There are some exceptions. The practice of religion is largely free. There has been some attempt to relax the worst aspects of the statist command economy. In general, however, the regime is ruthless in its efforts to maintain absolute control over the population.

Control is exercised in part through the Ba'ath Party apparatus. The party is a secretive one. While it has a large grass roots membership, decision-making is concentrated among the few at the-top. The lower ranks serve as informers on the political reliability of their neighbors. There are many other intelligence networks through which the government monitors the citizenry, as well as keeps a careful eye on the military and the Ba'ath Party itself. I have already described the punishment for stepping out of line, or being deemed unreliable by the government. Periodically, over the last 2 years, the regime announced that it had uncovered incipient coup plots within the military. Hundreds were arrested. We do not know how many were executed.

The Ba'ath Party is a Pan-Arabist party. As such, it has integrated Arabs of various religions and sects quite well, but has had trouble finding an ideological niche for Iraq's non-Arab citizens, most of whom are Kurds. The disaffection of elements of the Kurdish population did not begin with Ba'ath Party rule, but the current government's policy has resulted in enormous human rights abuses.

With respect to the Kurds, the Iraqi government has followed a policy of carrot and stick. It has sought to gain the support of as many Kurdish tribes as it can, using the carrot of ethnic cultural freedom. There is a Kurdish Autonomous Region with its own institutions, providing patronage for Kurdish tribes that support the regime. Kurdish language and culture are fostered, and education in Kurdish is available through the secondary level.

But the stick of Iraqi policy has been brutal. During the gulf War, in which Iran took advantage of the dissatisfaction among Kurdish tribes, the Iraqi Government began a campaign of destroying suspect villages, relocating the populations to closely-watched cities and new settlements. After the ceasefire with Iran, Iraq's campaign to dislodge rebels from the areas they controlled was accompanied by the shocking, indiscriminate use of chemical weapons—killing thousands of men, women, and children. After Iraqi troops regained these areas, destruction of villages and towns, and population transfers were speeded up, until finally some 500,000—about one-seventh of the entire Kurdish population of Iraq—were displaced. Although we understand Iraqi authorities are now allowing displaced villagers to com-

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mute to their lands to cultivate the fields and orchards, we remain extremely concerned about the overall effects of this massive displacement.

Let me stress that in detailing our concerns over the treatment of Iraqi Kurds we are not taking a position on the roots or aims of Kurdish rebellions, but rather on abuses of internationally recognized human rights. The U.S. Government supports the territorial integrity of the states in this region, and holds that Kurds should seek to fulfill their aspirations peacefully within this context.

During the last 2 years the Government of Iraq has announced its intention to institute reforms. Wartime travel restrictions have been relaxed, permitting large numbers of Iraqis to travel abroad for the first time in 8 years. Elections for the National Assembly and the Kurdistan Autonomy Council were held in April and September 1989, respectively. Independents were allowed to run, and some Ba'ath Party members were defeated. However, all candidates were carefully screened for support for the Government, and in any event neither body has any real power or legislative function as we would understand the terms.

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Most important of all, it must treat its citizens with dignity and give them the chance to live secure in their own homes and persons—free from the omnipresent threat of government repression and violence.

The CHAIRMAN. Thank you very much indeed. Our ranking minority member has joined us and may want to make his opening

Senator HELMS. Mr. Chairman, thank you very much, and I had a priority engagement this morning as did Senator Kassebaum. We were saying farewell to the young people who served the Senate as pages, and they are such remarkable young people Senator Kassebaum and I thought we ought to go and pay our respects to them. Since Demosthenes' time, we were hearing the younger generation was going to the dogs. It was not so then, and it is not so now, and these young pages prove it.

In any case, 10 years ago those nations of the Middle East who have exhibited hostility toward American interests did not have access to weapons of mass destruction or the means of their delivery, but as all of us know, many of them today, including Iraq, either have such weapons or are far advanced in their development.

The proliferation of weapons of mass destruction to unstable and potentially hostile parts of the world is truly the most significant new national security issue we face today, and if we are not mindful of that, we are not very smart, but none of these countries, especially Iraq, developed these weapons on their own. As former Department of Defense official Dr. Steven Bryan noted, and I quote him, "The American Government and its allies have permitted and have been accomplices in the development and stockpiling of the Middle East's major chemical warfare capability."

What he has said about chemical weapons is true, and we all know it is true. It is true for chemical weapons. It is true for the development of germ warfare, ballistic missiles, and potentially nuclear weapons. For example, Professor Milhollin will tell the com-

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mittee that the very sort of nuclear triggers halted in a sting operation last March have just been decontrolled at the COCOM meeting in Paris last week. Here again, if we do not recognize what is going on, then it is probable that we have overdosed on dumb pills. This raises the very real possibility that Iraq will be able to purchase these devices on the open market.

Now, how Iraq and the other countries of the region have acquired poison gas and similar weapons is a story of almost unbelievable greed on one side and bureaucratic bungling on the other. International press has identified at least 30 West German firms involved in this trade, as well as companies from Austria, Belgium, France, Italy, Japan, Spain, Sweden, Switzerland, the United Kingdom, and yes, even the United States of America.

Undoubtedly, Western governments could expand upon this list considerably, but let this be clearly understood: there has been no failure of intelligence. Very early on, we knew who was attempting to sell what to whom. The failure has been one of an unwillingness to put our own house in order and insist that our closest allies do the same. Maybe we will now wake up.

In any case, we now know that our own Centers for Disease Control in Atlanta use the regular mail service to send some of the world's deadliest viruses to Iraq, to Communist China, to Cuba, and the Soviet Union. No one seems to have any concern. Nobody bothered to even tell the centers that all of these countries are developing germ warfare weapons.

We repeatedly sent our allies polite requests asking that they control the dangerous exports of their firms. In diplomatic jargon, these protests are called "demarches" but these were so weak that they should be more aptly named "demarshmallow." Naturally, they were ignored, and naturally we, the United States, did nothing.

Mr. Chairman, I regret going on so long, but this subject bothers me, as I know it does you, and I thank you very much.

The CHAIRMAN. Thank you very much indeed. I will limit my statement to 10 minutes and we will be under the 10-minute rule, and I would like to start out by asking either Mr. Kelly or Mr. Gilder, in your view, does Iraq's conduct constitute "a consistent pattern of gross violations of internationally recognized human rights?"

Mr. GILDER. In our annual report and in my testimony here today, we have attempted to describe in detail the seriousness of human rights abuses in Iraq. They are abysmal. They are appalling. I feel that we have been objective and, as I said, detailed, and I believe accurate. We have pulled no punches in describing Iraq's just terrible record on human rights.

The violations get to the very core of the question of human rights, which is that people just have no security in their persons or homes against government violence, and that is very serious indeed. We in the State Department and the administration will continue to report accurately on this situation, and we will continue to tell it like it is. Those particular words are legal language. They are found in approximately eight different pieces of legislation that have established programs such as foreign assistance and foreign lending.

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We in our bureau in the Department are very sensitive to this legislation and the will of Congress. We pay very close attention to this legislation, and we are very careful never to do anything that would in any possible way contravene it. I want to assure you of that. We take this with utmost seriousness and follow it very closely.

We have never made this finding formally. This is in part, I think, an attempt to maintain in the conduct of foreign policy a certain degree of flexibility. We have in this extremely volatile region an extremely complex situation, and we in the Human Rights Bureau sometimes have to grudgingly admit that human rights is not the only issue. There is the issue of nuclear proliferation, chemical proliferation, regional politics, and the peace process. Human rights is one of the paramount issues, but not the only one. All these issues and concerns have to be balanced and taken into consideration in the formulation of policy, especially in a situation as difficult as this. This sometimes demands a certain degree of flexibility to be able to respond to events as they unfold.

The CHAIRMAN. I must press you a little bit on that, because I recognize these words have legal meaning, but either in your view it either does constitute a consistent pattern of gross violation of human rights, or it does not constitute it, or the Department declines to take a position. But which of those three positions is yours?

Mr. GILDER. The Department is not prepared to make a formal finding in that regard.

The CHAIRMAN. But you cannot affirm that Iraq's conduct has constituted such a consistent pattern?

Mr. GILDER. I can describe to you in detail the types and the character of the human rights abuses in Iraq.

The CHAIRMAN. That is not my question. My question is, does it or does it not constitute a consistent pattern of gross violation of internationally recognized human rights?

Mr. GILDER. All I can respond, Senator, is that the Department is not prepared to make a formal finding in that regard.

The CHAIRMAN. That is an unsatisfactory answer, but I realize you are merely the instrument that speaks for a larger entity than just you. Has the administration made a determination whether Iraq's conduct constitutes a consistent pattern of the gross violations? Obviously your answer is "No, it has not made that."

Mr. GILDER. We have not.

The CHAIRMAN. How can you then enforce the laws imposing sanctions on countries that do meet this standard?

Mr. GILDER. Excuse me, I am not quite sure what you mean.

The CHAIRMAN. How can the administration enforce the laws imposing sanctions on countries that meet this standard?

Mr. GILDER. Well, I will try to be responsive. As I said, we are very aware of the law and we follow it very closely. We are very careful never to take any action or to go forward with any lending programs, or any other kind of foreign assistance, that would in fact contravene that legislation. I can confidently say that we are not doing that.

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The CHAIRMAN. Have any countries in the last two decades engaged in "a consistent pattern of gross violations of internationally recognized human rights"?

Mr. GILDER. Unfortunately, almost anywhere you look in the world, there are countries engaged in terrible abuses of human rights. However, neither this administration nor any other administration since this legislation was passed—and that is several—three different administrations of both parties—none have made this determination formally.

The CHAIRMAN. Do you believe the Government of Iraq engaged in the torture and conceivably the execution of children?

Mr. GILDER. I have read that in the Amnesty International Report. We, in fact, refer to it in our own human rights report, because we think that it is a plausible accusation. That is the type of thing that could happen under the Iraqi regime. We have no independent evidence to corroborate it, but we have no reason to believe that it did not happen either.

The CHAIRMAN. I had the opportunity to be with a substantial group of Kurds, about several hundred, in Paris a few months ago and was rather impressed with them and horror stricken at their stories. What is your own estimate of the total number of Iraqi Kurds to die in chemical weapons attacks carried out by the Iraqis?

Mr. GILDER. We do not know, as the figures are very inexact, as I said, several, several thousand. There were not only the chemical weapons attacks when they moved against the Bhardzani Kurds, the ones who fled across the border into Turkey and Iran. It was not only chemical weapons attacks, but attacks with conventional weapons and slaughter of entire families. It was a brutal operation.

The CHAIRMAN. In that regard, without objection, I will have inserted for the record—obviously, it is too big to print—the record made of 3,839 villages and towns destroyed in Iraqi Kurdistan. Without objection that will be placed in the file of the committee. And also placed in the file the report of two members of our staff that we sent over to the Turkish/Iraq border and saw many examples of gassing there. And that also will be in the files of the committee. It has already been printed.

I think I would now turn to the ranking minority member.

Senator KASSEBAUM. I am going to yield to Senator Boschwitz, Mr. Chairman.

Senator BOSCHWITZ. I thank my colleague as I have other commitments this morning.

Mr. Secretary, I recognize that a missile with a chemical warhead can be pretty easily and quickly lofted and reignite the whole business of the Middle East. But Iraq is a country that only recently ended a long and very costly war. And at that time I read very often about the exhaustion of both sides, and there was much made of the fact that, even after many years, 7 or 8 years, there was a stalemate.

Now I read that Iraq has an air force larger than the size of Great Britain. And that Iraq may indeed be stepping out again. So, my question is realistically what are Iraq's capabilities? Is it exhausted? Or does it now have a populace that will support a war? Does it matter what the populace says? And is it a threat to the

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Middle East? Or is President Hussein just getting involved in a lot of bombast?

Mr. KELLY. Senator, you raise several questions, let me try to tackle them. First of all, Iraq's military capability, almost 2 years after the ceasefire in the war with Iran remains significant. Iraq still has an army in the neighborhood of 50 divisions; it has a very large air force as you pointed out. And it is certainly, I suppose, the strongest military power in that particular part of the Arab world.

In public statements by members of the Iraqi Government, by Saddam Hussein, they identify two potential enemies: Iran, which they fear might at some point reinaugurate the fighting; and in that regard, there is a cease-fire, but there is not a peace agreement or settlement between Iran and Iraq. And very obviously, Saddam Hussein has identified Israel as a potential enemy.

In the public statements by Saddam Hussein and other members of the Iraqi Government they have talked about deterring war, they have talked about retaliating against attacks against them. They have not publicly threatened on their own to initiate a war with countries in the region. But, clearly, Iraq's record is significant and worrisome in this regard.

Senator BOSCHWITZ. Well, they certainly have threatened the Israelis with chemical attacks and so forth.

Mr. KELLY. They certainly did, although, Saddam Hussein in subsequent comments when asked about that has said in each case that he specified an attack against Israel in retaliation for an Israeli strike against Iraq. And he has since qualified that as an attack by Israel with weapons of mass destruction, nuclear weapons or something along those lines. But, clearly, his bombast has—we have described it as outrageous and inflammatory and as heating up the region.

We have said that nobody should be trumpeting chemical weapons or threats to use them. And this administration has very firmly and publicly, the President himself has spoken to the issue, deplored and regretted this kind of rhetoric.

Senator BOSCHWITZ. So that the Iraqis have rebuilt their military? How big are their divisions?

Mr. KELLY. I am sorry?

Senator BOSCHWITZ. How big are their divisions? Are they small divisions? Large divisions? 9,000? 14,000?

Mr. KELLY. I think they are in the neighborhood of 10,000 to 12,000, but I could correct that for the record, if necessary.

Senator BOSCHWITZ. Do that, if you will. And so now they have restored their military vigor from the exhaustion following the Iranian war?

Mr. KELLY. Well, their military position is certainly very strong. How exhausted the populace is, or what kind of a taste the populace has to reengage in warfare is a different question.

Senator BOSCHWITZ. Let us turn to Mr. Arafat, who has not yet clearly indicated what he intends to do with respect to Mr. Abu Abbas, and that would certainly, at least from my vantage point, draw into question whether or not talks with the PLO should continue. I did not object to those talks beginning, and as a matter of fact, welcomed them. Can you give us an update on the status of that and how you feel that is going to move?

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Mr. KELLY. Senator, I can add little to what Secretary Baker has said on the public record before this committee 3 days ago, and before a committee in the other House 2 days ago. But the administration remains extremely concerned by the involvement of PLO elements in terrorism in the attack on the beaches of Tel Aviv.

The administration has set forth publicly and privately in communication to the PLO what steps the administration believes need to be taken: denunciation and steps to discipline members involved in that. And the administration is not yet at the point where it is going to make a decision on the continuation of the dialog. But the President and the Secretary take the matter very, very seriously and they are weighing the matter very carefully. And as Secretary Baker said, "We will not allow our pursuit of peace to undercut our commitment to fight terrorism."

And we believe that the PLO understands that. But an actual decision has not been made yet, Senator.

Senator BOSCHWITZ. Well, the Senator from Minnesota has not signed resolutions or letters or other things with respect to that. But I must tell you that I trust the administration will hang very tough with respect to the PLO. And that if they are going to be players they cannot play that way and still remain in contact, in my judgment, with the United States and be an active participant and try and solve the Middle East problems, not just exacerbate them.

Let me turn for a moment, I believe, that you went with Deputy National Security Advisor to India to deal with Kashmir, did you not?

Mr. KELLY. I did, Senator.

Senator BOSCHWITZ. And would you just give me an overview of that situation, and which way it is going? It seems to have reached a point of exactly what the solution can be is difficult to imagine. Neither Pakistanis, nor the Indians, nor the Kashmiris themselves are at such sore points. What are the possibilities of working our way through that situation? And what can we do?

Mr. KELLY. Senator, President Bush sent the Deputy National Security Advisor, Mr. Gates, and myself and Dr. Haass of the National Security Council Staff, to India and Pakistan to deliver a message from the President to the leadership of both countries and to discuss with the leadership of both countries the President's grave concern that the two countries were in a situation which could be heading toward a war, a war that we understand neither government to want, but a war that would be terrible and obviously have a very destructive impact on both nations and on our relations with each nation and on much of the rest of the world's relations with each nation.

The reason we have this concern was because of the continued conflict, internally, in Kashmir, a disputed territory between the two countries, because both countries were making deployments of military forces which were disturbing to the other. The United States did not want to attempt to become a mediator between the two nations, but wanted to express our concern and to discuss with each country ways in which miscalculation could be avoided and in which tensions might be reduced. We were received cordially and listened to fully in both capitals.

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Since that visit 3 or 4 weeks ago, there have been a couple of signs that tensions, at least, have the potentiality of being reduced. Both governments have talked publicly about withdrawal of military forces away from the border. Both countries have been in touch diplomatically about other confidencebuilding measures, which could lead to perhaps a less tense situation.

And we understand that there is the prospect now for direct talks between the two countries in the near future. We hope those talks will contribute to a reduction of tensions between the two.

The CHAIRMAN. Thank you very much.

Senator Moynihan, the chairman of the Oversight Subcommittee.

Senator MOYNIHAN. Mr. Chairman, I am sure we would all like first to welcome Secretary Gilder. I believe this is your first appearance before the committee.

Mr. GILDER. It is.

Senator MOYNIHAN. We are very happy to have to you here. Thank you for your very clear, if not always happy, statement.

I would like to say to Secretary Kelly that this subcommittee has received a briefing on the Kashmir situation, a closed briefing. And I think, our judgment certainly tracks with yours about what seemed to be building up, and it may be building down just a bit. Surely those two nations know how ruinous a war would be, and in particular, the Pakistani military has to understand that if they should take the initiative and make their way into Kashmir that the result would be an all-out war with India, and the Indian Army would have invested the Port of Karachi in 10 days' time; and there goes the navy, and there goes Pakistan. They will not survive another defeat of that kind.

And they ought to understand that there will be no new American tanks. A new set of American tanks will not replace the old set of American tanks. That has been their experience through the two previous wars. But the Cold War is over, and nations need to understand that. And the Indians need to understand that. The Soviets will be sympathetic, but it will end right there.

And, so, let us hope that some sanity is involved, not that the leaders of those countries can always control what happens in their populations, which I think we should understand.

I have two other questions. And one is a question that we keep addressing to administration officials, not this particular administration, but a succession of them, with respect to just what does it mean to establish a norm in international law? What follows? Now, I think it is clear that in the recent war, which Iraq started over the Sha'at-Al-Arab, there was widespread use of poison gas. The first time it happened since the 1914 War, the First World War. That was the great event of the Second World War that neither side used gas. And that gave us the image of the two scorpions in the bottle that might control the use of nuclear weapons.

After the First World War, we adopted in Geneva the Geneva Protocol for the prohibition of the use in war of asphyxiating, poisonous, or other gases. Now, Iraq was a party to that protocol, and they violated it, the clearest possible violation of a rule, of a treaty, not some supposed emerging standard, but a written document. What do you do?

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You wish they had not done it. Does it mean anything to violate the treaty? Does it mean anything to violate an international convention on something as serious as gas warfare? Can the United States do anything?

Mr. KELLY. Senator, in the autumn of 1988 following the outrageous uses of these noxious gases——

Senator MOYNIHAN. Instead of saying "outrageous" why do you not say "illegal"?

Mr. KELLY. Following the use of these gases in contravention of the 1925 Geneva Protocol——

Senator MOYNIHAN. That is pretty close for the Department of State. [Laughter]

Mr. KELLY. I should hasten to add, I am not an international lawyer, but nevertheless——

Senator MOYNIHAN. International law is not something for which you take a bar exam.

Mr. KELLY. Well, I am not any kind of a lawyer, I guess I should say.

Senator MOYNIHAN. But you are a diplomat, and you are involved with the standards of international conduct which this convention—please do not recuse yourself, or excuse yourself. You are the Assistant Secretary of State. The Geneva protocol was violated. It was signed with the utmost concern of mankind at the time that this never happen again. It happened. It finally happened. What have we done?

Mr. KELLY. There was indeed a vigorous debate, as you well remember, Senator—I think you took a leading part in it—in the autumn of 1988. The administration then in office condemned the usage, but resisted the imposition of sanctions. My recollection—and I was not present in the city of Washington then—was that the administration took the position that it wanted to attempt to influence Iraq never to repeat the use of chemical weapons.

Senator MOYNIHAN. But not to punish. If we could go back to 1925 and remember the horrors of the First World War—the horror. A shock to mankind, and nothing was more shocking than poison gas, and we solemnly undertook never to use it again, with the absolute presumption that the first nation that did would be punished, would wish it had not, that the international community would punish it.

That is what law means. When you bring these treaties to us and you ask us to take them seriously, well, there was never a more serious treaty agreed to in the world. I think I can say that honestly.

Mr. Chairman, I think that the Geneva protocol on poison gas was probably the most solemn undertaking the world has ever made. It was an absolutely hideous assault on humanity, and never again would it happen—and never did it happen. Through the brutalities of the Second World War it never happened, and then it does happen.

What do we do? We say, we certainly cannot withhold agricultural credits. Oh, dear. The Iowa primary. I mean, did we not go to all the other—there are about 80 other nations that have signed that protocol, or—are there probably more? Probably 120.

Mr. KELLY. I suspect more, yes.

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Senator MOYNIHAN. Did we not convene them in New York in absolute outrage that an elemental standard of human behavior that the international community said will never be violated had been violated and there must be consequences? If not consequences to this, sir, then what brings consequences?

Mr. KELLY. An international conference was called in response to that use, sir, in Paris in January 1989, to discuss ways to reinforce the treaty, and to try to deter——

Senator MOYNIHAN. But nothing happened, and it is the same thing as Senator Boschwitz was asking about the PLO. These were conventions, and again it is the fact that poison gas was used first by German forces in 1914, and then outlawed, and in 1949 the Geneva convention, we tried to make law—make illegal under international law—practices of Nazi Germany that the Nuremberg trials had dealt with, and the Geneva convention relative to the protection of civilian persons in time of war, which specifically forbids violence to life and person and particularly murder of all kinds, even in the case of armed conflict not of an international character.

Now, clearly the raid on Israel from Abu Abbas, from the PLO, violated that 1949 Geneva Convention. We do not protest particularly. We deplore, but we do not feel as if there is a standard which has been violated for which, people having made commitments, there must be sanctions.

I mean, the whole idea of law is being frittered away. Law becomes an assertion of what nice people do, but if they do not, well, what are you going to do about that? That takes a magisterial concept that there will be standards and they will be enforced and reduces it to a form of wishful thinking.

I do not mean in any way to be difficult with you, Mr. Secretary. It is just to say that, what does it mean if we are not going to insist that the Geneva convention be enforced on poison gas? Where will we take a stand?

Mr. KELLY. May I respond?

Senator MOYNIHAN. Please, sir.

Mr. KELLY. You put your finger on one of the semipermanent dilemmas of how you deal with countries that commit outlaw acts. The debate which comes up year after year after year is whether one responds to that effectively by imposing sanctions, economic or what have been discussed about Iraq, and whether that is efficacious.

Now, this administration and the preceding one have both taken the position that they do not want to use agricultural exports as a foreign policy weapon. They have not wanted to cut off the sale of agricultural commodities to Iraq, feeling that this is of benefit to the American farmer and that a country like Iraq can easily obtain those agricultural supplies—that rice, that lumber, that tobacco, those other products that are sold—easily elsewhere on the world market.

Sanctions, to be effective, I think require multinationality. In other words, application by the international community. We have, Senator, I think, virtually zero expectation that any other nations would join us in the imposition of sanctions against Iraq, and therefore it would be the American farmer and the American exporter

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who would in effect be punished. The Iraqis would be able to purchase the same kinds of goods and products elsewhere on the world market, so there is that intrinsic problem.

It came up with South Africa. Do you engage with South Africa, or do you cut off contacts? Do you sanction them? When the Soviets shot down the Korean airliner in 1983, there was a debate then. Do you cut off contacts with the Soviets? How do you alter this kind of outrageous behavior?

One school is: sanctions. Walk away from them. Cut off contacts. The other school is: you attempt to remain engaged, to persuade, to argue, to dissuade, to bring moral pressure to bear. Obviously these are incomplete solutions, Senator.

Senator MOYNIHAN. My time is up. Thank you, Mr. Secretary.

The CHAIRMAN. Thank you very much indeed, Senator Moynihan.

Senator Helms.

Senator HELMS. Senator Moynihan, amen.

Let us get down to the nitty-gritty. Greg Stanko of the committee staff is posting a satellite photograph.

Mr. Kelly, you see a satellite photograph of what has been alleged to be a germ warfare facility at Salman Pat, which is, as you know, an ultramodern facility south of Baghdad. Now, the photo of this plant was revealed by NBC News on April 11 of this year. My questions—and I have three of them on this—does the U.S. Government believe that biological warfare research is going on at that facility?

Mr. KELLY. At that particular facility? I think that answer will have to be provided on a classified basis, Senator.

Senator HELMS. Well, why?

Mr. KELLY. Because it derives from intelligence sources and methods.

Senator HELMS. Bullfeathers. The Iraqis know they have got it. They also know whether we have got it or not. It was on NBC News. You know, something that pains me around this city is that there is so much stuff that the American people have a right to know, is slapped under a classification.

But let me ask you another one and see if the answer is going to be the same. Does the United States Government believe that Iraq is conducting research on anthrax, typhoid, and cholera?

Mr. KELLY. Senator, the answer is going to have to be the same. We will be happy to supply that answer on a classified basis.

Senator HELMS. Which means that we can learn it, but we cannot let the American people know. Is that correct?

Mr. KELLY. There are good and sufficient reasons to protect sources and methods that have existed for many decades, Senator.

Senator HELMS. Well, my third question, which will elicit the same answer, I am sure, is which non-Iraqi firms provided plant and equipment to that facility?

Mr. KELLY. I do not know the answer to that question, but we will try to provide it for the record.

[The information referred to follows:]

Question. Is the West Nile fever virus being investigated at Fort Detrick, MD?

Answer. This question should be directed to the U.S. Army Medical Research and Development Command at Fort Detrick, MD.

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Senator HELMS. Mr. Chairman, let us at least get this information on a classified basis for this committee.

The CHAIRMAN. If you would make that information available to us, we would be grateful. Thank you.

Mr. KELLY. By all means, Senator.

Senator HELMS. Now then, NBC also on April 11 reported, as did the U.S. News and World Report on June 4, 1990—they were a little bit behind NBC—both of these have reported that the Centers for Disease Control sent West Nile fever to Iraq and other dangerous viruses to Cuba, to Communist China, and to the Soviet Union.

Now, my question is, is West Nile fever being investigated at our biological warfare facility at Fort Detrick, MD?

Mr. KELLY. I do not know the answer to that, Senator. I would be happy to provide it for the record.

Senator HELMS. Well, let us speculate a little bit. Do you have any idea how these viruses could have been allowed to be exported, if they were exported?

Mr. KELLY. Senator, I knew that West Nile fever virus had been shipped to Iraq in 1985. The Center for Disease Control has acknowledged publicly that it shipped that. I was not aware of these other shipments. I asked, like most other citizens, when I first heard of this several months ago, you know, how does something like that happen? I was told, "Well, there were no controls in place, but now there are." I was not aware, until you mentioned them, of these other shipments.

Senator HELMS. Well, I certainly hope that you can include in your answer to the question—and I am not being hostile toward you——

Mr. KELLY. I understand, Senator.

Senator HELMS. I just want to know, just as Senator Moynihan, why these things happen, and obviously from some of the comments you have made on your own, you have the same questions going in your mind.

Mr. KELLY. Can I make a sort of general answer to that, Senator?

Senator HELMS. Absolutely.

Mr. KELLY. I think that there has been a growing public and governmental awareness, but only in recent years, regrettably, that there has been a tremendous traffic in equipment and systems that can contribute to these weapons of mass destruction.

There is now an international regime to try to limit the shipments of any missile parts or components. That was not adopted until 1987. That means that in 1984 or 1983, or whenever, people—governments—were selling things like that. There is an international regime now against the sale of equipment or items that can contribute to nuclear weapons production. That did not exist in the early 1970's. It was only negotiated and adopted in the late 1970's.

So, I think that in the period since World War II, it is only in the very recent past that countries and governments—and they are imperfect even today—have recognized the need to try to control things, whether they are biological viruses or whether they are parts for nuclear weapons or chemicals or so on. But as people have said, you know, "The horses are out of the barn in some of these cases. They have already gone." So, I think that is one of the reasons why there has been that kind of development.

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Senator HELMS. Mr. Chairman, we had a little bill pass the Senate twice, did we not?

The CHAIRMAN. Correct. It was opposed by the administration and also by some of our friends in the House.

Senator HELMS. Well, my time is almost gone, and I want to get into another line of questioning, and so I am going to yield my time.

The CHAIRMAN. Before yielding it, it would seem to me that the witnesses could at least give their impressions as to whether the statements were correct or not in your first questions.

Senator HELMS. Well, I guess they would say that is classified.

The CHAIRMAN. Would your opinion be classified? That has nothing to do with sources.

Senator HELMS. Now, please do not feel compelled to give a quick answer. I mean, it is a serious question.

Mr. KELLY. I think prudence dictates that we are going to have to supply that answer on a classified basis to the committee, sir.

[The information referred to follows:]

Question. Why do things like the CDC's shipping West Nile fever virus to Iraq and other such countries occur?

Answer. Until recently, there were no controls on the export of microorganisms from the United States to medical or research institutions overseas. Controls were established last year and the CDC itself tells us that Iraq has been placed on a proscribed destination list for such microorganisms.

Senator HELMS. Mr. Chairman, maybe you will let me have a little extra time in my next round by surrendering the rest of my time at this time, but before I do I ask unanimous consent that today's hearing be printed. I at least want Senators to have the benefit of the answers.

The CHAIRMAN. Without objection.

Senator HELMS. I also ask unanimous consent that the record be kept open until the witnesses can answer some questions that I intend to put to them in writing.

The CHAIRMAN. Without objection.

[The information referred to follows:]

RESPONSES OF MR. MILHOLLIN TO QUESTIONS ASKED BY SENATOR HELMS

Question. In your prepared testimony you say that our exports to Iraq are secret. Could you elaborate?

Answer. Over the past few years the United States has sold Iraq high-speed oscilloscopes and powerful computers that are undoubtedly being used to develop long-range missiles. As Iraq's nuclear program progresses, the equipment will also be used to help develop nuclear weapons. These exports were only possible because the Commerce Department, which approved the exports, refuses to open its records to public scrutiny.

The Commerce Department argues that all records of its export licensing decisions must be confidential in order to protect business information obtained from U.S. exporters. This position prevents Congress and the public from learning about exports that could threaten U.S. and world security. I am convinced that if Congress or the public had known about the applications that were approved for Iraq, Commerce would have not have dared to approve them. Under the current system, only the exporters have the ear of the licensing authorities. This results in special pleading, and in licenses which sacrifice national security to short-term commercial interest.

Congress should request from the Commerce Department a list of all exports of nuclear- and missile-related items sent to Iraq over the past five years, together with a list of all pending applications for such items to Iraq. The names of the exporter could be deleted in order to protect any commercial interest. After inspecting

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these lists, Congress would see that the export licensing process should be opened to public scrutiny.

Question. Do you think that our policy towards Iraq's nuclear smuggling effort has been sufficiently vigorous?

Answer. Our response has been too timid. Iraq has established a world-wide network of well-financed agents who are trying to buy the means to make nuclear weapons and long-range missiles. To stop this effort, Iraq must be made to bear some cost for violating other countries' export laws. The only cost so far has been the arrest of the small fry who get caught. That is not sufficient to deter further efforts.

If the United States is serious about stopping Iraq's agents, Iraq itself must bear a cost when the agents get caught. The United States must be willing to consider sanctions. At a minimum, I recommend halting all U.S. exports to Iraq of high-technology items that could be used to develop nuclear weapons or long-range missiles. Congress should ask the Commerce and Energy Departments to suspend approval of such licenses until further notice.

Senator HELMS. I thank the Chair. I yield back the balance of my time.

The CHAIRMAN. Senator Kassebaum.

Senator KASSEBAUM. Thank you, Mr. Chairman.

Mr. Gilder, I would like to go back to an answer, first, that you gave the chairman, and see if I understood it correctly. I believe that the chairman asked you if the Amnesty International report regarding Iraq's purported execution of children was correct, and you said "You believed that from references that you had that in general those allegations were correct." Is that correct?

Mr. GILDER. I think it is very possible. We know that the regime, for instance, when it moved against the Kurds slaughtered whole families at a time. So, they are perfectly capable of this type of activity.

There are no legal safeguards, no safeguards of any kind, against it happening. So, we have absolutely no reason to dispute that this has happened. That is why we referred to the Amnesty report in our own country report.

Senator KASSEBAUM. And that we cannot really do anything about it because we have never done anything about anything like this before. Is that right?

Mr. GILDER. Well, I think within the usual diplomatic channels we do everything we can possibly do about it. We do not have the friendliest relations with the Iraqis, but whenever we—the Human Rights Bureau, the Department, or our Ambassador to Iraq—talk to them, human rights is at the top of the agenda.

We raise these issues forcefully, and we bring them up in international forums. We were one of the leaders at the U.N. Human Rights Commission this year, in trying to get a resolution against Iraq.

We have spoken out forcefully about it.

Senator KASSEBAUM. Well, I do not mean to be critical of you. And I know through diplomatic channels—which is the process of the State Department—you are doing perhaps all that you can do. But I just want to say it just makes me weep to think that we are not doing more to call this to the world's attention, that we are sort of standing by and just saying "Well, we are trying through diplomatic channels."

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Now, Assistant Secretary Kelly I think made a good point. Our actions frequently become limited. Do sanctions work if all of our major trading partners are not engaged in it?

But just because sometimes it might not work does not mean, I think, that we should not be more vigorous and vigilant in standing up to say what we believe is wrong and a tragedy.

Mr. GILDER. Secretary Kelly has spoken to the sanctions issue, but we do make our feelings well known publicly.

Senator KASSEBAUM. Well, it has not done much good. So, maybe we ought to try some other channel.

Mr. GILDER. The report that we publish every year does not have a magic effect. It does not change events overnight. But nations around the world are extremely sensitive to what we write in that report.

The Iraqis have been extremely sensitive to what we have been writing about in that report. They read it, and it makes an impression. Unfortunately, it often does not change behavior overnight, and sometimes never. But my feeling is it does have a real effect. It is noticed. And it is one of our most effective tools.

Senator KASSEBAUM. Well, let me ask about some specifics, then, that perhaps we should consider, not just in the light of what can be done to assist with the children and the families in Iraq but through other sources that we have.

One is, Secretary Kelly, your comment in your opening statement that the smuggling and continued smuggling of systems—parts of systems by Iraq—is something that is causing licensing authorities and customs officials around the world to be doubly cautious.

Well, I just find that beyond, again, understanding, because if we are concerned—and certainly Iraq is not the only one that is engaged in chemical proliferation of chemical or nuclear equipment and means, but it is Iraq we are talking about at this moment.

It is my understanding, even with the months of knowing what is going on, we have done nothing to tighten controls. We have not—we have to declare Iraq a country of concern, is that correct—before we would place export controls. And we have not done that.

Mr. KELLY. Senator, that particular formulation—I am looking, I have got a text that relates—that particular formulation "country of concern" does not have any particular significance in law or statute. It has no special meaning under U.S. export control laws and regulations pertaining to the exports of weapons. And we do have tremendously serious concerns. We share yours and we do have controls in place, and they are working.

For instance, we, and the British cooperated and were able to intercept, prevent and arrest the individuals who were attempting to smuggle out those capacitors. We do have this international regime on missile parts, the missile control regime. We do have the International Nuclear Suppliers Agreement on this. We have 50 chemicals which cannot be sold to Iraq from here in the United States and which the other industrialized nations have agreed they will not sell to Iraq or to other countries that are pursuing these things.

So, there are controls in place. And we are tremendously concerned about it. All questionable sales to Iraq are reviewed by the

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Commerce Department and the State Department with a view toward will this contribute in any way to weapons of mass destruction or to any of these programs which we find so worrisome. And so there is a program in place, Senator.

Senator KASSEBAUM. Well, it does not seem to have proved terribly effective. Maybe it is becoming more so, and I certainly hope that is the case. But we have about $700 million of assistance to Iraq, largely, of course—because aid does not go to Iraq—in the forms of loans and guarantees.

What would be the effect of cutting off that assistance?

Mr. KELLY. That is comprised of two chunks: $500 million in credit guarantees from the Department of Agriculture, which finances the sales of agricultural commodities to Iraq, and $200 million in credit guarantees—in other words, insurance for a lender that if he loans some money to finance a sale to Iraq, whether it be of grains or of sewing machines, that if the loan is defaulted upon, that sale is insured.

What would be the impact if we cut them off, Senator? The impact on Iraq would be minimal. They could go elsewhere on the world market and buy the same kind of items. The impact on the American producer or exporter would be there. And that is the frustrating thing.

Without multinational—without international agreement, unilaterally imposed United States sanctions would have little impact or influence on Iraq.

Senator KASSEBAUM. And I have tended always to agree with that. But on the other hand, there comes a point where I think some type of sanctions are absolutely necessary to send a message.

Kansas is a major wheat exporting State. I have never believed we should use food as a weapon. On the other hand, when it reaches the point, as it has with our relationship with Iraq, I think we have to be prepared, just as we have with Nicaragua or as we did with South Africa, to be willing to take some sort of action that becomes a clear message that we will not tolerate that kind of behavior which, as Senator Moynihan pointed out, is violation of international standards, law.

And it would hurt wheat sales in Kansas, that is very true. And I knew that when I asked the question. But sometimes, as I say, I think we have to be prepared to stand up and be counted.

Thank you.

The CHAIRMAN. Thank you, very much. We have two guests with us today. I think Senator Specter wanted to make a statement to the whole committee, and it might be appropriate for you to make your statement. If there are any particular questions either of you want to ask before the witnesses are dismissed, fine. But we will be glad to hear from Senator Specter if he wants to make his statement.

Senator SPECTER. Thank you very much, Mr. Chairman. I do have a statement, and I have a great many questions but I am not going to ask any of them today.

The CHAIRMAN. I am sorry, you said you would insert your statement in the record?

Senator SPECTER. No, I would like to make my statement. I am listed as a witness before the committee, and I would like to do

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that. I would be glad to make it from this spot or at the witness table.

The CHAIRMAN. Well, why do you not make it there, and then Senator D'Amato, I think, has some questions he would like to ask. He will follow you. Go ahead.

Senator SPECTER. I thank you very much, Mr. Chairman.

The CHAIRMAN. And we would be glad to put any portion of it in the record, if you wish.

Senator SPECTER. I very much appreciate the opportunity to testify before this very distinguished committee and I thank you, Mr. Chairman, for scheduling this important hearing.

The testimony has touched on a great many matters of tremendous importance. I start with the proposition that the United States should maintain an active role in the Mideast peace process.

From that generalization, there are many specifications. I strongly disagree with what Secretary of State Baker said earlier this week when he said to the Israelis that when they are interested in peace, they should call the telephone number he provided.

I believe that Israel is within its rights in refusing to deal with the PLO and in establishing stringent conditions on the peace talks with the Palestinians. I do believe that Palestinian representation can be obtained and that peace talks can go forward without dealing with the PLO.

The record has been plain, in my judgment, since December 1988 that the PLO continues to engage in terrorism. I think the record was plain on that before the failed attack by Abu Abbas within the past 3 weeks.

The situation with Abu Abbas is a very serious one, and I think it underscores the failure of the United States to deal effectively with terrorism. We moved against Abu Abbas after he was the principal party in the hijacking of the *Achille Lauro,* which resulted in the death of Mr. Leon Klinghoffer and we proceeded to try to bring him to custody in the United States.

A Navy plane forced down the Egyptian airliner in Italy in 1985, and regrettably the Italian authorities let Abu Abbas go. They later convicted him in absentia in a meaningless proceeding and gave him 30 years in jail which did not amount to anything at all.

I believe that we have the means at our disposal under U.S. laws, which we passed in 1984 and in 1986, making it a violation of our laws to kidnap or hijack or assault or maim or murder U.S. citizens anywhere in the world.

We have not done that job, and we have outstanding indictments against many terrorists. We simply have not done what we should in bringing them to justice.

When Israel refuses to deal with the PLO, I believe that is an understandable position. And there are many in the international community, including Italy's former Prime Minister Craxi and Yugoslavia's former President Moisov, who have let Abu Abbas slip through their fingers and really through our fingers as well.

I had intended to comment about the violations of international law and the use of poison gas, but Senator Moynihan has said it very eloquently and there needs to be no supplement there.

I believe that we are facing very tough times, very difficult times, really unparalleled in the Mideast at this moment with

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what is happening there. And it has been my thought for some time that Iraq and Syria are central to an ultimate solution in the Mideast.

I believe that if we could find a way to bring Iraq and Israel to the bargaining table and also Syria and Israel to the bargaining table, as Egypt and Israel solved the peace process with the Camp David Accords, I think, if it could be done as well with Syria and Iraq, that we could establish security in the region. Then the issues in the administered territories and the issues with the Intifada, although difficult, would all fall into place.

Although I believe it is a tough matter to deal with Iraq and Syria, I think we have to try. And that comes under my generalized category about U.S. maintaining an active role in the Mideast peace process.

I believe that there have been some openings which have occurred in the course of the past several years. Here I will refer very briefly to Syria, because I think Syria is analogous to Iraq.

I have visited Syria on a number of occasions, and in 1984 found Syria very hostile to a visiting United States Senator. But in 1988 I found a significant change in attitude after President Assad got a cold shoulder from Mr. Gorbachev in Moscow in the spring of 1987.

And I have had occasion to talk extensively with President Assad, and there have been significant changes in Syria's position.

For example, Syria had maintained the position that it would attend an international conference on Mideast peace only if convened by the five permanent members of the U.N. Security Council. That has been unacceptable to Israel, because it is a 4-to-1 balance against Israel. But within the course of the past several months, President Assad has said he would attend an international conference convened only by the United States and the Soviet Union, which is a big change.

I believe that that ought to be pursued. And I think that there may well be some Israeli interest there and some interest in our State Department in pursuing that.

A number of Senators have had an opportunity to visit in Baghdad in the course of the past several months. And I think that there may well be an opportunity to try to effect some similar alteration in the policies in Iraq. I emphasize the word "may" because I do not know for sure, but I think it is worth pursuing. Even to suggest that raises a lot of eyebrows because of the Iraqi record and the record of President Saddam Hussein.

I have made two trips to Iraq. In January 1989 I was unable to see President Saddam Hussein but talked to a number of other officials in Iraq and saw a mixed review—some very, very hostile to anything in regard to the peace process, and other younger diplomats affirming U.N. Resolutions 242 and 338.

Last January, Senator Richard Shelby and I visited Iraq and had a long meeting, 1 hour and 20 minutes, with President Hussein and found it very useful.

President Saddam Hussein is misinformed on many basic U.S. policies. He asked why the United States excluded all of the Soviet Jews in order to compel the Soviet Jews to go to Israel, and we corrected him on the facts that we do allow 50,000 Soviet Jews here

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and we exclude everybody, not just Soviet Jews, in terms of numbers.

Senator MOYNIHAN. How about Brighton Beach?

Senator SPECTER. If you will join me in the invitation, Senator Moynihan, I will invite him to Brighton Beach.

I will not go into the details as to President Saddam Hussein's misinformation. I will conclude in just a moment or two, Mr. Chairman.

There was a large delegation led by Senator Dole, including Senator Metzenbaum, Senator Simpson, Senator McClure, and Senator Murkowski which visited Iraq. And our meetings in Iraq have been followed by discussions with Iraq's Ambassador Al Mashat here.

I believe that there is an opportunity—or may be an opportunity—to pursue discussions with Iraq and think that it is not the right time to impose sanctions. But it may be the right time to impose sanctions at some point in the reasonably near future, depending on what events occur.

Not to impose sanctions, however, is not to say we should make gifts to Iraq. I strenuously disagree with the advance of $500 million in credit guarantees. I do not think that is the sensible course. And I had discussed this with Secretary Yeutter of Agriculture. And the second $500 million are on hold for a variety of reasons.

So that I think that, while the imposition of sanctions at this moment is unwise, that we ought not to be making gifts. It is a very complex subject, Mr. Chairman, and those are just a few of my thoughts on the matter. But I counsel a very active pursuit by the State Department, and I have discussed this with Secretary Kelly. And we have some plans as to what we would like to accomplish. Perhaps, an effort to get a specific positive statement from Iraq and President Saddam Hussein in regard to the peace process.

I think there are opportunities. And the Iraqi Ambassador Al Mashat thinks that that is a possibility. So that the stakes are very high; it is a perilous course. We have to proceed very carefully. We ought not to be making any gifts, but we ought to be very, very active in focusing U.S. attention on the Mideast peace process, because the possibilities are fraught with extreme peril on what is going on there now, and we ought to act with dispatch.

Thank you very much, Mr. Chairman.

The CHAIRMAN. Thank you very much.

I would point out that we still have more questions on the part of the Senators here, and then we have a public panel following.

I think Senator D'Amato, one of our guests, has a couple of questions, and then Senator Helms, I know, does, and Senator Moynihan does, and then I would hope we could move to the public panel.

Senator D'AMATO. Thank you, Mr. Chairman.

Secretary Kelly, on page 10 of your testimony, and I quote, you say: "We believe Iraq has clearly received the important message of United States Government concern from both the administration and Congress over its recent actions." That implies, it seems to me, or are you attempting to imply that somehow their behavior is changing and would lead us to believe that there is hope that they are going to stop the kinds of practices that we have all talked about? In other words, their treatment of their own population, the

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Kurds, the use of chemical weapons, the threat of the use of weapons, et cetera, what leads you to believe this?

What outward manifestation have we seen in a positive sense that gives substance to this conclusion?

Mr. KELLY. Senator, that was not the interpretation of the statement. What I meant to say, is what it says, that they have received the message, I think, from public statements, from the debates, the colloquies in the Senate, and from the visits by Senator Dole and other Senators. I do not contend that they have altered their behavior.

Senator D'AMATO. Well, then, in light of that, I find it incredible and unacceptable for the United States to be engaged in a policy that says that commerce is more important than saying publicly that we are not going to have anything to do with a man who by all reasonable standards should be tried as a war criminal.

I think Senator Kassebaum said it best, that even it relates to some special interest that might be enhanced economically in our own country, that we have got some principles we have to stand up for, and that is freedom and justice and human rights.

Now, if there is anything to mitigate against some of the—my colleague, the distinguished Senator from North Carolina, comes forward with an Iraqi germ war plan. And we hide behind the muffle of security and say, "Well, you know, we cannot compromise sources." He is not asking to compromise a source. And I ask, Senator, and with your indulgence that your staff would put that picture up there, because it says more than you could talk about in a thousand words.

This is absolutely unconscionable. And I—you know, I very seldom disagree with my good friend and distinguished colleague from Pennsylvania, Senator Specter. We have, if you look at our voting records, an 83-percent similarity, the greatest similarity in the Senate. But, I have to tell you, "the fellah is a mad dog." He threatens destruction of people, and he is not just talking about it, he is doing it. This is the same son-of-a-gun, who in 1982, was building an atomic facility, and we half of the civilized world was aghast when Israel sent in the jets and knocked it out. We should say "Thank you; they did the right thing." Because he then shows you in subsequent wars that he will use the weapons of mass destruction, that those of us are so horrified over and are attempting to control.

What about the building of the supercannon? I see you have "alleged" in your statement. Does that not bother you? I mean, do you really think it was an alleged supercannon?

Mr. KELLY. A "big gun" I called it.

Senator D'AMATO. A big gun. An alleged—an alleged big gun. I mean, do you think—do you really think he was trying to build this for a pipeline?

Mr. KELLY. No, I do not, Senator.

Senator D'AMATO. It was a gun.

Mr. KELLY. And I would not want to stand within 2 miles of it when they fired it.

Senator D'AMATO. Well, the point is—all right, I understand this business, when you say, you know, you cannot impose sanctions, the United States cannot be the policeman for all the world and

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disadvantage itself, others and people—take place. But, you know, I would like to know something, what if anything, have we done, the United States, to ascertain how many, if any, of our allies and partners would join in with us as it relates to undertaking certain sanctions, economically and otherwise, with Iraq? Have we reached out to any?

Mr. KELLY. Senator, we have discussed this.

Senator D'AMATO. Among ourselves.

Mr. KELLY. No, with a number of our allies.

Senator D'AMATO. The Canadians? Did you talk to them about grain? That if we, wheat and agricultural products, if we were to take a certain action, whether or not they would comply with us? Have we really done that?

Mr. KELLY. I am not certain if we have talked to the Canadians. I know we have talked to the Europeans.

Senator D'AMATO. They do not—come on, now what about the Australians? We are talking about certain commodities, et cetera, that do not come out of that European market, and you are talking about the Europeans, my God, my own Italianos, they turned over Abu Abbas. It shows how much spine they have.

I mean, have we really—we have not even undertaken the kind of counsel with some of the people who do business with them. Why do we have to buy their oil? What would happen if we did not buy their oil? Did we ever do an analysis if we did not take 447,000 barrels of Iraqi oil? The market is a glut with it.

Are we afraid that the oil energy prices would go down a little bit? Maybe we would buy it on the open market. Would that constitute a problem? You tell it, your statement is replete with trade in here, trade, trade. I did not know that that was the compelling factor.

You are really saying in this statement, Mr. Secretary, and I do not wish to take you to task, because I think this is the administration's policy here that trade is more important than the basic issues that we are talking about, whether it is nuclear proliferation, chemical weapons, the use of these weapons, the deprivation of human rights, the threatening of war, a mindless kind of war, and then we say, "Well, maybe we are making some progress."

Would you care to respond?

Mr. KELLY. Yes, I would, Senator.

Clearly, we are not saying that trade is the be-all and end-all.

Senator D'AMATO. You know what, I have to tell you, and I beg your indulgence for this, if you read this statement carefully, that is almost—that is the underlying theme. That all that has gone on, all that Senator Moynihan has indicated, that Senator Helms has indicated, Senator Kassebaum is being papered over as it relates to, you know, energy is important, 70 percent comes out of there. Iraq is a big player, whether for better or for worse, and in consequence, we are doing nothing.

This is like the spoiled kid. You just let them continue, because he is in the family, and you do not know what to do. Do you think he is going to get any better? Why should they change their policies, if they have been able to get away with the kinds of things that the documents through this committee and others have demonstrated? Killing people, using weapons, breaking international

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law, and it is the breaking of international law, thumbing their nose at people, why should they change?

Mr. KELLY. Senator, the purpose of describing those trade relationships was to try to demonstrate that if we are going to bring influence and pressure to bear on Iraq, I would argue that it ought to be effective. And my point is that, absent any international cooperation, that we are going to have minimal, if any noticeable effect, on Iraq.

Senator D'AMATO. Then let me make a statement. I do not think we have done a darn thing to really galvanize that kind of international cooperation, and I have not heard of any. And if you knew of any, you would tell me.

Mr. KELLY. Senator, I told you already, we have taken it up with the Europeans.

Senator D'AMATO. What did you take up with them, specifically?

Mr. KELLY. I have myself talked to some of the Europeans and said "Would you gentlemen be interested in putting some international pressure on Iraq? And the answer is: No, you know, we have our exporters to be concerned about and so on and so forth."

Senator D'AMATO. Mr. Chairman, I thank you for your indulgence, and for the time, and for permitting this Senator the opportunity of participating in these.

I find, Mr. Secretary, that as it relates to attempting to use our clout the way we can and whether we should and even if we have to go it alone, and then when some of our allies and others need some help with us, which they do regularly, to get them to join. Sometimes you have to be the first, and you just cannot wait to bring everybody into line, and I do not think we should permit this situation to continue.

Are we the leaders of the free world or are we not? Do we stand up when it is right and it is proper or do we not? And we are certainly, as it relates to our relations with Iraq, they are terrible, they are poor, there should be economic sanctions. And at the very least, we certainly should not be providing the kind of credit guarantees that we have in the past.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you, Senator D'Amato, for being with us. I would also without objection like to have inserted in the record a brief history of the fate of the bill that Senator Helms and I inserted in the last Congress called Prevention of Genocide Act of 1988.

[The information referred to follows:]

A LEGISLATIVE HISTORY OF THE "PREVENTION OF GENOCIDE ACT OF 1988"

On September 8, 1988, Senator Pell introduced the "Prevention of Genocide Act of 1988" which imposed comprehensive sanctions against Iraq, including a near total trade embargo and the cut-off of all commercial credits and credit guarantees. The legislation was cosponsored by Senators Helms, Byrd, Levin, Ford, Proxmire, and Gore. The Prevention of Genocide Act was a response to Iraq's poison gas attacks on its Kurdish minority which began August 25, 1988.

The Prevention of Genocide Act unanimously passed the U.S. Senate on September 9, 1988. The Reagan administration opposed this and all other efforts to sanction Iraq. It described the Pell bill as "premature" and the House of Representatives declined to endorse such drastic action.

Senator Pell commissioned a Foreign Relations committee study of Iraq's use of chemical weapons against its Kurdish minority. That study, based on a factfinding mission to Eastern Turkey between September 11–17, 1988, constitutes the most

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comprehensive documentation of Iraq's use of chemical weapons against the Kurds and the only U.S. Government document published on this issue. See "Chemical Weapons Use in Kurdistan: Iraq's Final Offensive," October 1988.

On September 30, 1988, Senator Pell, with the cosponsorship of Senator Helms and others, secured Senate passage of a scaled-back version of the Iraq sanctions legislation as an amendment to the foreign assistance appropriations bill. This was rejected by the House.

On October 11, 1988, a House-Senate compromise version of Iraq sanctions was introduced by Senator Pell as an amendment to the Technical Corrections Tax Act of 1988. The House conferees on the Technical Corrections Tax Act agreed to accept the Iraq sanctions provision and the Senate Foreign Relations Committee was so notified.

On October 21, 1988, the Reagan administration persuaded the House Foreign Affairs and Ways and Means Committees to drop the Iraq sanctions provision. As this was the last day of the session, this effectively killed the Iraq sanctions legislation.

The CHAIRMAN. And thank Senator Moynihan very much for taking over at this point, and turn to Senator Helms.

Senator HELMS. Thank you, Mr. Chairman.

On the previous round of questions, I raised a number of issues regarding the export of U.S. Centers for Disease Control of biological agents that can be and probably are used in the development of biological weapons.

Now, since then I asked the staff to compile a list of such exports of biological agents to countries such as Iraq and Cuba and the Soviet Union and Communist China. And the list was compiled, I must say, from information obtained through a Freedom of Information Act request from NBC. I ask unanimous consent, Mr. Chairman, that this compilation be included in the record.

Senator MOYNIHAN. Without objection.

[The information referred to follows:]

CENTERS OF DISEASE CONTROL EXPORTS OF BIOLOGICAL AGENTS

Date	Country	Agent
1990	Communist China	Rickettsia prowazeki

[Comment: Exported to Institute of Epidemiology and Microbiology, Beijing by air freight; agent is an incapacitent experimented with by the Nazis in World War II for possible biological warfare applications]

1988	Communist China	Japanese encephalitis

[Comment: Exported to the School of Medicine in Shanghai; agent causes death in 2–50 percent of cases; identified as BW agent in Erhard Gessler (ed.) Biological and Toxic Weapons Today (Oxford, Oxford University Press, 1986]

1988	Cuba	St. Louis encephalitis

[Comment: Exported to the Institute for Tropical Medicine in Havana (hand carried), identified by Gessler, ibid, as BW agent with mortality of 2–22 percent]

1989	Soviet Union	Yellow fever

[Comment: Exported to National Institute for Virology in Moscow (hand carried); Institute thought to be center of BW research in Soviet Union; agent identified as BW agent Gessler, ibid, with mortality rate of 5–19 percent]

1988	Soviet Union	Japanese encephalitis

[Comment: Also exported to National Institute for Virology in Moscow by certified airmail; for agent characteristics, see Communist China above.]

1985	Iraq	West Nile Fever

[Exported to unidentified location in Basra, Iraq by express mail; incapacitent under investigation by United States BW specialists at Ft. Detrick, MD]

Obtained by NBC News through a FOIA request.

Senator HELMS. All right. Now, then, Greg, if you would put up the next chart.

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Mr. Kelly, Professor Mulhollin, if you will read his statement, is going to testify—And I quote him that, "The very nuclear triggers that Iraq tried to smuggle out of the United States in March were deleted from the COCOM list last week." Now is this true?

Mr. KELLY. Senator, I heard that allegation a couple of days ago, and I asked our experts "Is this true?" And they said, "No, it is not true." And I am told that I can supply documentary, that the Department can send documentary information to substantiate that.

[The information referred to follows:]

Question. Provide documentary evidence that krytrons have not been removed from COCOM list.

Answer. CCL Item 1542, which includes krytrons, has been deleted from the COCOM list. Certain items in CCL 1542 are now controlled by the United States for nonproliferation reasons. Krytrons are not now included, but the United States is in the process of implementing unilateral controls.

Senator HELMS. Very well. So then it would not be true as well, that spin-forming and flow-forming machines used to make the bodies for uranium enrichment have been deleted?

Mr. KELLY. Senator, I have to confess, I do not know what those machines are. But I would happy to—if you give us the question.

[The information referred to follows:]

Question. Have spin-forming and flow-forming machines been removed from the COCOM list?

Answer. Yes, CCL Item 1075, which includes spin-forming and flow-forming machines, was deleted from the COCOM list. However, 1075 did not cover machines of concern for nuclear proliferation. We are now considering which machines of this type should be subject to nonproliferation controls.

Senator HELMS. Now then, before you is a chart showing Saad 16 facility near Baghdad. Der Spiegel, a West German newspaper, on March 27 alleged—and they had pretty good documentation, I might add—that this is a chemical warfare and ballistic missile research facility. Is that right?

Mr. KELLY. It is my understanding it is ballistic missiles. I think our intelligence people do not hold any chemical stuff there, but ballistic missiles, yes.

Senator HELMS. Now, how many Hewlett-Packard computers were sold to that facility?

Mr. KELLY. I do not know that answer. I know that Hewlett-Packard computers were sold to Iraq, yes, sir.

Senator HELMS. Would you supply that information for the record?

Mr. KELLY. Yes, sir.

[The information referred to follows:]

Question. How many Hewlett-Packard computers have been sent to the Saad-16 facility in Iraq?

Answer. The Department has no record of approving exports to Iraq of computers subject to foreign policy controls. However, most computer exports do not require review by the Department of State. Only those computers which meet specific criteria of the missile technology control regime or nuclear nonproliferation controls (or when country specific controls are in effect) would be reviewed by the Department.

Senator HELMS. Now, who approved the sale of these computers?

Mr. KELLY. The sale, as I understand it, was a few years ago. I do not know who approved that at the time. But let me make one point, because I have looked into this myself, Senator. Apparently—and I am not a computer expert—computers are licensed de-

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pending on how—how should I say it—how capable they are. How many calculations they can handle. So, you know, the simple personal computer, the kind everybody has around their desks now, or that are in the schools, there are no controls on sales like that.

I guess you have a medium category which is relatively uncontrolled because they are available freely on the world market, and it is only the advanced computers, the supercomputers, that are limited and carefully controlled. Now, I do not know which category the Hewlett-Packards fell into, but I am highly confident they were not in the advanced supercomputer category.

Senator HELMS. You had better check on that, because the sale of these computers brought the folks at the Defense Department out of their chairs, because they were not even informed of the sale. Now, that is my information. Now, I just wonder if the State Department was informed about it.

Mr. KELLY. I am advised that we probably were not informed, but we will get that information out for you for the record.

[The information referred to follows:]

Question. Who approved the sale? Was the Department informed?

Answer. Iraq is in country group V in the Export Administration Regulations. Exports of computers to this country group only require a validated license if they exceed certain parameters. The license applications are submitted to the Department of Commerce and do not require State Department review unless the computers meet specific criteria of the Missile Technology Control Regime or nuclear nonproliferation controls. Computers that fall below the capability parameters can be exported under a general license and would not be reviewed individually by the Commerce Department.

Senator HELMS. This is what Senator Moynihan was talking about a while ago. The right hand does not know what the left hand is doing, and we end up doing nothing.

Well, we have got another chart that I would like for Greg to put up. This chart lists the firms which have been identified as exporting weapons production equipment or technology to Iraq. Now, you will acknowledge that that is not a short list.

Mr. KELLY. That is not a short list, Senator.

Senator HELMS. Now, I was interested—I had some information independently, but I was interested that back in May, toward the end of the month, it was the New York Times, I believe that charged that a score of French technicians helped expand the range of Iraq's Soviet Scud B missiles to 500 miles, and that the French firm—Sagem—provided equipment to Iraq's ballistic missile program. Do you understand that to be accurate?

Mr. KELLY. I saw the same article, Senator, and I asked the same questions. The French Ministry of Defense denied that those allegations were true.

Senator HELMS. Is that as far as we are going? What do our intelligence capabilities say?

Mr. KELLY. The intelligence, as I understand it, does not demonstrate that we have evidence that that is true.

Senator HELMS. Have they looked?

Mr. KELLY. I sure hope so.

Senator HELMS. Will you find out?

Mr. KELLY. Yes, sir.

Senator HELMS. All right. The Department of Justice has impaneled a Federal grand jury in Atlanta to determine if the Atlanta

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branch of an Italian bank funded weapons sales to Iraq. Now, on June 7, it was reported that the Department of State had held "numerous" meetings, and I have got the word "numerous" in quotation marks, because that is the way it was given to me—"numerous" meetings with the Department of Justice, and that the Department of State had "cautioned"—and again I use quotation marks—the Justice Department about even investigating this thing.

Now, according to my sources, and these have been published in various newspapers, including the New York Times, as I recall, I cannot conclude other than that the State Department seems to be trying to prevent the criminal indictment of an Iraqi official. Now, is that so?

Mr. KELLY. No, Senator, I concluded otherwise, because I saw the same article and, like you, I had the same reaction. What is going on here? I have asked questions. I have talked to State Department lawyers. They tell me they have not told Justice to go easy in this criminal thing. This is that old article, you know, Mr. Anonymous Source, who talks every day in Washington. You know, let us have some names and then we can ask some questions. But I saw that, and that would be inappropriate.

Senator HELMS. Are you saying to me that the State Department has done no such thing?

Mr. KELLY. I know of no such thing. I know of no written or oral communication, and I have talked to the State Department lawyers.

Senator HELMS. Well, I have had problems with anonymous sources, as has Senator Moynihan, I am sure, but has the National Security Council looked at this?

Mr. KELLY. I am sorry, looked at——

Senator HELMS. This whole sale matter.

Mr. KELLY. There is a committee of the National Security Council that is meeting to take a look on how to tighten up on all these kinds of sales in the chemical area, the biological area and so on, yes, sir. There is a committee that is meeting to do that.

Senator HELMS. One final question, and then I am sort of leapfrogging backward. Richard Perle—you know who he is.

Mr. KELLY. I do indeed. He is a friend of mine.

Senator HELMS. Mine, too. He is not ambivalent about this, and I seldom find that he is not correct. He referred to our demarches to our allies as "demarshmallows."

Now, what I would like for you to do is supply to the committee—and I do not expect you to do it now—the number of demarches that we have made in the past 5 years to our allies involving equipment sales to Iraq and the response by our allies to these demarches. I think that would be very interesting for the committee to have, and I do not ask you to put it out publicly, but we ought to take a look at that, I think.

Mr. KELLY. Yes, sir.

[The information referred to follows:]

Question. How many demarches have we made to our allies in the past 5 years about equipment sales of foreign firms to Iraq, and what were their replies?

Answer. We have no good means of tallying all our diplomatic communications in the past 5 years covering equipment sales to Iraq. These approaches have taken

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many forms: official demarches including detailed information we have received and specific action we expect to be taken, general approaches covering our concerns about trends that we observe, informational papers educating countries to our nonproliferation policies and notification of actions the United States has taken.

We discuss these issues on a continuing basis with close allies, both in bilateral discussions and in multilateral forums such as the semiannual Australia group meetings. Recent Iraqi activity, such as the attempted smuggling of military capacitors and the "big gun" case has heightened concern among our allies, making them more responsive to our approaches. The Germans, Swiss, Dutch, Japanese in particular are wary of Iraqi procurement activity, and have reciprocated our demarches with warnings of their own about suspicious Iraqi behavior.

Senator HELMS. Well, I timed it pretty well.

Senator MOYNIHAN. Senator Helms, take as much time as you wish.

Senator HELMS. Well, I am sort of like the fellow that was given a speech to read and he has not read it before, and he says heck—he got down to a point and he said heck, I do not believe that myself. [Laughter]

I guess this is all right. I ask that the list of Western companies reported having assisted the Iraqis be included in the record.

Senator MOYNIHAN. Without objection, that will be printed in the record.

[The information referred to follows:]

WEAPONS SALES TO IRAQ

WEST GERMAMY

Siemens West Germany—[Non-echoing room-Der Spiegel, March 27, 1989]

Messerschmidt-Boelkow-Blohm—[Parent Firm of Transtecnics-Profil, March 6, 1990]— [Lab Equipment-Stern, January 26, 1989]

Mannesmann-Rexroth—[Components for Dr. Bull's gun-Groot Bijgaarden De Standaard (Belgium), May 18, 1990]

H and H Metalform, Ltd.—[Machinery for production of gas, ultracentrifuges (used for uranium enrichment and missile casings)-Der Spiegel December 18, 1989]

Consen—[Missile Production Plant-Stern, April 6, 1989]

Projecta—[Affiliate of Gildemeister-Stern, April 6, 1990]

Blohm—[Computer controlled grinding facilities-Per Spiegel, March 27, 1989]

Carl Zeiss—[Unspecified equipment-Der Spiegel, March 27, 1989]

Daimler Benz—[Security Vehicles-Der Spiegel, March 27, 1989]

Degussa—[Unspecified equipment-Der Spiegel, March 27, 1989]

Fritz Werner Industrial Equipment, Ltd.—[Universal Drilling Equipment-Der Spiegel, March 27, 1989]

Gildemeister Projecta Ltd.— [General Contractor-Der Spiegel, March 27, 1989] [Computer Programs-Stern, January 26, 1989]

Karl Kolb-[Laboratory Equipment-Der Spiegel, March 27, 1989] [Chemical warfare plant-Christian Science Monitor, December 13, 1988]

Koerber AG—[Parent firm of Blohm-Der Spiegel, March 27, 1989]

Mauser—[Unspecified equipment-Der Spiegel, March 27, 1989]

Tesa—[Unspecified equipment-Der Spiegel, March 27, 1989]

Transtecnica—[Calibration Equipment-Der Spiegel, March 27, 1989]

Aviatest—[Wind tunnel facilities-Profil, March 6, 1989]

Rheinmetal—[Parent firm of Aviatest-Profil, March 6, 1989]

Sigma Chemie—[Chemical precursors-biological-The Washington Times, January 31, 1989]

Plato-Kuehn—[Toxins-Der Spiegel, January 30, 1989]

Anton Eyerle—[Mobile toxicological labs-Der Spiegel, January 23, 1989]

Magirus Deutz—[Vehicles for mobile toxicological labs-Der Spiegel, January 23, 1989]

Integral/Sauerinformatic/CME—[Computer programs-Stern, January 26, 1989]

WTB Walter Thosti Boswau—[Construction of four nerve gas plants-Stern, January 26, 1989]

Krauss-Kopf—[Unspecified equipment-International Herald Tribune, January 7–8, 1989]

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Ludwig Hammer—[Unspecified equipment-International Herald Tribune, January 7–8, 1989]
Sauer Informatic—[Computer software-Stern, January 1989]
Pilot Plant—[Chemical warfare plant-Christian Science Monitor, December 13, 1988]
Quast—[Corrosion-resistant alloy parts-Christian Science Monitor, December 13, 1988]

AUSTRIA

Delta Consult—[Detailed estimates-Profil, April 24, 1990]
Feneberg—[Construction planning-Profil, April 24, 1990]
AST—[Building construction-Proill, March 6, 1989]
Consult Co.—[Project management-Profil, March 6, 1989]
Emmerich-Assman—[Parent firm of Mutter and Schrantz-Profil, March 6, 1989]
Girozentrale Bank—[Financing-ProfiI, March 6, 1990]
Hutter and Schrantz—[Iron and steel construction-Profil, March 6, 1989
Swatek and Cerny—[Sanitary equipment-Profil, March 6, 1989]
Consultatio—[Buildings-Stern, January 26, 1989]
New Berger—[Precursor chemicals-Austria State Radio, January 4, 1989]

BELGIUM

Amalgamated Trading Industries (ATl)—[Components for Dr. Bull's gun-Groot Bijgaarden De Standaard, May 18, 1990]
Poudrieres Reunies de Belgique (PRB)—[Solid fuel for self-propelling ammunition-Groot Bijgaarden De Standaard, May 17, 1990]
Space Research Corporation—[Dr. Bull's Corporation-AFP, May 5, 1990]

FRANCE

Sagem— [Missile Guidance Equipment-The New York Times, May 24, 1990]

ITALY—UNITED STATES

ILVA—[Parent of Le Fucine-Financial Times, May 15, 1990]
Le Fucina Steelworks—[Components for Dr. Bull's gun-Corriene Della Sea (Milan), May 14, 1990]
Banco National Lavaro—[Atlanta branch financed exports to Iraq-Chicago Tribune May 6, 1990]

JAPAN

Minolta—[Duplicating Equipment-Document obtained by NBC News]

NETHERLANDS

Melchemie—[Chemical precursors-Christian Science Monitor, December 13, 1988]

SPAIN

Trebelan—[Steel cradles for Dr. Bull's gun-Financial Times, May 26, 1990]

SWEDEN

Bofors—[Missile Equipment-Financial Times, January 8, 1990]

SWITZERLAND

Institute for Advanced Technology—[Major Contractor-Profil, April 24, 1989]
Companies Inc.—[Chemical precursors-New York Times, January 31, 1989]

UNITED KINGDOM

Matrix Churchill—[Precision lathes-US News and World Report, June 4, 1990]
Astra Holdings—[Owner of PRB of—Belgium-Dr. Bull's gun-AFP, May 5, 1990]
International Highway Transport—[Dr. Bull's gun-Ankara TRT-TV, April 29, 1990]
Walter Somers LTD—[Hydraulic equipment for Dr. Bull's gun-Wall Street Journal, April 23, 1990]
Eagle Trust—[Owner of Halesowen-London Press Association, April 17, 1990]
Halesowen—[Parts for Dr. Bull's gun-London Press Association, April 17, 1990]
Sheffield Forge Masters—[Dr. Bull's gun-London Press Association, April 12, 1990]

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Global Technical and Management Internat'I—[Acoustic detonators for sea mines-London Press Association, March 30, 1990]

UNITED STATES

Alcolac International—[Chemical precursors-US News and World Report, June 4, 1990]

Banco National Lavoro Italy/United States—[Atlanta branch financed exports to Iraq-Chicago Tribune, May 6, 1990]

Lummus Crest—[Ethylene oxide-possible mustard gas precursor-The Washington Times, April 27, 1990]

Hewlett-Packard, Inc.—[Electronic equipment-Washington Post, May 3, 1989]

Scientific-Atlanta—[Telecommunications-Washington Post, May 3, 1989]

Tektronix, Inc.—[Computer graphic terminal-Washington Post, May 3, 1989]

Wiltron Co.—[Scalar analyzer system-Washington Post, May 3, 1989]

United Steel and Strip Corporation—[Precursor chemicals-New York Times, January 31, 1989]

Senator HELMS. Thank you very much. I believe you have been as candid as you can possibly be under the circumstances.

Mr. KELLY. Yes, sir. I share your concern about these things.

Senator HELMS. Well, thank you very much, Mr. Chairman.

Senator MOYNIHAN. Just to wrap up, Mr. Secretary, and then to give Mr. Gilder a chance to say something—he has been very patient with us—may I suggest that in the setting of the new world we are entering into this committee, the Senate Committee on Foreign Relations, is trying to anticipate difficulties which the Nation will face. We are in such a new world, everything is changed, it seems, but our way of thinking about it.

I was in the Senate dining room the other day, and walked in and saw a few Secret Service types in the hallway, and I said "What is going on?" They said, "The President's having lunch in there." So I went in, and it was interesting the President was having lunch, and it was interesting that he had his Chief of Staff, Mr. Sununu with him, but what was rather extraordinary is that with Mr. Sununu was Mr. Gorbachev's Chief of Staff, who was over here checking out the White House to see how things are done. That may be our secret weapon. [Laughter.]

Senator MOYNIHAN. Now, Mr. Sununu, we learned today, is on his way to Moscow and what could be a disinformation campaign of massive consequences in international relations. [Laughter.]

But in all truth, that Cold War confrontation is past. The confrontation is past. The possibilities of a nuclear exchange have not past, but you know, that is different. Not 4 weeks ago here in Washington I went to a private home for dinner one evening with Marshal Akhromeyev, the former head of the Soviet forces and the chief military advisor to Mr. Gorbachev, and the day before he had been taken on a tour of the Gettysburg Battlefield by his former counterpart, Admiral Crowe. Now, this is a different world, can we agree? You do not disagree. Mr. Gilder does not disagree.

We are going to see, instead of this bipolar and often frozen confrontation of the last 40 years—call it 40 years since the founding of NATO in 1949—we are going to see the diffusion of weaponry and the diffusion of advanced technological violence around the world.

One of the concerns we had—and we held a closed hearing of the Subcommittee on Near East and South Asian Affairs on the subject of Kashmir—was the prospect that this could become a nuclear

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confrontation. We all know that both those nations are nuclear-capable.

The surprising thing is how little proliferation there has been. I think if you go back 30 years and asked physicists how many powers would have nuclear weapons at this point, they would have estimated in the range of 15 to 25 would have tested weapons. Well, this is not so. No nation has tested a weapon since China in the 1950's. Still, the technology is easy. I mean, any really good undergraduate physicist can design a weapon.

Chemical warfare is even more dangerous, and at some level even simpler, because it does not take an enormous technology to produce it. Just the power to produce missile material is an enormous challenge. In 1944, I believe, one-third of the electricity generated in the United States went to Oak Ridge. That kind of thing is required. It is not required for a chemical plant or for germ warfare. The great problem of World War I was to carry poison gas out into the trench areas and then try to hope the wind blew in the right direction. It is a very different thing when you can send it 500 miles on a rocket, and rockets are very easy to make.

So, the question if we have international regimes of law, are we going to see that it is understood that this is serious. You cannot violate these laws without expecting consequences. Mr. Secretary and Mr. Gilder, this hearing is in a way our first post-Cold War hearing, and our subject is United States policy toward Iraq. Humans rights, weapons proliferation, and international law. We have a sense that the idea of international law got lost in the fog of the Cold War. You would have to go back, it would be difficult for Americans today to remember the shock of the First World War, the slaughter of the machinegun and poison gas. It changed civilization, the horror of poison gas, and so the whole world came together in Geneva in 1925 and said, never again will poison gas be used. Never. The Nazi regime in Germany abided by that commitment. A regime capable of any inhumanity was not capable of that. Such was the world's horror at poison gas.

Then we turn around and in 1983 there is Iraq. Iraq commences to use it, the first time since 1918. The first time since the Geneva Convention, and nothing happened to Iraq. No serious effort was made. Sir, when I mentioned to you that this is a violation of international law, you, sir, said, "Well, I am not a lawyer." International law is not a specialty that deals with procedures and statutes and cases. It does that too, but it is the business of every diplomat and every member of the Department of State.

You said that we had a conference in 1989. I think that was just a review conference on the 1925 Geneva Chemical Weapons Protocol technically. Nothing happened. Can you help us on that, and I wonder if Mr. Gilder could join us? Because you see we are trying to say that either the world understands these things have consequences, or we are going to have a much more difficult world. It is going to be difficult enough—far more. It is going to be anarchic.

Let me just put this question, and you two talk. Tell me what you think this committee should know and think, and be open about it. Do not hesitate to be as candid and blunt as you can. Is it not so, Mr. Secretary, that right now, in Geneva, the Conference on

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Disarmament, which has been in place a long time, is working on a comprehensive ban on chemical weapons?

Mr. KELLY. That is correct, sir.

Senator MOYNIHAN. What should this committee do when that multilateral convention comes to us? Should we pay any attention to it?

Mr. KELLY. Certainly one would hope and one knows the Senate will pay attention to it, of course. It would be historic.

Senator MOYNIHAN. Well, when the 1925 Geneva Protocol banning chemical weapons came to this committee we took it very seriously, and we have recommended that the treaty be ratified, and by a two-thirds vote—you know, that is superlegislation—it requires a two-thirds vote—we recommended to the President that he ratify the treaty; he did.

And the treaty was violated grossly. About 6 years of sustained violation of the Geneva Convention and nothing happened.

Mr. Gilder? And, now, I have said my piece. I want to hear what you think.

Mr. KELLY. You asked us to respond, and I think you are looking for spontaneity. Let me make a couple of spontaneous points. No. 1, the 1925 Geneva Protocol outlawed use, or aimed at outlawing use of chemical weapons.

Senator, I think, the historical record would substantiate that within a decade or so that was violated in Ethiopia.

Senator MOYNIHAN. In Abyssinia, that is correct.

Mr. KELLY. And appeals to the League of Nations did nothing about that. In effect, the international community ignored or chose not to act on the basis of that.

Senator MOYNIHAN. At which point that international community was irreversibly heading for the Second World War.

Mr. KELLY. It was.

Senator MOYNIHAN. They failed to sustain the rules which had been set up after the First World War. They failed to object seriously to the Italian invasion of Abyssinia, Ethiopia. There was an episode of chemical warfare. It was brief, but it was there. All those things are true. And the lesson is that when you will not insist upon the rules that all have agreed to the next thing you know——

Mr. KELLY. If I may?

Senator MOYNIHAN. Please.

Mr. KELLY. You talked about the indisputable fact that Nazi Germany, the most horrible regime imaginable in its wanton disregard for human life did not employ chemical weapons during the Second World War. In listening to you, Senator, I was reflecting to myself, I wonder whether that was because the Nazi regime was concerned about international opprobrium? I doubt it. Or perhaps they were afraid of the counteruse by either the British or the United States or any of the other nations arrayed against them. I do not know the answer to that question, if you do, I would be interested in your view.

Senator MOYNIHAN. I do not either. But we do know it did not happen. You know, the United Nations has to come into this. To be sure, the League was not able to prevent the invasion of Ethiopia, the interventions in Spain, the onset of war, but they tried.

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They expelled the Soviet Union after the invasion of Finland. They did impose sanctions.

Mr. KELLY. I beg your pardon, they did?

Senator MOYNIHAN. The League voted sanctions on Italy. They just were not upheld by the institutions that could do it, which would be the national Governments of Britain, of France. In this case we have not done anything.

Those of you who think in terms of the future of the international order, does it not bother you that we could have taken this issue to the Security Council? And I am reminded by Mr. Galbraith that Franklin D. Roosevelt imposed sanctions on Italy for the invasion of Ethiopia.

There was a sense that there were rules. I am wondering, is there any sense of the rules today? And I say, again—and Mr. Gilder, you wanted to say something—supposing a chemical warfare treaty is agreed to in Geneva, why should this Committee on Foreign Relations pay any attention to it?

Mr. GILDER. If I might, chemical weapons, until they are actually used on people, is not my field. But, from the angle of human rights, we very much share your frustration with the inefficacy of international law. It is a very imperfect instrument.

Senator MOYNIHAN. To speak about the inefficacy of international law is to speak about the unwillingness of nations and to abide by it and insist that it be abided by.

Mr. GILDER. That is exactly true.

Senator MOYNIHAN. You are carrying around the U.N. Charter.

Mr. GILDER. Well, I carry this around. It happens to be the unfortunate fact that probably a majority of the nations who have agreed to this do not really abide by it.

Senator MOYNIHAN. Those early provisions about the word "human rights" is about——

Mr. GILDER. The Universal Declaration of Human Rights.

Senator MOYNIHAN. Well, I think if you look at the preamble, the words "human rights" appear at about the 40th and 41st words, round there on the first page.

Mr. GILDER. Yes. But if I might, I think that——

Senator MOYNIHAN. That is a treaty. That is international law.

Mr. GILDER. Well, yes, it is. I mean, there are no actual signatories to it, but one assumes that if one——

Senator MOYNIHAN. There are not signatories to the U.N. Charter?

Mr. GILDER. I have talked to the lawyers about this and tried to get some sense of just exactly how binding it is, and I am not lawyer enough to tell you all the permutations.

Senator MOYNIHAN. I am not a lawyer either. I will tell you it is absolutely binding.

Mr. GILDER. Well, one would expect them to abide by it as members of the U.N. But if I might, another one that——

Senator MOYNIHAN. That is a very—I mean, are things so bad in the State Department that they say that the United Nations Charter is optional?

Mr. GILDER. No, we certainly do not say it is optional, and we use every opportunity to——

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Senator MOYNIHAN. But has it come to that? I mean, it is not really binding, it is sort of. Did anybody sign it? Well, nobody remembers. It is a treaty solemnly entered into in San Francisco in 1945, I believe. And any new nation achieving independence adheres to the U.N. Charter, which is a treaty and is binding, and it contains the most fundamental elements of international law with respect to relations of states.

Mr. GILDER. The Charter and the Universal Declaration of Human Rights are two separate things international agreements. This confusion is because we are discussing two separate documents.

Senator MOYNIHAN. They are indeed. But let us be clear, the Charter—wow.

Mr. GILDER. But I think there is another analogy——

Senator MOYNIHAN. Did anyone ever suggest that they were coterminous things? Mr. Gilder, you say to me that the U.N. Charter and the Declaration of Human Rights are two different things. Well, yes. I mean, is that presented as information to the committee?

Mr. GILDER. I have absolutely no disagreement with you on this at all. We would have to get a lawyer to explain the distinction. I do not think it makes any difference——

Senator MOYNIHAN. A lawyer to explain the distinction? All right, sir.

Mr. GILDER. There are, however, other treaties which are very clearly——

Senator MOYNIHAN. No lawyer offers to explain the distinction.

Mr. KELLY. Fools rush in.

Senator, I wanted to respond to your question, which was the focus, about should the Senate take seriously a treaty on chemical weapons when and if, God willing, it is presented to this body. And I said, "Yes, I think it will"; I think it should. But let me say a couple of things in less than 1 minute about——

Senator MOYNIHAN. Take your time.

Mr. KELLY [continuing]. About the treaty that is under negotiation. It will, as we see it, include sanctions provisions through the United Nations Security Council. It will also include intrusive verification of allegations of possession or use. Now, both of those features, I believe, are absent from the 1925 protocol.

Senator MOYNIHAN. You are quite correct. And I think that point is important. Intrusive, as you said. The world is learning something about that. But just because it is not in the protocol does not mean that there is not an agreed international convention that says we will not do this.

Mr. KELLY. I agree with you. I mean, the whole purpose of the 1925 protocol inherent in the reason for the agreement was to attempt to prohibit, preclude.

Senator MOYNIHAN. But will you go back and say to your colleagues on both scores that the Committee on Foreign Relations is concerned about this. We do not think international law is something to be dismissed. We do not think the vagueness in the Department is very helpful.

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I mean, it has just sort of slipped away from us. I am informed that, as I remembered, the Abyssinian experience was very brief in 1935. Also, the Japanese may have used gas in 1937.

Mr. KELLY. In Manchuria.

Senator MOYNIHAN. In Manchuria.

Mr. KELLY. That is right.

Senator MOYNIHAN. Do not use that word "Manchuria." That was one thing I was taught.

Mr. KELLY. I beg your pardon.

Senator MOYNIHAN. That is Japanese propaganda. The proper word is China. You know, why are the Japanese in Manchuria? Well, it is like a lot of the Canadians have not invaded the United States, they have just invaded New York.

Mr. KELLY. Does this mean that we can no longer refer to the Manchurian incident?

Senator MOYNIHAN. You can but say Manchuria/China or Manchuria in China, quite seriously. Manchuria is a part of China, but by talking about it as if it is something separate——

Mr. KELLY. And you will accuse us of vagueness, sir?

Senator MOYNIHAN. Yes. Of that you can be sure. [Laughter.]

Egypt may have used some gas in Yemen in the 1960's but did nothing comparable to the full-scale use by Iraq.

International law is the law of the land. It is your law and my law. It is Mr. Gilder's law. Pax et humana, how is that? Article VI of the Constitution says that treaties shall be——

Mr. KELLY. The supreme law of the land.

Senator MOYNIHAN [continuing]. The supreme law of the land. Very good. I mean this quite seriously. Treaties are the supreme law of the land. And they are entered with a very special arrangement. It takes a two-thirds vote of the Members present and voting in the Senate.

"The Congress shall have the power to define and punish offenses against the law of nations." At Philadelphia two centuries ago they said, "Well, certainly, they have the right to punish," but was the law of nations that clear? Well, better have Congress define as well as punish. Vagueness in a criminal statute is always fatal. But in overwhelming degree, international law today consists of written agreements, charters. It is a treaty which binds this country, not optional and not intermittent.

And we had a hearing 1 year ago, with our Ambassador, our present Ambassador in South Korea, a very able man, a man who spent his life in the intelligence community, Mr. Gregg. And he was involved in the planning of the mining of the Nicaraguan harbors.

And I asked him at that time, "Was the issue ever raised that this would be a violation of international law," and he said, "No." And I pursued it a little bit. And I said, "But we have treaties." And he said nothing. And then my time was up, and Mr. Simon resumed that line of questioning.

At which point, Mr. Gregg suddenly looked up and said, "Oh, wait, I am sorry, I thought that Senator Moynihan was talking about American law, not international law." And you know, this was a transparently honest statement. He did not think any treaty we might have entered into made any claim comparable to a law

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we might pass and put on the statute book. It does. It is there in the Constitution. Treaties are the supreme law of the land.

Now, Mr. Gilder, just one last question for you, last March in a typical grizzly event Iraq executed an Iranian-born journalist who was a correspondent for the London Observer. Would you like to tell us any thoughts you have on that subject or anything the committee might want to know?

Mr. GILDER. Well, we deplored this when it happened very forcefully. We were concerned when he was arrested, and we followed the case very closely. It is always very difficult to know exactly how to respond in a case like that when a human life is on the line, and you are dealing with such a regime. We consulted with others, and we took the actions that we thought would be best. It is probably true that no matter what we did, it probably would not have made much difference.

Senator MOYNIHAN. It would probably not have made much difference. It is the regime we are dealing with.

But there are levels on which the international community can respond. We should have taken that matter to the Security Council. I am absolutely convinced we should have done that, and if we did not succeed, then the fact of failure would be there to look at and say, "Okay, friends, we are putting out a big show and hurrah in Geneva about taking things to the Security Council." Here is something for the Security Council. If the institutions do not work, we need to know that very much.

Mr. KELLY. I take your point on that, and getting back to the chemical weapons use, during the 1980's the United States did twice condemn that use by Iraq in United Nations Security Council resolutions, but in August 1988 we failed to get a favorable vote in the United Nations Security Council to send an international inspection team to Iraq. We did, Mr. Chairman, avail ourselves of international institutions.

Senator MOYNIHAN. You should not have this off the top of your head. Let the committee know which nations voted against this.

Mr. KELLY. By all means, sir.

Senator MOYNIHAN. Let us not forget that, either.

[The information referred to follows:]

Question. Who in the Security Council voted against the 1988 resolution concerning sending a team to Iraq to investigate the use of chemical weapons?

Answer. The Iraqi Government announced that it would not allow a U.N. team to carry out an investigation in Iraq, and the resolution never came to a vote.

Senator MOYNIHAN. I think we have had you here long enough. Senator Pell has some questions for both of you which we will send. This is an important record which we want to keep. So, we thank you, Mr. Gilder. Again, welcome to your first appearance before the committee, and Mr. Secretary, we thank you.

Mr. KELLY. Mr. Chairman, thank you.

Senator MOYNIHAN. Now we have a public panel, the members of which have waited patiently, I hope not all of the State Department persons will have to leave. Some may. We have another half hour. We will conclude the hearing at 1 p.m. promptly.

So, would Mr. Curt Goering come forward? Mr. Goering is the Deputy Executive Director of Amnesty International.

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Mr. GRAHAM. Mr. James Graham. Mr. Goering could not be here today, so I will be representing Amnesty International.

Senator MOYNIHAN. We welcome you. Mr. Najmaldin Karim. Do I have that pronounced correctly, Karim? Mr. Karim, good morning—or, I suppose, good afternoon. We welcome you here, sir—and Prof. Gary Milhollin. Professor Milhollin. You are a panel, gentlemen. That is the way we organize this. So, Mr. Milhollin, sit right down there.

Gentlemen, we welcome you, and in the order that I called the names, that is how they are listed on our agenda, so Mr. Graham, will you proceed, representing Amnesty International.

STATEMENT OF JAMES GRAHAM, AMNESTY INTERNATIONAL USA

Mr. GRAHAM. We have an additional brief report on the status of Iraqi refugees which we would like to have added to the record, if we could.

Senator MOYNIHAN. Without objection, so ordered.

Mr. GRAHAM. Amnesty International welcomes the Foreign Relations Committee's review of human rights in Iraq. It believe it has come at a crucial moment, and greatly appreciate the opportunity to present our concerns here today. Amnesty International has been concerned about the widespread and systematic violation of fundamental human rights in Iraq for some time. These concerns existed well before the Iran-Iraq war and increased during the war years.

Since the cessation of hostilities, we have been particularly alarmed by the continued assaults by the Iraqi armed forces against the Kurdish population and other groups or individuals who are perceived to be opponents or critics of the Government of Iraq. Amnesty International believes the abuses detailed below clearly amount to a gross and consistent pattern of human rights violations and a greater effort must be made by the international community to hold the Iraqi Government accountable for its actions.

Amnesty International is also concerned about the fate of an estimated 27,500 Iraqi Kurds who are currently in refugee camps in southeast Turkey. The absence of any legal protection places them at great risk of being forcibly returned or extradited from Turkey to Iraq where they could face disappearance, torture, or execution.

According to reports, pressure has been used by the Turkish authorities to coerce some Iraqi Kurds to return to Iraq under official amnesties. Reports suggest that in the past 18 months, hundreds of Iraqi Kurds, as well as Assyrians, Arabs, and Turcomans who sought to benefit from official amnesties have since disappeared in custody, or tortured, or executed.

The Government of Iraq permits no meaningful expression of dissent. Thousands of political prisoners, including possible prisoners of conscience, are arbitrarily detained without charge or trial, or after summary trials. They include actual or suspected members of prohibited political parties, army deserters, and draft resisters. Relatives of such people are arrested as hostages in lieu of suspects being sought by the authorities. The children of political opponents have also been arbitrarily arrested and detained as hostages in

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order to compel their parents or relatives to confess to alleged political offenses.

Routine torture and ill treatment of prisoners continues to be widely reported. The victims include political prisoners tortured in order to force them to sign confessions or to renounce their political affiliation. Some political prisoners have reportedly been tortured shortly before being executed. The victims include detainees below age 18 said to have been beaten, whipped, sexually abused, given electric shock, and deprived of food. On at least one occasion, the bodies of executed children and youths have been returned to family members with their eyes gouged out and with other marks of torture.

In recent years, thousands of individuals have disappeared, many of whom it is feared have been killed. Some 178 Shi'a declared by the government to be of Iranian descent disappeared while in detention between 1980 and 1985. The fate of some 8,000 Kurds, including 315 children who disappeared following their arrest in August 1983, is also unknown.

All 8,000 were male members of the Barzani clan ranging in age from 8 to 70. It is believed that the action was in retaliation for the Kurdistan Democratic Party's military activities, as the detainees included close relatives of Mas'ud Barzani, leader of the KDP. It is feared that many have been executed.

In October 1988, a group of 353 Kurds, including 52 children, reportedly disappeared while in custody in Duhok Province, despite a government amnesty for all Kurds announced the previous month, and in March 1989, 33 Assyrian Christians, including entire families, reportedly disappeared after returning from Turkey and Iran in late 1988 and early 1989.

Each year, hundreds of executions are reported, but it is never possible to ascertain the precise number. In the last 2 days of 1987 alone, more than 150 political prisoners reportedly died before firing squads in Abu Ghraib Prison, on the outskirts of Baghdad. Included in their number were Arabs, Kurds, and Turcomans. Those executed have included members of banned political parties, other suspected government opponents, and army deserters. In most cases, it is difficult to determine whether they have been tried and sentenced to death or extrajudicially executed.

In order to demonstrate the gravity of concern about the situation of human rights in Iraq, Amnesty International in May 1988 made a 1503 submission to the United Nations seeking to demonstrate a consistent pattern of gross violation of human rights. Concerns raised include the death penalty and execution after unfair trials, extrajudicial executions, disappearance, torture and ill-treatment, arbitrary arrests of political prisoners, and unfair trial procedures.

Since then, Amnesty International has registered its concerns on numerous occasions with the U.N. Commission on Human Rights and directly with the Government of Iraq. The Commission for the most part has chosen not to act. The government has sought to deny that abuses occur or that government forces are responsible for them.

The government have announced amnesties for those who have fled, yet reportedly imprisoned or executed some of those who sub-

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sequently returned. It has spoken of possible changes in its constitution and protested its respect for human rights, but the killings and torture continue. In March 1989, Amnesty International stated before the U.N. Commission on Human Rights that Iraq clearly and incontrovertibly presents a situation of the most flagrant and massive violations of human rights, and that the situation cried out for international attention and action. That remains our assessment today.

Amnesty International believes that no member of the international community should be free to abuse the basic human rights of its citizens at will. We ardently hope that these hearings will in some way ensure that the Government of Iraq is held to the same standards of decency and humanity to which all governments must adhere.

One final remark I wanted to make before I conclude my statement, I would like to point out that when the congressional delegation was visiting in Baghdad last January the Iraqi military was extensively engaged in the south of Iraq. Over 30 villages were assaulted at that time. The military was ostensibly in search of deserters and their sympathizers, and according to our information hundreds of individuals were killed during a 2- or 3-week period.

Thank you very much.

[The prepared statement of Amnesty International USA follows:]

Prepared Statement of Amnesty International

INTRODUCTION

Amnesty International welcomes the Foreign Relations Committee's review of the situation of human rights in Iraq. We believe it has come at a crucial moment and greatly appreciate the opportunity to present our concerns here today. Amnesty International has been concerned about the widespread and systematic violation of fundamental human rights in Iraq for some time. These concerns existed well before the Iran-Iraq War and increased during the war years. Since the cessation of hostilities we have been particularly alarmed by the continued assaults by the Iraqi armed forces against the Kurdish population and other groups or individuals who are perceived to be opponents or critics of the government of Iraq. Amnesty International believes the abuses detailed below clearly amount to a gross and persistent pattern of human rights violations and greater effort must be made by the international community to hold the Iraqi government accountable for its actions.

Amnesty International is also concerned about the fate of an estimated 27,500 Iraqi Kurds who are currently in refugee camps in southeast Turkey. The absence of any legal protection places them at risk of being forcibly returned or extradited from Turkey to Iraq, where they could face I, "disappearance," torture or execution. According to reports, pressure has been used by the Turkish authorities to coerce some Iraqi Kurds to return to Iraq under official amnesties. Reports suggest that in the past 18 months hundreds of Iraqi Kurds, as well as Assyrians, Arabs and Turcomans, who sought to benefit from official amnesties have since "disappeared" in custody, were tortured or executed.

The government of Iraq permits no meaningful expression of dissent. Thousands of political prisoners, including possible prisoners of conscience, are arbitrarily detained without charge or trial, or after summary trials. They include actual or suspected members of prohibited political parties, army deserters and draft resisters. Relatives of such people are arrested as hostages in lieu of suspects being sought by the authorities. The children of political opponents have also been arbitrarily arrested and detained as hostages in order to compel their parents or relatives to "confess" to alleged political offenses.

Routine torture and ill-treatment of prisoners continues to be widely reported. The victims include political prisoners tortured in order to force them to sign "confessions" or to renounce their political affiliation. Some political prisoners have reportedly been tortured shortly before being executed. The victims include detainees below age 18, said to have been beaten, whipped, sexually abused, given electric

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shock and deprived of food. On at least one occasion the bodies of executed children and youths have been returned to family members with their eyes gouged out and with other marks of torture.

In recent years thousands of individuals have "disappeared," many of whom, it is feared, have been killed. Some 178 Shi'a, declared by the government to be of Iranian descent, "disappeared" while in detention between 1980 and 1985. The fate of some 8,000 Kurds, including 315 children, who "disappeared" following their arrest in August, 1983, is also unknown. All 8000 were male members of the Barzani clan ranging in age from 8 to 70. It is believed that the action was in retaliation for the Kurdistan Democratic Party's (KDP) military activities as the detainees included close relatives of Mas'ud Barzani, leader of the KDP. Its feared that many have been executed.

In October of 1988 a group of 353 Kurds, including 52 children, reportedly "disappeared" while in custody in Duhok Province, despite a government amnesty for all Kurds announced the previous month. And in March of 1989, 33 Assyrian Christians, including entire families, reportedly "disappeared" after returning from Turkey and Iran in late 1988 and early 1989.

Each year hundreds of executions are reported but it is never possible to ascertain the precise number. In the last two days of 1987 alone, more than 150 political prisoners reportedly died before firing squads in Abu Ghraib Prison in the outskirts of Baghdad. Included in their number were Arabs, Kurds, and Turcomans. Those executed have included members of banned political parties, other suspected government opponents, and army deserters. In most cases it is difficult to determine whether they had been tried and sentenced to death or extrajudicially executed.

In order to demonstrate the gravity of its concern about the situation of human rights in Iraq, Amnesty International in May 1988 made a 1503 Submission to the United Nations seeking to demonstrate a "consistent pattern of gross violation of Human Rights." Concerns raised included the death penalty and execution-after unfair trials, extrajudicial executions, "disappearances," torture and ill treatment, arbitrary arrests of political prisoners and unfair trial procedures.

Since then Amnesty International has registered its concerns on numerous occasions with the U.N. Commission on Human Rights and directly with the government of Iraq. The Commission, for the most part, has chosen not to act. The government has sought to deny that abuses occur or that government forces are responsible for them.

The government has announced amnesties for those who have fled yet reportedly imprisoned or executed some of those who subsequently returned. It has spoken of possible changes in its constitution and protested its respect for human rights, but the killings and torture continue.

Amnesty International believes that no member of the international community should be free to abuse the basic human rights of its citizens at will. We ardently hope that these hearings will in some way ensure that the government of Iraq is held to the same standard of decency and humanity to which all governments must adhere.

EVENTS SINCE THE CEASEFIRE IN AUGUST 1989

In March of 1988 the international community was justifiably appalled when it learned that an estimated 5000 people were deliberately killed and thousands wounded as a result of chemical weapon attacks by Iraqi forces on the town of Halabja, in Sulaimaniya province. Most of the victims were civilians, many of them women and children.

Unfortunately, this was not an isolated incident. In recent years Amnesty International has received numerous indications of the willingness of Iraqi government forces to commit widespread deliberate killings of unarmed Kurdish civilians and the mass execution of political prisoners.

At about the same time as the chemical attacks in Halabja, some 400 Kurdish civilians, including women and children, were said to have been wounded as a result of chemical weapon attacks on villages in the Qaradagh region, and to have been apprehended as they made their way to the city of Sulaimaniya to seek medical treatment. They were reportedly taken to the military garrison of Tanjaro and executed by firing squad on April 2, 1988.

In another incident in mid-April 1987, following a chemical attack on the Balisan Valley in Arbil Province, some 360 people from the village of Shaikh Wasanan who had been wounded in the attack were transferred to Arbil hospitals for treatment. The victims were reportedly denied media treatment and were transferred by security forces to a detention center. They "disappeared" several days later after being

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transferred to an unknown destination and their fate and whereabouts remain unknown.

In August 1988, just three days before a ceasefire in the Iran-Iraq War went into effect, Amnesty International brought these incidents to the attention of the U.N. Sub-Commission on Prevention of Discrimination and Protection of Minorities and characterized them as part of "a systematic and deliberate policy on the part of the government of Iraq to eliminate large numbers of Kurdish civilians, both as punishment for their imputed political sympathies and in retaliation for the activities of opposition forces." Amnesty International further cited "grave fears that in the aftermath of the war a further significant deterioration in human rights could occur in Iraq if the government takes further action against its internal critics and opponents."

These fears were soon realized as the ceasefire permitted military units on the war front to be redeployed to join the tens of thousands of troops already in northern Iraq. By early September, 1988, there were numerous reports that hundreds of unarmed Kurdish civilians, including women and children, had been deliberately killed and thousands of others wounded as a result of attacks by Iraqi government forces on Kurdish villages in the north. The Iraqi military utilized tanks, helicopters, gunships, artillery and chemical weapons in its assault on hundreds of Kurdish villages in the northern provinces of Duhok, Mosul and Arbil.

Thousands of villagers fled the affected areas in August to seek refuge in Turkey. Amnesty International estimated that some 120,000 Kurds crossed the border into Turkey within a two week period. On September 4 the flow of refugees was reported to have halted as Iraqi armed forces reached the northern border and prevented further crossings into Turkey. On the same day, several thousand Kurds fleeing from similar attacks reportedly crossed the eastern border into Iran.

On August 28 government forces reportedly entered several villages near the town of Duhok and arrested over 1,000 people who had been unable to flee. Some were suffering from wounds sustained in chemical weapon attacks. Those detained were allegedly summarily executed and then buried in mass graves nearby.

There was also fear for the lives of several thousand Kurds, many of them unarmed civilians, who were reported to have been arrested in late August in the Zakho region by advancing government forces. Iraqi armed forces reportedly cut off their retreat as they fled towards the Turkish border.

Two days after Iraqi forces had successfully sealed off the border with Turkey, and after a six-week military offensive by government forces in northern Iraq involving the killing of hundreds of unarmed civilians, Iraq's Revolutionary Command Council announced an amnesty for all Iraqi Kurds in the country and abroad. The decree called upon those wishing to take advantage of the amnesty to return to Iraq within 30 days.

On September 8, 1988, Amnesty International issued an unprecedented appeal to the U.N. Security Council to act immediately to halt the massacre of Kurdish civilians by Iraqi forces and stated that "these killings represent a most serious denial of the purposes of the United Nations Charter and a flagrant contravention of fundamental international human rights norms." A qualified welcome was given to the Iraqi government's announced amnesty, but it was noted that there had been reports in the past of Kurds being imprisoned and executed after responding to previous amnesties.

The following month, October, 1988, a group of 353 Kurds, including 52 children ranging in age from 11 to 17, reportedly "disappeared" from custody in the Qal'a (Castle) in Duhok Province. Their fate remains unknown.

Despite the Turkish government's initially positive steps taken in granting temporary refuge on humanitarian grounds to some 50,000 Kurds, there was concern in late October of 1988 that some refugees had been returned to Iraq against their will: As of October 28, some 1400 Kurds had been returned to Iraq under the amnesty. Amnesty International expressed fears for' the safety of those who had been repatriated. Amnesty International was also concerned that Turkish authorities considered verbal assurances given by the Iraqi government that the terms of the amnesty would be applied to all Kurds to be a sufficient guarantee for their safety.

In December 1988, large numbers of military personnel and civilians, perhaps as many as 200, were believed to have been arrested on suspicion of plotting a coup. Of those arrested, 14 army personnel and officials of the ruling Ba'th Party were reportedly executed in early January, 1989. In a separate incident, approximately 83 people, mostly army deserters, arrested in June or July, 1988, were reported to have been executed in mid-December. Army deserters had not been included in the various amnesties proclaimed by the Iraqi government after the ceasefire announcement.

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In February of 1989, Amnesty International issued a report on Iraq subtitled Children: *Innocent Victims of Politico Repression.* The report contained information which suggested that the government had over the years been repeatedly and flagrantly in breach of its own domestic legislation as well as that of international human rights treaties it had ratified. The report described a clear and long-standing pattern of political abuse of young people. Among the evidence cited was an account of school children who had been apprehended, lined up and summarily shot in public; the case of a boy, Mirza Rasho, who was still imprisoned in Mosul after his arrest with his brother 3 years before, when he was 6 years old; and the case of a former political prisoner released in 1985 who described how 12 relatives, some aged between 5 and 13, were tortured in front of him and how an incarcerated five-month-old baby had been deliberately deprived of milk in an effort to force his parents to confess to political offenses.

Despite the evidence cited by Amnesty International and numerous other sources, the political realities in March, 1989 were such that the U.N. Commission on Human Rights decided to take no action on the systematic and wide ranging abuses in Iraq. On March 7, it was announced that the Commission would not consider the human rights situation in Iraq under its confidential 1503 procedure used to examine consistent patterns of gross violations of human rights. The following day the Commission rejected a resolution calling for a special rapporteur to be appoints to study the country's human rights record.

Tragically, at about the same time that the Commission on Human Rights chose not to act, thirty-three Assyrian Christians, including entire families from Duhok, apparently "disappeared." These had been among the Iraqis who had returned in the winter of 1988–89 from Turkey and Iran.

In a statement delivered in August, 1989 to the chairman of the U.N. Sub-Commission on Prevention of Discrimination and Protection of Minorities, Amnesty International reiterated its major concerns about summary band arbitrary executions in Iraq and urged the Sub-Commission to express its "profound concern about Iraq's grave human rights abuses and to recommend effective action to combat them." Amnesty International noted in its statement that the Iraqi government had previously announced amnesties for all Kurds and for political opponents, and that seven Kurds executed in April, 1989, were said to have given themselves up to authorities in order to benefit from those amnesties. At least 4 other Kurds had been similarly executed in March or April. All eleven were suspected of having links to Kurdish opposition groups. Amnesty International was also concerned that the situation of 1900 other Kurds who had returned remained unclear.

The Sub-Commission failed to pass a resolution on Iraq.

In addition to the various amnesties of 1988 and 1989, the Iraqi government took other steps to counter adverse international publicity. Early in 1989 it announced a major liberalization program and issued official statements indicating a commitment to the protection of human rights. In anticipation of increasing public pressure, the Iraqi government issued a press release during the convening of the U.N. Sub-Commission in which it sought to justify the forcible relocation of hundreds of thousands of Kurds in the north and extended an invitation to selected journalists to observe the democratic process in the country. Farzad Bazoft, a journalist for The Observer, was one of those who was invited. Bazoft was hanged by that same government on March 15, 1990.

In late 1989 it was reported that the Iraqi government was seeking the extradition of 138 Iraqi Kurds from Turkish refugee camps in Diyarbakir and Mardin ostensibly for criminal offenses, including smuggling and drug trafficking. It was believed, however, that many of these individuals were wanted for suspected membership or support of the prohibited Kurdistan Democratic Party. There were also continued unconfirmed reports during this time of the arrest, "disappearance" and execution of those who had returned to Iraq to benefit from the various government sponsored amnesties.

The Iraqi military turned its attention to the south this past January when, between the 10th and the 23rd, it reportedly attacked over thirty towns and villages in the predominantly Shi'a provinces. Apparently this attack was related to the government's attempt to capture hundreds of army deserters who for some years had been hiding in the alahwar (marshes) region in the provinces of al-Basra, al Nasiriyya and al-Amara. Reports indicate that large numbers of both army deserters and unarmed civilians were killed or wounded, although actual numbers are not yet known. It should be noted that this onslaught was occurring bat the same time Iraqi government officials were meeting in Baghdad with a U.S. Congressional delegation.

The execution of British-based journalist Farzad Bazoft this past March received world-wide attention and need not be reviewed in depth in this report. Amnesty

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International believes, however, that this case illustrates two important points. First, it should be noted that Bazoft was originally invited into Iraq as part of a government attempt to demonstrate its increasing liberalization. His execution demonstrated, on the contrary, that the government's contempt for basic human rights has not changed in practice, despite post-war talk of reforms that would increase press and political freedoms.

Second, it should be recalled that on March 7, 1990, only three days before Bazoft's death sentence was announced, the U.N. Human Rights Commission voted to take no action on a draft decision which would have simply allowed human rights violations in Iraq to be brought before the commission next year. In March of 1989, Amnesty International stated before the U.N. Commission on Human Rights that, "Iraq clearly and incontrovertibly presents a situation of the most flagrant and massive violations of human rights. We can think of none which cries out more for international attention and action." That remains our assessment today.

Three months after his death there is nothing this body can do for Farzad Bazoft and the thousands like him who have been killed by the Iraqi government in recent years. There is a great deal that can be done for those who reside in Iraq and more especially for those who have managed to find refuge in Turkey and elsewhere. It is this latter group for which Amnesty International is currently extremely concerned and on whose behalf the U.S. Congress must act.

RECOMMENDATIONS

(1) Amnesty International believes that the abuses by the government of Iraq constitutes a gross and persistent pattern of internationally-recognized human rights violations and strongly encourages Congress and the Administration to examine the evidence on which this assessment is based, and to take into account seriously this information when determining U.S. policy with respect to Iraq. The U.S. Government should use all available opportunities to act against these violations.

(2) Amnesty International calls on the administration to appeal to the government of Iraq to cease the systematic abuse of human rights and to adhere to its international treaty obligations, and specifically to take the following steps:

1. Release from detention all prisoners of conscience.

2. End executions, especially those of Kurds and other Iraqis who have returned to Iraq under official amnesties.

3. Conduct an immediate and impartial inquiry into the reported disappearance and execution of such people, and make the findings public.

4. Allow a suitably qualified international agency, such as the International Committee of the Red Cross (ICRC), to monitor the return to Iraq of Kurds and other Iraqis who choose to return under official amnesties.

(3) Amnesty International also calls on the U.S. Government to implement vigorously the provisions of the Congressional Resolution Against Torture (P.L. 98–447), including to instruct the U.S. chief of mission in Iraq to:

1. examine allegations of the practice of torture;

2. express concern in individual cases of torture brought to the attention of the U.S. mission;

3. report to the Assistant Secretary of State for Human Rights and Humanitarian Affairs regarding efforts made by the mission to implement U.S. policy with respect to combating torture; and

4. meet with indigenous human rights monitoring groups knowledgeable about the practice of torture.

(4) Amnesty International also calls on the Government of the United States to appeal to the government of Turkey to prevent the forcible return of refugees to Iraq.

Iraqi Kurds: At Risk of Forcible Repatriation from Turkey and Human Rights Violations in Iraq

Amnesty International is concerned about the fate of an estimated 27,500 Iraqi Kurds who are currently in refugee camps in southeast Turkey. More than 21 months since they fled from Iraq to escape chemical weapons and other military attacks by government forces, they are still without any legal protection and their future remains uncertain. This absence of legal protection has placed many of them at risk of refoulement or extradition to Iraq, where they could face torture, execution, or "disappearance" following arrest. Refoulement is the forcible return of persons to a country where they risk being subjected to human rights violations. It is prohibited by internationally recognized standards. Reports received by Amnesty

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International in recent months suggest that pressure has been used by the Turkish authorities to coerce some Iraqi Kurds to return to their country while official amnesties declared by the Iraqi Government remain in effect. Such pressure has been said to include ill-treatment, reductions in food and water supplies and allowing delegations of Iraqi officials to visit the refugee camps. Amnesty International's concern is intensified by reports received in the past eighteen months that hundreds of Iraqi Kurds, as well as Assyrians, Arabs and Turcomans, have "disappeared" in custody, were tortured or executed in Iraq, after surrendering to the authorities under official amnesties or after receiving assurances that they would come to no harm.

Amnesty International opposes the forcible return of any person to a country where he or she may reasonably be expected to be imprisoned as a prisoner of conscience, or to be subjected to torture, "disappearance," or execution. To this end, it seeks to ensure that states where such people seek asylum provide them with effective and durable protection against being sent to a country where they would be at risk of such human rights violations, which would normally include legal protection. Amnesty International also opposes the extradition of any individual whom it believes may reasonably be expected to be imprisoned as a prisoner of conscience, or to be subjected to torture, "disappearance" or execution upon his or her return. This includes those whose extradition is sought for criminal offense which carry the death penalty.

The Turkish Government ratified the 1951 Convention relating to the Status of Refugees in 1962 and acceded to its protocol in 1968, but has stipulated that it will apply the provisions of the Convention only to persons who have become refugees as a result of events occurring in Europe. Turkey does not consider itself to be a country of asylum for refugees from countries outside Europe. Therefore Iraqis are not granted asylum or the right to remain in Turkey as refugees. The Turkish authorities have offered them only "temporary shelter," in the expectation that they would seek permanent asylum in other (third) countries.

In August and September 1988, over 55,000 Kurds fled to Turkey from northern Iraq to escape military attacks by Iraqi government forces on civilian targets, including with chemical weapons. Amnesty International welcomed the Turkish Government's decision to grant these refugees temporary shelter on humanitarian grounds. However, the organization expressed its concern that the government's policy of only granting refugee status to refugees originating from countries in Europe provided the Kurdish refugees with no legal protection and thereby increased the risk of their forcible repatriation to Iraq. This point was reiterated to Turkish Foreign Ministry officials by Amnesty International delegates during a fact-finding mission to the country In October 1988.

Since the August 1988 chemical weapons offensive, Iraq's Revolutionary Command Council (RCC) has granted five amnesties to political offenders, two of which were intended specifically for Kurds. The first, announced on 6 September 1988, was for Iraqi Kurds sought for crimes committed before that date (RCC Resolution No. 736). The second, announced on 8 September 1988, was for prisoners convicted of certain criminal or political offenses (RCC Resolution No. 735). The third, announced on 30 November 1988, was a general amnesty for those wanted fur or convicted of political offenses (RCC Resolution No. 860). The fourth, announced on 28 February 1989, was for all Iraqis living abroad who were wanted for or convicted of political offenses, provided they returned to Iraq between 1 and 30 April 1989 (RCC Resolution No. 130). Under the terms of the amnesty, all legal proceedings against them would be dropped. Those considered "agents of the Iranian regime" were excluded. On 10 April 1989, the terms of this amnesty were amended, allowing Iraqis to postpone their return until their circumstances permitted, provided they informed the authorities of their wish to benefit from the amnesty (RCC Resolution No. 238). The fifth and most recent amnesty, announced on 10 March 1990, was for Kurdish opponents living abroad. It was initially valid for two months but on 12 May it was extended for one month, and on 10 June for a further month.

According to figures received by Amnesty International from the Iraqi Government in May 1990, the number of people who benefited from these amnesties (including those who returned from abroad) are: 6 September 1988 amnesty—7,644; 8 September 1988 amnesty—54; 30 November 1988 amnesty—305; 28 February 1989 amnesty—77; and 10 April 1989 (amended) amnesty—49, totaling 8,129. No official figures were available yet regarding the number of people who benefited from the 10 March 1990 amnesty, which at the time of writing was still in effect [for unofficial estimates, see page 7]. Amnesty International requested from the Iraqi Government the names, details and current whereabouts of all persons who have benefited from the amnesties. The organization was informed that it would not be possible to provide such information on those who had returned from abroad since they were

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too numerous, but that it could provide details of individuals who had been released from detention as a result of the amnesties. Amnesty International is awaiting receipt of that information. At the same time, the organization has received reports indicating that the number of refugees who have returned from Turkey alone may be as high as 9,300, somewhat higher than that suggested by the Iraqi Government's figures.

The Office of the U.N. High Commissioner for Refugees (UNHCR) estimates that between 6,000 and 8,500 Iraqi Kurds have returned to Iraq under the various amnesties, many of them from Turkey. Amnesty International is seriously concerned about the lack of formal procedures to provide protection to those Iraqi Kurds who wish to remain in Turkey, which would ensure that none are returned to Iraq against their will, and fears that the Turkish authorities may continue to seek to induce the refugees to return. Furthermore, the lack of independent international monitoring of the repatriation process at all stages is all the more crucial since the Iraqi Government, for its part, has failed to protect the lives of its citizens upon their return to Iraq. Following the announcement of the 6 September 1988 amnesty the Turkish Government invited the International Committee of the Red Cross (ICRC) to handle the repatriation of those refugees who expressed a wish to return to Iraq. The ICRC initially accepted to play this role, but on 2 October 1988 it announced that it had "declined to handle the repatriation" following the Iraqi Government's objection to its involvement. The Iraqi Government informed the ICRC that since Iraq and Turkey enjoyed diplomatic relations, all repatriation would be handled on a bilateral basis, thereby making the involvement of a third party unnecessary. The Turkish authorities nevertheless proceeded with the repatriation without the involvement of the ICRC or any other suitably qualified agency. Turkish Foreign Ministry officials informed Amnesty International's delegates in early October 1988 that they lad received "verbal assurances" from the Iraqi Government as to the safety of the returning refugees, and that these assurances were deemed to constitute sufficient guarantees.

As a result of the ICRC's announcement, some of the Kurdish refugees who had initially expressed their willingness to return to Iraq became reluctant about doing so. Nevertheless, an estimated 1,900 Kurds were repatriated by 6 October 1988. Turkish officials informed Amnesty International that none of the Kurds had been forcibly returned. Yet, according to accounts given by many of the refugees interviewed in Turkey by Amnesty International in October 1988, some of those who had changed their minds about returning were nevertheless forced by Turkish camp officials onto buses bound for Iraq.

On 28 October 1988 Amnesty International once more called on the Turkish Government to allow a suitably qualified international agency, such as UNHCR, to be involved in the protection of the Kurdish refugees at all stages. However, the government continues to refuse the UNHCR such involvement. UNHCR is not allowed to conduct regular visits to the temporary shelters to provide material assistance and protection to the camp population. Assistance, in the form of food and shelter and work permits for those who wish to work outside the camps, is provided entirely by the Turkish authorities. However, since September 1988 the Turkish government has allowed UNHCR approximately six 'unofficial' visits to the camps, after which the organization reportedly expressed its concerns about the inadequacy of the shelters with respect to overcrowding and sanitation, particularly in Kiziltepe camp near Mardin, where refugees remain housed in tents.

According to UNHCR's mandate, the organization's protective (legal) role extends to all refugees, regardless of whether the country where they seek asylum is a party to the 1951 refugee Convention. In this capacity, while it has not been granted access to the camp population as a whole, in some cases it has provided assistance and protection to those Iraqi Kurds who approach the organization individually. The organization provides documentation to such people who have entered Turkey without official authorization. It interviews them to ascertain whether they have "a well-founded fear of persecution" which would qualify them as refugees under UNHCR's mandate. Provided they have not been granted asylum elsewhere before their arrival in Turkey, the UNHCR then arranges for other governments to offer the permanent asylum. Such people are granted temporary financial assistance, but are not eligible for UNHCR's resettlement program. UNHCR has also assisted some of the Kurdish refugees in the temporary camps who have been threatened with repatriation or extradition to Iraq by intervening with the Turkish authorities on their behalf and providing them with lawyers as necessary. Nevertheless, Amnesty International has continued to receive reports of the attempted repatriation or extradition of Kurdish refugees and is concerned that they are being systematically

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denied legal protection through the Turkish Government's refusal to grant UNHCR direct, regular access to the camps.

Since September 1988, all repatriation of Kurdish refugees to Iraq has continued to be handled on a "bilateral basis," without independent international monitoring and amidst reports of forcible repatriation on the one hand, and of the arrest, "disappearance" or execution of individuals who surrendered to the Iraqi authorities on the other.

Amnesty International takes the view that official amnesties declared by the Iraqi Government have not in themselves guaranteed the physical safety of those wishing to benefit from them. On the contrary. the organization believes that such amnesties may have been used to lure back to Iraq or to bring out from hiding suspected government opponents who, in the absence of independent international monitoring, are at considerable risk of further human rights violations. Amnesty International's concerns in this regard have intensified in the past eighteen months after receiving a number of reports of the "disappearance" in custody, torture or execution of individuals who sought to benefit from official amnesties. Many of the several thousand refugees who returned to Iraq from Turkey and Iran in the past eighteen months are believed to have been taken to Baharka and other so-called resettlement camps located near the Kurdish cities of Sulaimaniya and Arbil in the north. Their future there remain precarious. In the past, Kurds who were resettled in such camps were subsequently taken into custody and then "disappeared." Such victims include an estimated 8,000 male Kurds of the Barzani clan who in August 1983 were taken into custody *en masse* from Baharka, Qoshtapa, Harir and Diyana resettlement camps and transferred to unknown destinations. Their rate to this day remains unknown, and many are feared to have been executed. The Iraqi Government has denied any knowledge of their whereabouts.

In May 1989, Amnesty International received the testimony of a member of the prohibited Kurdistan Socialist Party-Iraq (KSP-I) who was taken into custody in February 1989 after surrendering to the authorities following the 30 November 1988 amnesty. He stated that he was held without charge or trial for 37 days before being released, initially in the Military Intelligence Directorate in Baghdad, and then in Prison No. 1 in the al-Harithiyya district of the city. He and 22 others were held in a small cell and were repeatedly beaten by their guards. One detainee was denied medical treatment when he suffered a broken wrist as a result. Amnesty International received the names of three men who were among a group of Iraqi Kurds who returned to Iraq from Turkey in 1988 following the announcement of the 6 September amnesty. The three, Arjan Narl Hassan, Mari Hari Hassan and Khaled Khudaida, were all suspected members of the prohibited Kurdistan Popular Democratic Party (KPDP) and were said to have disappeared. In another incident, 33 Assyrian Christians and their families who returned from Turkey and Iran to Iraq in late 1988 and early 1989 under various official amnesties were reported in March 1989 to have disappeared. Most were from Duhok Province. The Iraqi Government has denied any knowledge of such disappearances, but has requested details on their cases for verification.

On 16 August 1989, Amnesty International delivered an oral statement before the 41st Session of the U.N. Subcommission on Prevention of Discrimination and Protection of Minorities which cited, among other abuses, "the execution of Kurds who were said to have given themselves up to the authorities in order to benefit from amnesties." At least seven such Kurds were known to have been executed in mid-April 1989, "reportedly because of their past links with the Pesh Merga forces." The seven, executed in Dibs garrison near Kirkuk, were: Saber Sa'di, Qader Sa'di, Abdallah Mala Muhammad, Darwish Mala Muhammad, Abdal-Karim Chitto, Saber Hamad and Hatem Hamad. An Iraqi Government representative responded by denying that anyone has been executed after seeking to benefit from an amnesty. In another oral statement delivered before the 46th Session of the U.N. Commission on Human Rights on 19 February 1990, Amnesty International once again expressed its concern about "the continued reports of the arrest and subsequent 'disappearance' (of Iraqis who have surrendered to the authorities) * * *," and about "fears that some may have been summarily executed."

In November 1989, Amnesty International also received the names and details of 353 Kurds, among them 52 minors aged between 11 and 17, who were arrested by Iraqi security forces between 27 and 30 August 1988, in Amadiyya, northern Iraq, during the chemical weapons offensive. According to reported received they were initially taken with their families to Sorsonk military barracks, where the men were separated from the women and younger children. The men were then transferred to the Qal'a (castle) in Duhok and "disappeared" one month later. This was despite the general amnesty for Kurds announced on 6 September 1988. Those were

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"disappeared" included some members of the Pesh Merge forces (armed Kurdish units), but most were civilians. Before their arrest, some of them had been in hiding, but they surrendered after reportedly receiving assurances from the Iraqi authorities in Amadiyya that they would not be harmed. Amnesty International has submitted details of these cases to the Iraqi Government for investigation, and it awaiting a response.

In a telex to the Iraqi Government dated 15 May 1990, Amnesty International expressed serious concern about the lack of any independent international monitoring of the repatriation of Iraqi Kurds, following reports that large numbers of them had returned to Iraq in April and May after the extension of the deadline of the 10 March amnesty. The organization again urged the Iraqi authorities to take immediate steps to ensure the physical safety of all Iraqis returning under official amnesties.

In June 1990, Amnesty International received reports that 30 Turcomans were executed in Iraq in late January of this year. Among them were said to be four who returned from Turkey in order to benefit from official amnesties.

Reports such as these explain the reluctance of many Kurdish refugees currently in Turkey to return to Iraq. Their fears are further compounded by reported attempts on the part of the Iraqi Government to seek the extradition of some of them. Amnesty International has been informed that under the terms of an extradition treaty between Turkey and Iraq dated 29 May 1946, persons accused of political offenses would not be extradited. The organization has not received any information indicating that this treaty has since been abrogated, and while recognizing that countries may be affected by serious security problems unrelated to bona fide refugees, it is Amnesty International's view that the fundamental principle of nonrefoulement, including nonextradition of anyone who could reasonably be expected to face human rights violations, must be scrupulously observed.

In December 1989, Amnesty International received reports that the Iraqi Government was seeking the extradition of 138 Kurds from refugee camps in Diyarbakir and Kiziltepe (Mardin). The 138 Kurds were said to have committed criminal offenses in Iraq, including smuggling and drug trafficking. However, other information received by Amnesty International suggests that among them were suspected members or supporters of the Kurdistan Democratic Party (KDP), whose extradition was being sought on ostensibly criminal grounds. Amnesty International received the name of three of them, one of whom was reportedly arrested by Turkey's National Intelligence Organization (MIT) in Diyarbakir on 12 December 1989, and was last seen at the Habur crossing point on the Turkish-Iraqi border on 14 or 15 December. Amnesty International later learned that he had escaped custody and has since left Turkey.

Also in December 1989, Amnesty International received the names of two Kurds from the refugee camp in Mus, whose extradition was allegedly being sought by the Iraqi Government. The two men, Muhammad Tawfiq and Haji Arafat, were reportedly sent to Iraq against their will on or around 8 December 1989, and their fate and current whereabouts are unknown. They were said to have been ill-treated by Turkish camp authorities and forced to sign false statements to the effect that they wanted to return to Iraq. It was not known whether they were among the aforementioned group of 138 Kurds. In January 1990 Amnesty International received reports that six Kurdish refugees from Kiziltepe camp (Mardin) were informed in late December 1989 that they were to be returned to Iraq. The six are: Ali Jawad Kadhim, Taleb Abed Ahmad, Arkan Ibrahim Matti, Ibrahim Muhammad Wali, Salem Mirza Nuri and Basem Muhammad Fathi. Subsequent reports indicated that five of them were members of the Pesh Merga forces, and that they were forcibly returned to Iraq on 2 and 3 January 1990. In addition, another 40 Kurdish refugees were reported to have been forcibly repatriated to Iraq on 21 January 1990. Their fate and current whereabouts are unknown.

Amnesty International has continued to urge the Turkish authorities to ensure effective protection for Iraqi Kurdish refugees from forcible repatriation, and not to extradite those who risk falling victim to further human rights violations in Iraq. On 5 January 1990 the organization submitted to the government the names of seven such Kurds who faced extradition. On 1 February 1990, Amnesty International received a response from the Turkish Embassy in London, which reiterated the government's position on the status of the Iraqi Kurdish refugees and denied the threat of extradition: "Turkey ratified the Geneva Convention of 1951 and the protocol of 1967 on refugees with a reserve on geographical basis. According to this reserve, Turkey assured the obligation of accepting refugees only from European countries.

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In line with this disposition, the Iraqis who arrived in Turkey during September 1988 are not in a position to be granted the 'Status of refugee' by the Turkish authorities. However, with a humanitarian approach to this problem, Turkey provided temporary shelter to these people.

None of the Iraqis were sent back to their country against their will. Forced repatriation of these people [is] out of the question and no request was received from the Iraqi Government for the extradition of 138 Iraqis."

While Turkey's treaty obligations under the 1951 refugee Convention and its Protocol apply only to refugees originating from countries in Europe, Amnesty International believes that non-refoulement is a principle of general international law which is binding on all states, regardless of their specific treaty obligations or of the country of origin of the refugees concerned.

In March 1990, Amnesty International learned that the Iraqi Government was seeking the extradition of a Kurdish man who could face the death penalty If returned to Iraq. Reports indicated that he was accused of killing a member of the Iraqi secret police who was pursuing him. He is also said to be a KDP activist and draft evader who was sentenced to death in absentia after fleeing Iraq in May 1988. He was recognized as a refugee under UNHCR's mandate in late 1988. The Turkish authorities arrested him in late February or early March 1989 reportedly for the purpose of extradition, but he remained in detention in Turkey pending investigations into his case to determine whether the alleged murder was a political or criminal offense. Two officials of the Iraqi Government arrived in Turkey in late March 1990 reportedly to put pressure on the Turkish authorities to release him into their custody. Amnesty International learned in late May that he was extradited to Iraq earlier that month and is reportedly to be tried in June for murder, which carries the death penalty. He was initially held at a detention center in Baghdad but his current whereabouts are unknown. This extradition has taken place despite UNHCR's involvement in his case, including providing him with a defense lawyer. In June Amnesty International condemned the extradition and urged the Turkish authorities once more not to extradite to Iraq any persons who are clearly at risk of human rights violations there.

In early May 1990 the Prime Minister of Turkey, Yildirim Akbulut, met President Saddam Hussein in Baghdad. Among the topics reportedly discussed was the return of the Iraqi Kurdish refugees who remained in Turkey. Between March and early June 1990, 2,548 refugees were said to have been repatriated to Iraq under an official amnesty announced on 10 March. Of these, 1,923 were from Mus camp, 475 were from Kiziltepe (Mardin) camp and 150 were from Diyarbakir camp. More are expected to be repatriated before the current deadline of 11 July, suggest that poor hygiene and intolerable camp conditions, notably three outbreaks of large-scale food poisoning (on 8 June 1989 in Kiziltepe camp; on 17 December 1989 in Mus camp; and on 1 February 1990 in Diyarbakir camp) affecting several thousand refugees, has contributed to a general climate of insecurity which may be driving some reluctant refugees back to Iraq. In addition, pressures in the form of reduced food and water supplies, limited medical treatment, official bans on work outside the camp, curfews and other security restrictions, allowing Iraqi Government officials to visit the camps, and threats of forcible repatriation, are reportedly being used by the Turkish authorities to coerce some of the Kurdish refugees to return under the current amnesty.

These practices are said to be most widespread in Mus and Kiziltepe (Mardin) refugee camps, where the majority of the Kurds who returned to Iraq in April-June 1990 had been living. Recent Information received indicates, for example, that there have been outbreaks of typhoid, malaria and dysentery in Kiziltepe camp, for which only a handful of people are said to be treated daily. The following are extracts from the testimony of a Kurdish refugee in Kiziltepe (Mardin) camp received by Amnesty International in June 1990, and is one of a number of such testimonies received by the organization:

"Since the beginning of this year [1990] the camp administrations, particularly in the camps of Mus and Mardin, began adopting a practical program to pressurize the refugees to return to Iraq. That is what the Iraqi regime wants and is also working to achieve it. For this purpose, an exchange of visits at various levels took place between the two countries * * * The aim is to force the refugees to return to Iraq under any circumstances. A policy of depriving the refugees of food began in the camps of Mardin and Mus. Much of the nutritious foods given to the refugees every fifteen days has disappeared. They also imposed further restrictions on movement within and out of the camp * * * Hitting the refugees on their hands with sticks and slapping them has become a daily practice. Here are some documented examples:

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1. On 21/5 the police attacked the refugee Yassin Abdal, aged 36, married and has two children. They hit him with sticks on his hands until they started bleeding because he was late in returning [to the camp].

2. On the night of 22-23/5 two refugees were arrested: Sabah Sidiq and Ghazi Sidiq, who are brothers. They wanted to go through the barbed wire in order to enter the camp, since the past incidents of beatings and insults had frightened the refugees who had been visiting their relatives in Diyarbakir. So they [the two refugees] were intending to enter the camp out of sight of the police in order to avoid the beating and torture. They were beaten to the point of losing consciousness and were transferred to the hospital as a result.

3. On 1/6 the police severely beat these refugees: Sulaiman Mustafa—aged 42, a village "mukhtar" [government-appointed village chief].

Sidiq Bilizani—aged 60, he is ill and had gone to the police center to obtain a permit allowing him to receive treatment at Diyarbakir hospital, even though he had a paper from the doctor for that.

Hamid Jamil Shaikho Bamarni—aged 25. They hit him for no reason other than that when he was talking to the police officer he raised his head a little more than necessary and [there are] hundreds of other similar incidents

And after these attacks of the refugees by the police on 1/6, a delegation from the camp [composed of seven camp leaders] confronted the police officer * * * in charge of the police center in the camp, asking him to call the Governor and [tell him] that we wished to visit him in order that [he may] relieve our suffering and the attacks to which our sons are being subjected to. The officer's reply was that the Governor is not prepared to meet anyone, and that our method's [of dealing] with you will not change. If you accept you can stay, and if life here does not suit you, go to Iraq * * *"

On 3 June, six refugees in the same camp ware reported to have been beaten by police with hose pipes. Four of them are: Ja'far Haji Mustafa Hruri, aged 35, married; Mustafa Salim Hruri, aged 32, married; Ibrahim Ihsan Hruri, aged 18, single; and Hussain Isma'il Garka, aged 45, married and has eight children.

On 12 Hay 1990, clashes broke out between Kiziltepe (Mardin) camp authorities and the refugees, leading to arrests and threats of forcible repatriation of some refugees to Iraq. According to Initial accounts of the incident, disturbances had broken out in the camp between a group of refugee's and suspected "collaborators" with the Turkish and Iraqi authorities. The Governor of Mardin Province and security forces reportedly intervened to break up the fighting. The security forces were said to have fired at random into the crowds and to have beaten some of the refugees. Reinforcements in the form of additional security forces and armed personnel carriers were brought into the camp, which was sealed off and a curfew imposed. Subsequent reports received by Amnesty International linked this incident to attempts by the Turkish authorities to return a group of Kurdish refugees to Iraq. The following are extracts from an account of the incident made by one of the refugees in the camp:

"What happened on the night of 12-13/5/1990 surpassed anything that had happened before. A group of refugees, and they are: Hussain Besifki, Jumhur Uzmani, Mustafa Bamnrni, Amin Ali and Muhammad Salman, were summoned to the camp administration, and there they were asked by the police to go to the town of Mardin, at a distance of 12 kms. from the camp. The hospital car had been made ready for that purpose. The police clarified that the Governor was asking for them in order to meet some people who had arrived from Iraq. The [refugees] refused to get into the car * * * The police threatened that they would be handed over to the Iraqi authorities if they did not obey the orders, but their threats were to no avail. When [the police] gave up trying to make them go, they told the Governor * * * who ordered the release [of the refugees]. Directly after that [the Deputy Governor] himself came to the camp. A group of people were gathered at a distance of about 100 meters from the administration and police center. [The Deputy Governor], with a stick in his hand, headed toward them and started beating one of the refugees called 'Izzat Barbahari * * * who tried to get away * * * [The refugees] could not contain themselves and threw stones at the Deputy Governor and the armed police * * * The police started firing with the guns which I believe the state had provided them with for our protection. The bullets went through the tents and frightened the sleeping refugees * * * After half an hour an armored carrier with a police contingent entered the camp * * * the refugees took refuge in their tents * * * The following day the armored carrier made a military display, going through the passages between the tents at top speed. The children did not venture out and people remained in their tents. When the armored carrier could find nothing to run over, it proceeded to level the camp store * * * to the ground * * * And when they gave up trying to provoke us they withdrew their armored carrier. And on 15/5 the police

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summoned the villages leaders (mukhtars) in the camp and informed them that permission to leave the camp would once again be permitted, but that some refugees would not be allowed out, and they are: Zubair 'Abd al-Rahman Ma'i, Jamil Mahmud Besifki, Rizgar Saleh Kamaki, Hussain 'Abd al-Khaliq Besifki and Hassan 'Ali Biduhi. These refugees are not allowed to leave the camp and they are not allowed to us the telephone or receive calls * * * This is one aspect of the inhuman practices used to force the refugees to return * * *"

The eleven refugees named in the above testimony, together with four others from the camp (Raving Hruri, Ziravan Kuveli, Fariq Ma'i and Tayyar Ma'i) are reported to be under threat of forcible return to Iraq. Among them are military cadres of the KDP and student leaders of Kurdish youth organizations. Some are also refugee committee leaders. Reports indicated that an Iraqi government representative met Turkish camp authorities in late January or early February 1990, urging that they be handed over to the Iraqi authorities. Subsequently, a camp official was said to have attempted to induce nine of them to return "voluntarily" to Iraq.

On 14 Nay, Amnesty International raised its concerns with the Turkish Government about the lack of adequate safeguards ensuring that no Kurdish refugees would he sent back to Iraq against their will. On 16 May, the organization sent urgent appeals to the Turkish authorities urging once again that "immediate steps be taken to ensure that no Iraqi Kurds are placed under pressure or forced in any way to return to Iraq under the existing amnesty." It also requested the names of all those taken into custody from Kiziltepe (Mardin) camp and details of the legal basis for their detention. In a response to Amnesty International dated 30 May 1990, the Turkish Embassy in London did not comment on the specific incidents and cases which the organization had raised, but stated that:

"* * * forced repatriation of the Iraqis living in Turkey is out of the question. These unfortunate people were given temporary shelter in Turkey and our government, out of its limited sources, provided living standards for these people above the level they enjoyed in their homeland. The Iraqis who are currently hosted by the Turkish government are free to travel to any country in line with their own wishes.

Since last September, more than three thousand Iraqis went back to their country voluntarily when the Iraqi authorities announced, a general amnesty and made public that these returnees would not be prosecuted. Obviously, Turkey always acted [in conformity] with the wishes of these people and let them have their free choices on whether [to go] back home, [stay] in Turkey or [seek] refuge in a third country. The Turkish authorities, to avoid any criticism which may arise in the future, asked those refugees to sign documents indicating that their return take[s] place [in conformity] with their own wishes."

On 2 June, clashes were reported to have broken out in Mus camp after a group of refugees gathered in front of the camp administration calling for an end to ill-treatment and for permission to leave the camp. Only a small number of refugees are said to have permission to venture outside the camp, and for no more than two hours at a stretch. According to reports received, the gathering developed into a demonstration which was then dispersed by police firing into the crowd. Five of the refugees sustained bullet wounds. They are: Delawer Tahsin, aged eight; Muhammad 'Umar, aged 30; Tamar Jangir, aged 35; Nu'man Saleh, aged 50; and Iqbal Fattah, aged 18. Eight other refugees and one police officer sustained other injuries. The eight refugees are: Isma'il Shukr, aged 50; Idris Shalabi, aged 20; 'Aqid Haji, aged 14; Shawkat Hussain, aged 20; Qadri Brindar, aged 19; Jangir Hassan, aged 30; Karam 'Abd al-Jabbar, aged 30: and Muhammad Kamel, aged 55. Six other refugees were reportedly arrested, of whom three are believed to be still in detention: Muhammad Salim Shukri, aged 35; Nawzad Tawfiq, aged 35; and 'Ali Ramazan, aged 25.

Today, an estimated 27,500 Iraqi Kurds remain in Turkey in the camps of Diyarbakir, Kiziltepe (Mardin) and Mus (others have left for Syria or Iran, or resettled in other countries). Their future remains uncertain, as does the fate of those who return to Iraq. Disturbing and consistent reports of abuses committed against Iraqis who have returned to their country under official amnesties make the need for safeguards against forcible repatriation end extradition even more urgent. In view of these abuses, Amnesty International urges the Turkish authorities provide them with effective and durable protection against forcible return to a country where they would be at risk of human rights violations. It calls on the Iraqi authorities to respect both its national and international legal obligations by taking immediate and effective measures to protect the lives of all Iraqi citizens who return to their country under official amnesties, and to account for their fate and current whereabouts. To this end, Amnesty International urgently calls on both governments to

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accept the independent, international monitoring of the repatriation process at all stages of those Iraqi who choose to return to their country.

Senator MOYNIHAN. Thank you, Mr. Graham. We will return to your testimony.

Dr. Karim. Did I pronounce that correctly?

STATEMENT OF DR. NAJMALDIN KARIM, KURDISH NATIONAL CONGRESS OF NORTH AMERICA

Mr. KARIM. Yes, sir.

Senator MOYNIHAN. Good afternoon again, and please proceed as you will.

Mr. KARIM. Mr. Chairman, allow me to introduce into the records first a list of information about the plight of Kurds in Iraq.

Senator MOYNIHAN. Without objection, that will be entered into the record and printed.

[The information referred to follows:]

THE PLIGHT OF THE KURDS IN IRAQ

Numbering 4 million, the Kurds represent 28 percent of the population of Iraq. Their country, for the most part mountainous, runs alongside the entire length of the Turko-Iranian border and 520 kilometers of the border between Iran and Iraq. The total surface area of Iraqi Kurdistan is 74,000 square kilometers (approximately twice that of Switzerland).

The Iraqi state was created by Great Britain immediately after the First World War on the remains of the Ottoman Empire. At the San Remo Conference held in April, 1920 by the Allies, the British Empire awarded itself the mandate over Arab Iraq. On August 23, 1921, the British high commissioner in Mesopotamia enthroned Emir Faycal, son of Cherif of Mecca, as king of Iraq. The Kurds refused to recognize the authority of this Saudi sovereign imposed by London, and demanded their own state on the territories occupied by British troops. In his Society of Nations project, U.S. President Woodrow Wilson also declared himself to be in favor of the creation of a Kurdish state. In order to discover the desires of the population, the S.N. sent an international investigative commission to the site which remained in the Kurdish provinces from January to March, 1925. In its report, filed on July 16th in Geneva, it noted that "seven-eighths of the population of these provinces desires the formation of an independent Kurdish state."

As the mandating power, Great Britain did not take into account these desires and obtained from the S.N. the annexation of the Kurdish territories to the Iraqi state under the pretext that "without the oil and agricultural riches of Kurdistan, Iraq could not be economically viable." In exchange, it promised to recognize the right of the Kurdish population to possess its own autonomous government and to enjoy cultural freedom. The latter was, in fact, respected during the British mandate which ended prematurely in 1932. The Kurds didn't have, however, an autonomous government and the previously acquired cultural rights were questioned and progressively eroded by the Arab authorities of Baghdad. This resulted in a whole series of conflicts and revolts which have studded the contemporary history of Iraq. In July 1958, following the overthrow of the monarchy by General Kassem, of Kurdish origin, the new constitution proclaimed the "principle of equality and the free union of Arab and Kurdish sister nations in the heart of the Iraqi Republic." For 3 years, the Kurds enjoyed all their rights and became, as a result, the most enthusiastic defenders of the young republic. However, this evolution was violently contested by the nationalist Pan-Arab wing of the regime which ended by winning out. The Kurdish separatist movement was outlawed and presented as being "as dangerous for the Arab world as Israel." In September 1961, one entered a new period of armed confrontation. After 9 years of deadly combat, a military solution seeming improbable, a peace agreement was concluded in March, 1970 between General Barzani, chief of the Kurdish movement, and Iraqi vice-president Saddam Hussein. This agreement provided for a rather large autonomy for the Kurdish regions and 5 Kurdish ministers entered the Baghdad government. All the dispositions of the agreement were to be applied within a period of 4 years. Iraq took advantage of this delay to massively arm itself, in particular through the graces of the USSR, with which it signed a 25 year friendship and security treaty in April, 1972. It refused, at

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the same time, to include in independent Kurdistan the Kurdish oil-producing provinces of Kirkouk and Khanaqin, submitted to an increasingly rapid arabization. The Kurdish demand for the organization of free general elections by universal suffrage was also put aside. In March, 1974, Baghdad unilaterally promulgated a very restrictive autonomy law which applied to approximately one-half of the Kurdish territory (37,052 square kilometers out of 74,000) and accorded Kurdish leaders 30 days to adhere to it. They refused, and the war once again broke out. In this new test, Barzani benefited from the support (discreet) of the United States and Iran. After 1 year of violent combat, Iraq acknowledged the impossibility of a military victory and negotiated an understanding with the Shah of Iran. This understanding was concluded on March 5, 1975 in Algiers under the aegis of the Algerian president Boumediene: in return for territorial concessions to Iran, notably in Chatt-ul-Arab, Baghdad obtained from the Shah the halt of his aid to the Kurds and his cooperation in smothering the Kurdish movement. The Kurdish guerrilla movement collapsed. In 1977, it started up again on a more modest scale. The Algiers Agreement became one of the principle causes of the gulf War. Iraq attempted to take back all that it had yielded to the Shah when it was in a weak position.

THE CURRENT SITUATION

Outside of the "neither war nor peace" period from 1970 to 1974, the Iraqi Kurds have lived since 1961 in a state of war. The repression worsened during the course of the so-called Gulf War in which Kurdistan was one of the primary theaters of operation. This Iraqi policy, whose objective seems to be "to dekurdicize the Kurdish provinces and to destroy the ethno-cultural Kurdish entity, to reduce the Kurds to the condition of a minority without territory, is comprised of three facets:

1. *The destruction of towns and cities.*—Since 1976, the Baghdad authorities have created a no-man's-land 20 kilometers wide along the entire length of its border with Turkey. The Kurdish towns located in this zone have been destroyed, the population deported to the deserts of the south. During the gulf War, Kurds were able to return to this zone and rebuild certain of the destroyed towns. In 1987, Iraq decided to reestablish and "systematize" this policy of destruction. Beginning in March, 1988, the policy was intensified to attain its first phase: the destruction of all the villages of Kurdistan. In fact, at the present time, outside of some isolated hamlets located in mountain nooks, there no longer remains any. villages in Iraqi Kurdistan. According to the accounts of truckers crossing the region and French doctors (MDM and AMI) who take, under Iraqi escort, the Baghdad-Kirkouk-Soulalmaniah road to go to their hospital located next to the Iranian border, now the bulldozers have even razed the ruins of these villages. The vegetation has for the most part been destroyed by defoliants, water sources have been blocked with concrete to render them unsuitable for all human or animal life. Cattle have been confiscated or slaughtered on site. A livestock-rearing country, Iraqi Kurdistan contained, 5 years ago, 7 million sheep. There only remains approximately 50,000 in the districts on the outskirts of villages which have not as yet been destroyed. Tens of thousands of beehives have also been destroyed, thus putting an end to a millenial apicultural tradition (cf. annex 1, the text of the Iraqi military government decree.)

The destruction spares neither religious sites nor historical monuments. Several 6th and 7th century monasteries and churches (the St. Mohee of Gelki monastery, built in 685, the St. Kayouma of Douri monastery, early 6th century, the 7th century St. George of Douri church, etc.) medieval mosques, tombs mausoleums and caravanserais, which were among the most precious vestiges of Kurdish architectural and historic heritage, have been destroyed.

Neither observers from humanitarian organizations nor diplomats assigned to Baghdad are authorized to visit Kurdistan's devastated countryside, declared "forbidden zones." Iraqi soldiers are the inhabitants of these ghost towns; they are authorized to shoot on sight anything that moves.

The *second phase* of the policy of destruction consists in evacuating and destroying all Kurdish villages and cities of moderate importance. Theoretically, only those localities located in zones near the border are concerned. In a recent statement, the Iraqi government, which until now had totally denied "the allegations of the destruction of villages," maintained that "its evacuation operation in the border zones will remain limited to a width of 30 kilometers from the border" (cf. Le Monde of June 29th). In fact, certain small towns already destroyed are 400 kilometers from the nearest border, as, for example, Qadir Kerem and Qere Hesen in the Kirkouk province, Newjoul and Serqala in the Kifri and Sengaw provinces. The following is a list of the cities (called qeza or under-prefectures in the Iraqi administrative division) already evacuated and destroyed:

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Halabja (22,000 inhabitants), Khourmal (17,000 inhabitants), Penjwln (31,000 inhabitants, Tchoman (35,000 inhabitants), Chwarta (28,000 inhabitants), Dokan (50,000 inhabitants), Sldekan (18,000 inhabitants), Qala Diza (80,000 inhabitants), Sengaser (42,000 inhabitants).

The following small villages called nihiye (chief district sites) in the Iraqi administrative division, which had populations running from 4,000 to 20,000, have also been destroyed: Gelala, Haj Omran, Sengaser, Khelekan, Bingirt, Berzinga, Khourmal, Syd Sadiq, Slrwan, Kareza, Sengaw, Qeredagh, Chorech, Qere Hassan, Qadir Kerem, Serqela, Newjoul.

(This list, established on the basis of information reaching Paris at the end June and confirmed by several sources, is not exhaustive.) The cities in which the inhabitants have been advised of an upcoming evacuation are: Kanl Masl (30,000 inhabitants), Rania (120,000 inhabitants with its outskirts), Mergesor (25,000 inhabitants), Koy Sandjak (60,000 inhabitants).

According to the information currently available, this second phase will be followed by a third during which more important cities (Amadia, Aqra, Rewandouz, Shaqlawa) will be destroyed. There will only remain, in Iraqi Kurdistan, the frontier posts of Zakho and lChanaqin, the oil-producing city of Kirkouk (already largely arabicized), Dohuk, Suleymanieh and Arbil. However, the latter, which has been inhabited without interruption for more than 4,500 years and is considered as the oldest city in the world by historians, already feels its existence threatened.

At present, one estimates that approximately 10,000 square kilometers (out of 74,000) of Iraqi Kurdistan still remains inhabited, mainly on the sites of surviving cities and of relocation camps.

2. *The deportations.*—The populations of destroyed villages and cities are massively deported. Most of the deportees are shipped to "new habitation zones" located in Kurdistan along the major routes linking Arbil-Kirkouk, Arbil-Mossoul and Soulaimaniyah-Kirkou. Others have been sent to camps installed next to the Jordanian border.

In general, future deportees have from 2 to 3 days to assemble their personal belongings before being embarked by military transports to their "new residence sites." Their livestock or domestic animals are confiscated to be slaughtered on site or shipped to army camps. The deportees are sometimes given the choice between any unbanned city of Kurdistan (with the exception of the oil-producing cities of Kirkouk and lChanaqin, reserved for Arabs) or the camps. On arrival in the camps, they are charged an "indemnity" of 1,500 dinars (30,000 French francs at the official rate, approximately 10,000 French francs on the open market) per family to build a cement brick shanty.

The relocation camps being installed according to military imperatives, they currently have access to neither educational services nor economic activities. There is not even potable water: it is distributed twice a day by water trucks. Deprived of productive activity, the deportees survive as best they can thanks to an allowance of 50 dinars (approximately 450 French francs) per person per month, given by the authorities. So the Kurdish peasantry, which through its rearing, horticultural and agricultural activities assured the nutritional self-sufficiency of the whole of Iraq, now finds itself dismantled, destroyed, reduced today to charity.

The Kurdish population living currently in the relocation camps is estimated at 1 to 2 million persons., according to informed sources. The Iraqi government, which should possess rather precise statistics on this subject, has quoted no figure to this day. It is therefore impossible to give a precise estimate. The most one can say is that there are several hundreds of thousands of Kurds, realistically more than a million, torn from their homes, from their traditional way of life, from their historical heritage, from their economic culture and packed into camps.

It is fitting to add that approximately 200,000 Iraqi Kurds are also living in refugee camps in Turkey (36,000), Iran (160,000) and Pakistan under nearly insupportable conditions.

THE REPRESSION

This aspect of the policy of the Iraqi government is relatively better known to public opinion, thanks to the actions of humanitarian organizations (Amnesty International, F.I.D.H.) and the efforts of the media to sensitize the public. The press gave large coverage to the chemical weapons bombings of March, 1988 (Halabja) and of August-September,1988 (provinces located along the Turkish border). Kurdish sources estimate at 15,000 the number of civilians killed by chemical weapons.

The "extra-judiciary" executions of persons suspected of belonging to or conspiring with Kurdish guerrillas is counted in the thousands for the year 1988. The annual report of the American State Department as well as that of Amnesty Inter-

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national provides numerous precisions on torture and execution, as well as the names of the better known victims.

In February, 1989, Amnesty International published a voluminous report (70 pgs) filled with figures and names of the Kurdish children martyrized in Iraq. From the torture of babies in the presence of their parents to force the latter to talk, to the putting to death by torture of children aged from 12 to 13 years because of the alleged political activities of their parents, this report teems with unendurable information. It also notes that the bodies of young victims are only returned to their relatives after the payment of an "execution tax!"

The repression sometimes takes the form of massive extermination. On July 30, 1983, approximately 8,000 women and children belonging to the Barzani tribe and living in the Qouchtepe resettlement camp, 10 kilometers from Arbil, placed under the control of the Iraqi army, were taken to an unknown destination. The steps taken by humanitarian organizations and the Red Cross to obtain information about them have remained without response. Saddam Hussein contented himself with stating on television that these "traitors are doubtless in hell." A Kurdish source maintains that they have been exterminated after having served as guinea pigs in experiments on chemical and bacteriological weapons.

ANNEX I

TEXT OF THE DECREE OF THE MILITARY GOVERNOR OF IRAQI KURDISTAN

The letter of the first legion SF/1725 dated June 21st, notified by letter of the positions FL 1 SF/4089 dated June 22 and begins as follows:

(A letter from the commander of the offices of the Northern Organizations SF/4008 dated June 20) in consideration of the end of the period officially announced for the collectivization of the "villages forbidden for security reasons" which expires June 21, we have decided to execute the following, beginning June 22:

1. All the "villages forbidden for security reasons" should be considered as sites (bases) of the subversive agents of Iran, successors of treason and the equals of Iraqi traitors.

2. The existence of human beings and animals in these regions should be absolutely forbidden, these regions should be considered as operational zones where firing should not be restrained by any order other than those emanating from our base.

3. Traveling through these regions, as well as all agricultural, animal or industrial activity should be strictly forbidden, and the authorities concerned are responsible for following this order to the letter, each within his field of competence.

4. Your commanders should, from time to time, prepare special attacks using artillery, helicopters and combat planes as often as possible and without respite against those living in these regions, and day and night.

5. Anyone found in these forbidden regions should be taken and interrogated by the organs of security. Those whose ages vary from 15 to 70 years should be executed after one has benefited from the information that they have given.

6. The organs of security concerned should interrogate those who surrender for a maximum of three days, and for 10 days if necessary. If the questioning requires more time than this, they will receive our assent, which will be communicated either by telephone or by telex.

Any object confiscated by the combatants of the Regiments of National Defense (government militia) should be given to them, with the exception of heavy, medium and support weapons. On the other hand, they may keep light weapons under the condition that they simply inform us of their number.

The officers of the regiments should inform actively and in detail the unit and detachment commanders of the army about their activities within the Regiments of National Defense. We hope that the above will be executed by everyone within their field of competence.

Mr. KARIM. I also would like to introduce into the record this book, which shows the villages in Kurdistan, which has been deported of its population. The date and the number of people who lived in those villages, the schools, the churches, and the hospitals that have been destroyed by the government, and also the areas that have been Arabized, where the Kurds have been depopulated and non-Kurds have been settled in their place.

Senator MOYNIHAN. Dr. Karim, earlier the chairman, Senator Pell, had the same document and asked that it be made part of the

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files of the committee, and that will be done, and we thank you. We have two copies now.

Mr. KARIM. Mr. Chairman, let me say for the record how much the Kurdish community in the United States of America and indeed everywhere else, appreciate what you and your committee have done for them: the recently passed resolution by your committee to have Voice of America broadcast in Kurdish is a very important and necessary step to provide 25 million Kurds with accurate news and information in their own language, which does not exist in any part of Kurdistan, and your leadership in passing the resolution to impose sanctions on Iraq following its use of chemical weapons on the Kurds in 1988, and sending the factfinding mission to Iraqi Kurdistan and to Kurdish refugee camps in Turkey.

Senator MOYNIHAN. May I say to you that that is very good to hear. It is the first indication that anybody has taken official notice, you might say. That was reported unanimously from the Committee on Foreign Relations.

Mr. KARIM. We do appreciate that. We are honored to speak before you today as a Kurdish-American on behalf of the 4 million Kurds in Iraq who cannot speak to you on their own behalf.

The Kurdish National Congress of North America, of which I am a member of the executive committee, is deeply grateful to your distinguished committee for the attention you have directed to the denial of Kurdish human rights in Iraq. A day does not go by that each one of us Kurds do not think of our family members now trapped in Kurdistan that is no longer theirs, a Kurdish nation that is brutally and systematically being forced into submission and extinction by all the governments that occupy it.

Today the focus is on Iraq, a country whose oppression of the Kurdish people has gone beyond mere violation of human rights to a full-scale systematic genocidal policy of eradication of the Kurdish identity within Iraq and the elimination of any persons who oppose this policy. No policy of this scope is set in Iraq without the direct orders of Iraq's President, Saddam Hussein. A full comprehensive account of many of the atrocities that have been and continue to be committed by the Iraqi Government against the Kurds would take many hours to present but are well-documented elsewhere.

The list of the crimes committed by the Iraqi Government against the Kurdish population grows longer with each passing day, adding to an increasing body of evidence that reveals Iraq's intent to destroy Kurdish identity is more than the policy to stamp out and repress political opposition. It is a policy whose ultimate goal is the elimination of the 4 million Kurds and all things Kurdish from Iraq.

The crimes committed by the Iraqi regime to eliminate political opposition, the use of chemical weapons, the imprisonment, torture, and execution of suspected opponents of the Iraqi regime and their relatives including infants and children, the assassinations and attempted assassinations of dissidents and Kurdish leaders outside Iraq are in themselves enough to justify the condemnation and boycott of Iraq both economically and militarily by the rest of the world community, but the slower more insidious forms of Iraq's genocide against the Kurds, the policies against its own Kurdish

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citizens who are supposedly protected as citizens under the Iraqi constitution are crimes as heinous and abhorrent as its more flagrant abuses of human rights.

Among these are: No. 1, 4,000 Kurdish villages and towns have been destroyed and leveled. There are no villages left in Kurdistan. A militarized zone of——

Senator MOYNIHAN. There are no villages left in Kurdistan?

Mr. KARIM. In Kurdistan. A militarized zone of 20 to 30 kilometers wide has been established along Iraq's border with Turkey and Iran in Kurdish areas only. Anything that moves in this area is shot on the spot. Some estimates place the number of Kurdish villages deprived of their homes, land, livestock, property, and livelihood at the very least at half million; this is a conservative figure.

No. 2, displaced Kurdish villagers have been forced to live in camps located near largest population centers, Erbil, Sulaimaniya, and Dihoak. Others were dispersed to the southern deserts and others to unknown locations. All camps are located next to heavily armed Iraqi army garrisons. The camp inhabitants are at the mercy of the Iraqi Government to provide them with food. There are no means of economic support for them. Some of the camps have no water. Even the wells dug there were dry.

No. 3, dislocated Kurds are prohibited from visiting their villages of origin. For example, Kurds from Sinjar cannot go back to Sinjar.

No. 4, Kurds are prohibited from buying land in areas targeted for Arabization, such as Kirkuk, Sinjar, Khanakeen, Sheikhan, Tuzkhurmatoo, Kifri, and other places.

No. 5, an Iraqi Arab who marries a Kurdish woman is paid 500 Iraqi dinars by the Government of Iraq.

No. 6, the Kurdish land has been damaged environmentally. There is a massive project to divert water from Kurdish areas. Natural springs in Kurdish areas have been plugged by cement, trees have been cut and roots poisoned so that they will not grow back again.

No. 7, Kurdish students are not admitted to military or police academies nor to college of education, unless they are members of the Arab Ba'ath Socialist party; and

No. 8, all teachers must become members of the Arab Ba'ath Socialist party to keep their job.

The Iraqi Government's intrusion into every aspect of every citizens' daily life is beyond comprehension of persons who have grown up and lived in a free society. They have even sent Iraqi agents into refugee camps to intimidate the Iraqi Kurds in Turkey, they succeeded in poisoning the bread given to the refugees; 2,000 persons fell ill. Kurdish refugees who accepted Iraq's offer of amnesty and return to Iraq have never been heard from again.

As Kurds we are grateful to those who, at last, are telling the alarming story that needs to be told about Iraq. But for the 150,000 Kurds still in refugee camps in Turkey and Iran words are not enough. For the 4 million Kurds inside Iraq today, words are not enough.

Their very lives, their culture, their heritage, their identity, their future and the future of their children is in jeopardy. We, therefore, ask for the following actions be taken, if you allow me, Mr. Chairman.

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Senator MOYNIHAN. Please do, Doctor.

Mr. KARIM. No. 1, we ask that the United States grant refugee status to the Kurdish refugees from the Turkish and Iranian camps and admit those who wish to come to the United States. We have compiled a list of the people who have relatives in this country and are willing to come here.

We ask that the United States grant political asylum in the United States to those Kurds who seek it. We ask that the United States Embassy in Baghdad grant visas to those Kurds who wish to visit their relatives in the United States or seek medical care in this country.

No. 2, we ask that the United States use its influence and put pressure on the Governments of Turkey and perhaps on Iran, which may be more difficult, and work with the U.N. High Commission of Refugees and with the International Red Cross and other organizations to improve the condition of the refugees in the refugee camps.

Kurdish refugees in Iran are not forced to remain in camps like they are in Turkey, but most have been forced to become beggars in the streets for lack of food. Just this week, we learned that three Kurds who have been arrested in Dyarbakir, Turkey, for attempting to deliver $6,000 to the refugees which have been donated by the Kurds in the United States and elsewhere.

About a month ago, a Kurdish medical student in Dyarbakir, Turkey publicly burned herself to death to call world attention to the plight of the Kurdish refugees. Unfortunately, this received little notice.

No. 3, we ask that the position of observer status be created for Kurdistan in the United Nations like that has been created for the Palestinians. We ask that a session of the United Nations be devoted to a discussion of the Kurdish issues, as was proposed by the late Dr. Andre Sakharov in the Paris conference on the Kurds.

No. 4, we ask that the United States exert pressure on Iraq to compensate those Kurds who have suffered from its chemical weapon attacks and forced dislocations, that Kurds be allowed to return to their villages and rebuild them, that their human and ethnic rights be respected.

And last, we ask that the United States discontinue its credit to Iraq through Import-Export Bank and impose military and economic sanctions on Iraq until its genocidal policies are discontinued, compensation paid, and human rights restored to all Iraqi citizens.

Thank you.

[The prepared statement of Dr. Karim follows:]

PREPARED STATEMENT OF NAJMALDEEN KARIM

It is indeed a great honor to speak before you today, as a Kurdish American on behalf of the four million Kurds in Iraq who cannot speak to you on their own behalf. The Kurdish National Congress of North America, of which I am a member of the Executive Committee, is deeply grateful to your distinguished committee for the attention you have directed to the denial of Kurdish human rights in Iraq. A day does not go by that each one of us Kurds does not think of our family members now trapped in a Kurdistan that is no longer theirs, a Kurdish nation that is brutally and systematically being forced into submission and extinction by all the governments that occupy it.

Today, the focus is on Iraq, a country whose oppression of the Kurdish people has gone beyond mere "violation of human rights" to a full scale, systematic, genocidal

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policy of eradication of the Kurdish identity within Iraq, and the elimination of any persons who oppose this policy. No policy of this scope is set in Iraq without the direct orders of Iraq's president, Saddam Hussein.

A full comprehensive account of many of the atrocities that have been and continue to be committed by the Iraqi government against the Kurds would take many hours to present, but are well documented elsewhere. Your committee staff report on Iraq's use of chemical weapons against the Kurds by Peter Galbraith and Christopher Van Hollen, Jr., David Korn's comprehensive report, "Human Rights in Iraq," published this year by Middle East Watch, the State Department's annual report on human rights, the proceedings of the First International Conference on Kurdish Human Rights in Paris last October sponsored by France Liberte headed by Madame Danielle Mitterand of France, reports by Amnesty International, Physicians for Human Rights, Cultural Survival, numerous journalists and others have described vividly in sickening detail the terror to which the Kurdish people of Iraq have been and continue to be subjugated.

The list of crimes committed by the Iraqi government against the Kurdish people grows longer with each passing day, adding to an increasing body of evidence that reveal Iraq's intent to destroy the Kurdish identity is more than a policy to stamp out and repress political opposition. It is a policy whose ultimate goal is the elimination of four million Kurds and all things Kurdish from Iraq.

The crimes committed by the Iraqi regime to eliminate political opposition: the use of chemical weapons; the imprisonment, torture, and execution of suspected opponents of the Iraqi regime and their relatives including infants and children, the assassinations and attempted assassinations of dissidents and Kurdish leaders outside Iraq are in themselves enough to justify the condemnation and boycott of Iraq both economically and militarily by the rest of the world community. But the slower, more insidious forms of Iraq's genocide against the Kurds, the policies against its own Kurdish citizens who are supposedly protected as citizens under the Iraqi constitution, are crimes as heinous and abhorrent as its more flagrant abuses of human rights. Among these are:

1. Four thousand Kurdish villages and towns have been destroyed and level led. There are no villages left. A militarized' zone 20 to 30 kilometers wide has been established along Iraq's borders with Turkey and Iran in Kurdish areas only. Anything seen moving in this area is shot on the spot. Some estates place the number of Kurdish villagers deprived of their homes, land, livestock, property, and livelihood at the very least one half million.

2. Displaced Kurdish villagers have been forced to live in camps located near larger population centers: Erbil, Sulaimaniya, and Dihoak. Others were dispersed to the southern desert, others to unknown locations. All camps are located next to heavily armed Iraqi army garrisons. The camp inhabitants are at the mercy of the Iraqi government to provide them with food. There is no means of economic support for them. Some of the camps have no water. Wells dug there were dry.

3. Dislocated Kurds are prohibited from visiting their village of origin. For example, Kurds from Sinjar cannot go to Sinjar.

4. Kurds are prohibited from buying land in areas targeted for Arabization, like Xirkuk, Sinjar, Khanakeen, Sheikhan, Tuzkhurmatoo, and Kifri.

5. Any Iraqi Arab man who marries a Kurdish woman is paid 500 dinars (officially $1,500) by the Iraqi government.

6. The Kurdish land has been damaged environmentally. There is a massive project to divert water from the Kurdish area. Natural springs in the Kurdish area have been plugged by cement. Trees have been cut and the roots poisoned so that they will not grow back.

7. Kurdish students are not admitted to military or police academies, nor to the College of Education unless they are members of the Arab Ba'ath Socialist party.

8. All teachers must become members of the Arab Ba'ath Socialist party to keep their job.

The Iraqi government's intrusion into every aspect of every citizen's daily life is beyond the comprehension of persons who have grown up and live in a free society. They have even sent Iraqi agents into the refugee camps to intimidate the Iraqi Kurds in Turkey. They succeeded in poisoning the bread given to the refugees. Two thousand persons fell ill. Kurdish refugees who accepted Iraq's offer of amnesty and returned to Iraq have never been heard from again. As Kurds, we are grateful to those who at last are telling the alarming story that needs to be told about Iraq.

But for the 150,000 Kurds still in refugee camps in Turkey and Iran, words are not enough. For the four million Kurds inside Iraq today, words are not enough. Their very lives, their culture, their heritage, their identity, their future, and the future of their children is in jeopardy.

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We therefore ask that the following actions be taken:

1. We ask that the U.S. grant refugee status to the Kurdish refugees from the Turkish and Iranian camps and admit those who wish to come to the U.S. We have compiled a list of approximately 700 persons there who have relatives in the United States. We ask that the U.S. grant political asylum in the U.S. to those Kurds who seek it. We ask that the U.S. Embassy in Baghdad grant visas to those Kurds who wish to visit their relatives in the United States or who seek medical care here.

2. We ask that the U.S. use its influence on the governments of Turkey and Iran to work with the U.N. High Commission on Refugees and the International Red Cross to improve the conditions of the refugee camps. Kurdish refugees in Iran are not forced to remain in camps like they are in Turkey, but most have been forced to become beggars in the street for lack of food. Just this week we learned that three Kurds have been arrested in Dyarbakir, Turkey for attempting to deliver $6,000 to the refugees which had been donated by Kurds in the United States and elsewhere. About a month ago a Kurdish medical student in Dyarbakir publicly burned herself to death to call world attention to the plight of the Kurdish refugees. Unfortunately this received little notice.

3. We ask that a position of observer status be created for Kurdistan in the United Nations, like what has been done for Palestine and Eritrea and others.

4. We ask that a session of the U.N. be devoted to a discussion of Kurdish issues as was proposed by the late Dr. Andrei Sakharov.

5. We ask that the U.S. exert pressure on Iraq to compensate those Kurds who have suffered from its chemical weapon attacks and forced dislocations, that Kurds be allowed to return to their villages and rebuild them, that their human and ethnic rights be respected.

6. We ask that the U.S. discontinue its credit to Iraq through the Import/Export Bank, and impose military and economic sanctions on Iraq until its genocidal policies are discontinued, compensation paid, and human rights restored to all Iraqi citizens.

Thank you.

Senator MOYNIHAN. Thank you, Dr. Karim.

Thank you particularly for the specifics that you put before us. You give us decisions that we have to make. And I must say, I am very impressed by those particulars.

But let us first hear from Professor Milhollin, and good afternoon to you, sir. Thank you for being patient. You are the cleanup hitter.

STATEMENT OF GARY MILHOLLIN, PROFESSOR, WISCONSIN PROJECT ON NUCLEAR ARMS CONTROL

Mr. MILHOLLIN. I am the barrier to lunch.

Senator MOYNIHAN. No, you are not. You have been very patient, saving your own lunch, if that is what you mean. But take your time; we have taken your time.

Mr. MILHOLLIN. Thank you very much, Senator.

I am pleased to appear before the committee. I would ask the committee to insert my statement at this time as if read.

Senator MOYNIHAN. Without objection, as if read.

Mr. MILHOLLIN. And I will simply try to make a few major points and correct some statements that the State Department made which I believe are in error.

First, Iraq is engaged in a giant experiment at this time which consists of trying to import the means to make ballistic missiles and nuclear weapons. Iraq has already succeeded in importing the means to make chemical weapons. The outcome of this experiment will depend on export control systems in the developed countries. They are the only practical barrier to the achievement of Iraq's objectives. If Iraq does achieve these objectives, it will cause a major

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shift in power in the Middle East, and I believe it will be a clear and present threat to world peace.

So, I think that it is—I cannot imagine a thing more important than preventing Iraq from succeeding in this import effort. The fact is that the United States over the last few years has exported to Iraq technology that Iraq is now using to make ballistic missiles.

Senator MOYNIHAN. Do we have some specifics on that?

Mr. MILHOLLIN. I was hoping you would ask that question, Senator. Yes. The Commerce Department approved the export of high-speed oscilloscopes to Iraq. These machines are on the nuclear referral list, which means that they can used in the production of nuclear weapons. These machines also are used to develop and test and maintain the guidance systems of long-range ballistic missiles.

These were sent to Iraq, I understand, by the Commerce Department over the last few years.

Senator MOYNIHAN. The Commerce Department agreed that they could——

Mr. MILHOLLIN. Agreed that they could be exported to Iraq.

Senator MOYNIHAN. All right. Let us have the staff get right on to that. All right, Peter? Let us learn of that. I mean, that is a specific, and we will pursue that.

Mr. MILHOLLIN. I also have the impression that the Commerce Department and the State Department are now considering the export of other similar items on the nuclear referral list to Iraq and that the Government is divided over whether these should be approved.

I recommend to the committee that the committee inform the Commerce Department that it opposes any further export of sensitive technology to Iraq until further notice. It seems to me that that is the least we could do to translate into action our feelings about what Iraq is doing.

Senator MOYNIHAN. Yes, very clearly. COCOM—that is an international organization.

Mr. MILHOLLIN. All right. Let us go to the COCOM question. Iraq tried to smuggle a thing called krytrons out of the——

Senator MOYNIHAN. Yes.

Mr. MILHOLLIN [continuing]. Out of the United States. I have a list of the items that were deleted in the last week from the COCOM list. Item 1542 covers krytrons. It was deleted from the COCOM list last week.

Senator MOYNIHAN. COCOM, that is the Coordinating Committee on Multilateral Export Controls to Communist Countries?

Mr. MILHOLLIN. Yes.

Senator MOYNIHAN. That is a Cold War structure.

Mr. MILHOLLIN. That is right.

Senator MOYNIHAN. The Cold War is kind of coming apart now. Why would those have been deleted?

Mr. MILHOLLIN. They have been deleted because of the desire to free the transfer of technology to the newly free countries in Eastern Europe.

Senator MOYNIHAN. Exactly. So, it is a Cold War structure.

Mr. MILHOLLIN. Yes.

Senator MOYNIHAN. That does not respond to the kinds of situations we are dealing with here.

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Mr. MILHOLLIN. Well, the problem is that by freeing it for export to those countries, in a practical sense it makes it far easier for Iraq to import it.

Senator MOYNIHAN. It puts it on the world market.

Mr. MILHOLLIN. It puts them on the world market. It removes them from the licensing control system of European countries. That is not quite so important for these items, but for similar items it is important, because the Europeans also make those. So, what we are looking at is the free export of high technology, which is related to missiles and bombs to Eastern Europe for the first time, without any assurance whatsoever that this is not simply going to turn around and go south.

Senator MOYNIHAN. Down the Danube and across the Black Sea.

Mr. MILHOLLIN. It is going to go to Iraq. It will go to South Africa; it will go to Pakistan and India. Any country that wants to get nuclear-sensitive technology that was barred before will be able to order it through East Europe, because it has been dropped from the COCOM list.

Senator MOYNIHAN. You had a list there?

Mr. MILHOLLIN. I have a list of COCOM deletions.

Senator MOYNIHAN. We will put that in the record at this point.

[The information referred to follows:]

COCOM DELETIONS

At the High Level Meeting, COCOM agreed to the deletion of the following 30 Industrial List Items, effective July 1, 1990:

IL—1075 Spin forming and flow-forming machines specially designed or adapted for numerical or computer control.
IL—1129 Vacuum pump systems.
IL—1203 Electric furnaces, specially designed components and controls therefor, and "specially designed software."
IL—1206 Electric Arc Devices.
IL—1305 Metal rolling mills, specially designed components, accessories and controls and "specially designed software" therefor.
IL—1354 Equipment to manufacture or test printed circuit boards.
IL—1356 Equipment for the continuous coating of polyester-base magnetic tape embargoed by IL 1572.
IL—1359 Specially designed tooling and fixtures for the manufacture of fibre-optic connectors and couplers.
IL—1360 "Stored-programme controlled" equipment.
IL—1365 Equipment specially designed for in-service monitoring of acoustic emissions in airborne or underwater vehicles.
IL—1372 Technology for industrial gas turbine engines.
IL—1425 Floating Docks, "software" and technology therefor.
IL—1514 Pulse Modulators.
IL—1518 Telemetering and telecontrol equipment.
IL—1521 Solid state amplifiers.
IL—1541 Cathode ray tubes.
IL—1542 Cold cathode tubes and switches.
IL—1544 Semiconductor diodes and dice wafers therefor.
IL—1545 Transistors and dice and wafers therefor.
IL—1547 Thyristors and dice and wafers therefor.
IL—1559 Hydrogen/hydrogen isotope thyratrons of ceramicmetal construction and accessories therefor.
IL—1570 Thermoelectric materials and devices.
IL—1585 Oscilloscopes.
IL—1587 Quartz Crystals and Assemblies thereof.
IL—1588 Materials Composed of Crystals having spinel, hexagonal, orthorhombic, or garnet crystal structures, thin film devices, assemblies of the foregoing, and devices containing them.

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IL—1602 Pyrolitic deposition technology and specially designed components therefor.
IL—1635 Steel alloys in crude or semi-fabricated form, containing a specified combination of elements.
IL—1734 Low density rigid, carbon-bonded, fibrous or nonfibrous carbon thermal insulating materials.
IL—1749 Polycarbonate sheets.
IL—1760 Tantalates and niobates, except fluorotantalates.

Mr. MILHOLLIN. I have a copy that I can supply the committee.
Senator MOYNIHAN. Good.

The second piece of technology which has been deleted from the COCOM list is the machine that makes the bodies of centrifuges. Centrifuges are what Iraq is counting on to make the material for its first atomic bomb. I believe that the fact that this has been deleted from the COCOM list will make it much easier for Iraq to import these machines. A German company has already been investigated for quietly supplying Iraq with perhaps one machine in the past.

So, we are looking at a situation in which the barrier to Iraq's success in making bombs and missiles is the international export control system, and at the same time we are weakening that system in order to facilitate the East bloc.

The problem is that we have not thought through the consequences of our actions, and we are still fighting the last war. We have not realized that we have a new arms race on our hands. Instead of an East-West arms race, we now have a North-South-East arms race, and we simply have not adjusted our minds.

Senator MOYNIHAN. Nice. North-South.

Mr. MILHOLLIN. It is happening. It will be the next arms race.

There is one more point that I want to cover, and that is that I believe that Iraq's effort to import the components of the nuclear trigger from the United States, to smuggle them out of the United States, was a violation of Iraq's obligations under the nonproliferation treaty to refrain from making nuclear weapons.

I believe that the United States should declare that Iraq has either violated the nonproliferation treaty, or attempted to violate it. So far, the State Department has not brought itself even to the point where it is able to declare that Iraq has violated the treaty. It seems to me, as you have said, that if a treaty can be violated with impunity, then it means nothing. The nonproliferation treaty is a crucial international undertaking. It must be defended, and it must be defended by the State Department. I find it unacceptable for the State Department to be unable to declare a country in breach of the treaty after such a thing as Iraq has done.

[The prepared statement of Mr. Milhollin follows:]

PREPARED STATEMENT OF GARY MILHOLLIN

I am pleased to have this opportunity to address the Senate Foreign Relations Committee on the subject of Iraq's effort to build nuclear weapons, chemical weapons and long-range missiles.

I am a member of the University of Wisconsin Law School faculty and director of the Wisconsin Project on Nuclear Arms Control in Washington, D.C.—a project devoted to slowing the spread of nuclear weapons to developing countries.

Iraq has now begun a great experiment. After importing the means to make chemical weapons, it is trying to import the means to make nuclear weapons and long-range missiles. The experiment will consist of testing the export control systems of the developed countries to see whether such an effort can succeed.

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At present, Iraq has no means of making nuclear weapon material. Its forty megawatt, French-supplied nuclear reactor called Osirak is not operating. The reactor is still suffering the consequences of having been bombed by Israel with U.S. planes in 1981. If the reactor is rebuilt, it could make enough plutonium for up to two atomic bombs per year. There has been one report that the reactor may be about to start, but the International Atomic Energy Agency states that the reactor's fuel has not been taken out of storage.

Iraq is also trying to make enriched uranium—the other nuclear weapon material. It hopes to build gas centrifuges that will enrich natural uranium to nuclear weapon grade. To do so, it has imported machines from Germany for making centrifuge bodies and, according to press reports, special magnets from China that will help the centrifuges operate. It is unknown how far Iraq's centrifuge effort has progressed.

To make parts for the bomb itself, Iraq tried to smuggle the components for a nuclear weapon triggering system out of the United States in March. The nature of the components, and the fact that Iraq tried to smuggle them, show that they were not intended for peaceful purposes.

Iraq also has an ambitious program for making long-range missiles. It has modified a Soviet-supplied tactical missile to increase its range to about 400 miles, it has tested a longer range version of that missile that flies 560 miles, and it has cooperated with Egypt and Argentina to develop a two-stage, solid fuelled intermediate-range missile. In December 1989, Iraq surprised the world by testing the first stage of a satellite launcher made from five Soviet-style tactical rockets strapped together. During the same month, Iraq claimed that it had tested a ballistic missile with a range of over 1000 miles.

I have appended to my statement tables showing the current status of Iraq's nuclear and missile programs.

It is clear that Iraq has fielded a well-financed, world wide procurement network that will test export controls to their limit. Unfortunately, the Western countries are weakening their export controls at exactly the same time that this is going on.

Last week, the COCOM countries met in Paris to remove thirty items from the COCOM export control list. COCOM (the Coordinating Committee on Multilateral Export Controls to Communist Countries) was set up by the United States and its allies after World War II. COCOM was invented to stop the Soviet Union from getting the American technology going to Europe under the Marshall Plan. Since then, COCOM has expanded to include Japan and all the NATO countries except Iceland. It prohibits high technology exports to the Warsaw Pact and other Communist countries.

Among the items decontrolled last week were the very nuclear weapon triggers that Iraq tried to smuggle out of the United States in March. Also decontrolled were the very machines that Iraq is counting on to make the bodies for its uranium enrichment centrifuges—called spin-forming and flow-forming machines. Although the COCOM countries intended to decontrol these items mainly to benefit the newly-free countries of Eastern Europe, the effect will probably be to decontrol them for Iraq too.

This is true for several reasons. First, by dropping these items from the COCOM list, they will, in the normal course of events, be removed from any licensing control at all for buyers in Eastern Europe. From any COCOM country they can go to Poland, Hungary or Czechoslovakia like a bag of onions. There will be no record of the shipments. Hence, there will be no control on reexport from East Europe to other destinations. This means that Iraq can order U.S. bomb triggers through front companies in Eastern Europe without breaking any laws. So can India, Israel, Pakistan, South Africa and any other country that wants to make the bomb or long range missiles.

Second, these items will fall completely off the export control lists of the European members of NATO unless each country makes a special effort to keep them on. Unlike the United States, where the commodities dropped off the COCOM list will still be controlled because of the U.S. policy against nuclear arms proliferation, the COCOM list is the only basis for export control in most European members of NATO. There is no separate control list for stopping nuclear arms proliferation or the spread of ballistic missiles. If an item falls off the COCOM list it drops completely out of these countries' export control systems. So far, there is not much evidence that our COCOM partners will make a special effort to control these items for nuclear or missile proliferation purposes. If they don't, our partners' companies will be able to export the decontrolled items to the Third World directly.

Third, even if there were some form of control over these items when exported to Eastern Europe, there would still be a great risks of diversion. These cash-starved

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and capital-poor regimes do not have functioning export control systems. There will be a great risk that their companies will break the conditions of sale even if conditions are imposed.

The thirty items taken off in June are just the beginning. By the end of 1990 the entire COCOM export list will be scrapped and a much shorter one substituted. Unless something happens to change things, the deletions will be a giant import bonanza for Third World bomb and missile makers.

Unfortunately, the United States itself is not entirely free of guilt when it comes to exporting to Iraq. During the past few years, the Commerce Department has approved the export of mainframe computers and high speed oscilloscopes to Iraq. High speed oscilloscopes are uniquely able to process the data from nuclear tests. They are also used to develop, test and maintain missile guidance systems and to receive and sort the telemetry from missile flight tests. It is virtually certain that the U.S. oscilloscopes are now helping Iraq develop ballistic missiles. It is very likely that the mainframe computers are helping too.

These exports were quietly approved in the days when Iraq was fighting Iran. This short-sighted decision was only possible because the U.S. export control process is secret. The Commerce Department, which makes the export decisions, and the Department of Energy, which keeps the records, refuse to tell the public what cases have been approved or even considered. Not even the export license, which is the official record of a government action, is available despite the fact that all of these exports are required to be for civilian purposes. I believe that if the Commerce Department's export control process were opened to public and Congressional scrutiny, dangerous exports like the oscilloscopes would not be approved.

There are other examples of U.S. confusion on exports to Iraq. In March 1990, the Commerce Department announced a list of commodities that would be controlled to inhibit missile proliferation. The list was intended to implement the Missile Technology Control Regime, a seven country accord to which the United States is a party. Two of the commodities added to the U.S. list in March, however, were deleted from the COCOM list in June. This means that a U.S. exporter will not be able to send the commodities to Iraq without a validated license, but could send them almost anywhere in Europe without such a license. Thus, an Iraqi buyer could obtain the U.S. items simply by ordering through a European front company. The United States seems to be controlling the same commodities with one hand that it is trying to decontrol with the other.

The United States has also been too timid in its reaction to Iraqi smuggling. Iraq tried to buy the same switches in March that Israel obtained in 1980 and Pakistan tried to obtain in 1983. Iraq's chance of success in such a clumsy operation was probably less than ten percent. It is clear that the risk of getting caught was not a deterrent. If the United States is going to stop such brazen actions, it must do more than arrest the small fry that get caught. It must act against the governments that hire them.

This does not appear likely under the current policy of the State Department. According to the Los Angeles Times, the State Department opposed the sting operation against Iraq in March. State said that it preferred to "work quietly with Iraq to discourage Iraq from trying to produce nuclear weapons without creating a public furor * * *" According to the Washington Post, a State Department official even said that, "Our approach has been to try to find common areas to engage Iraq so that the more antisocial aspects of its nature could be modified in time by drawing it into international activities."

It is time to recognize that the spread of weapons of mass destruction to countries such as Iraq threatens U.S. security at least as much—and possibly more—than technology transfers to what remains of the Warsaw Pact. The East-West arms race is being replaced by a North-South arms race. We must now change our export policy to accommodate this fact.

Iraq: Status of Nuclear Reactors in 1990

Research reactors	Type of capacity	Start-up date	Plutonium generated through 1989	Safeguards
IRT-5000	Pool; 5-10MWt	1967	.....	Yes
Osirak (Tammuz I)	Pool; 40 MWt; HEU fuel	Destroyed in 1981 air strike	.....	Yes
Tammux II (critical assembly)	Pool; 500-800 KWt	1987	.....	Yes

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Iraq: Missiles in Service in 1990

Name	Range (miles)	Payload (pounds)	Accuracy (CEP in yards)	Comments
FROG–7	40	1000	550–750	Single stage, solid-fueled, unguided, spin-stabilized, with mobile launch platform. Imported from the Soviet Union.
SS–1 Scud–B	170–190	1900–2200	975–1000	Single stage, storable liquid-fueled, inertially guided, with mobile launch platform. Imported from the Soviet Union.
Al-Husayn (modified-Scud B)	380–400	300–860	1760–3520	Single stage, storable liquid-fueled, inertially guided, with mobile launch platform. Iraqi modification of Soviet Scud.

Iraq: Missiles Under Development in 1990

Name	Range (miles)	Payload (pounds)	Accuracy (CEP in yards)	Comments
Al-Abbas (modified-Scud B)	560	250+	3520–5280	Single stage, storable liquid-fueled, inertially guided, with mobile launch platform. Iraqi modification of Soviet Scud. Status: flight-tested.
Condor II	500–600	1000	N/A	Two stage, solid-fueled, inertially guided, with mobile launch platform. Original development undertaken as a joint effort by Egypt, Argentina and Iraq. Egypt and Argentina subsequently dropped out. Status: rocket engines tested.
Tammouz I	1250	N/A	N/A	Status: Iraq claims to have tested: reported unconfirmed by third party sources.

Senator MOYNIHAN. That is a very powerful statement. You are part of the Wisconsin Project on Nuclear Arms Control. Would it be possible to ask if you could give the committee a brief to this point about a violation of the nonproliferation treaty?

Mr. MILHOLLIN. I can supply you with additional materials in support of the statement I have just made, or I could cover it quickly orally.

Senator MOYNIHAN. Go right ahead. Do that, or do both.

Mr. MILHOLLIN. At the time the treaty was put together, it was generally agreed that making bomb parts would be a violation of the treaty, and it was also provided in the treaty that a country such as Iraq, a nonnuclear weapons state, would not seek assistance from outside in order to make the bomb. It seems to me that to attempt to smuggle parts for the bomb out of another country is to seek assistance, and does violate the treaty.

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Senator MOYNIHAN. Yes. That is your basic statement?

Mr. MILHOLLIN. That is the nub of it, yes.

Senator MOYNIHAN. Is there not a problem that we will look to some international obligations as very serious, and then others become, well, of a long time ago, and we cannot remember, and what difference would it make, anyway?

I just ask Dr. Karim and you, Mr. Graham, this is our first post-Cold War hearing, and you are talking about a North-South nuclear arms race. There seems to be a certain kind of lassitude in the State Department with respect to just how firm these commitments are, and I am not speaking with any derogatory intent.

It just seems to me that in the long confrontation with the Soviets we have acquired habits that well, we just did not think they abided by these arrangements, nor was there any effort to try to make them, and the general notion of international law just began to evaporate, and if the State Department begins to have the same quality, same lassitude with respect to the NPT, the Non-Proliferation Treaty, then we are in trouble. Do you sense what I have been trying to say here, or have I not been coherent?

Mr. MILHOLLIN. Would you like for me to respond to that, Senator?

Senator MOYNIHAN. Yes.

Mr. MILHOLLIN. I think one of the problems with the Non-Proliferation Treaty is that there is no mechanism for causing anything to happen if somebody breaks it. That is also a fault in many other treaties, but as a minimum, it seems to me that if a country breaks an important treaty, the least that one could expect is that the other members of the treaty, the other countries, would at least point that out.

I am not asking the State Department to declare a war on Iraq. I am just asking it to say that it has violated the treaty.

Senator MOYNIHAN. Could we not ask the Soviets to join us? The Soviets have been very restrained about the export of nuclear technology, have they not? Is that not generally the record?

Mr. MILHOLLIN. Well, there are some activities by the Soviets that are not generally known which might cause you to qualify that statement, but nevertheless, I think the Soviets would join with us in any reasonable effort to define what a breach of the treaty is.

Senator MOYNIHAN. The Japans of the world have a right to think that we will take this seriously. The Non-Proliferation Treaty says, you will not make a nuclear weapon, and they do not, but if they do not and others do, and we do not seem to mind, then what have we told the Japans of the world?

Mr. MILHOLLIN. Precisely.

Senator MOYNIHAN. The Italys of the world. This connection seems to evaporate.

Mr. MILHOLLIN. There are other countries which are members of the treaty who have had nuclear weapon ambitions. If the treaty can be broken with impunity, that lesson will be immediately appreciated by all those countries.

Senator MOYNIHAN. Precisely. Dr. Karim, Mr. Graham, would you not agree? I should think you would.

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Mr. GRAHAM. If I could shift it a bit from the question of nonproliferation treaties back to the whole focus of human rights, which is Amnesty's focus, there are several international standards and laws, as well as U.S. law, that we are concerned about not being as vigorously enforced as they should be.

Senator MOYNIHAN. These are?

Mr. GRAHAM. The activity that was alluded to earlier in the U.N. Commission on Human Rights, although in March perhaps——

Senator MOYNIHAN. They have not done anything?

Mr. GRAHAM. That is correct. The ultimate decision for several years has been no action out of the Commission.

Senator MOYNIHAN. Has there been a vote?

Mr. GRAHAM. Three days before Mr. Bazhov was sentenced to death, the Commission voted at that time to not consider looking at the human rights situation in Iraq next year.

Senator MOYNIHAN. The size of the Commission has been increased, has it not?

Mr. GRAHAM. I believe so.

Senator MOYNIHAN. We may find ourselves with a Human Rights Commission in which only one-third of the members can be said to represent regimes that are law abiding in this regard. Well, get another commission or insist on it. Make them vote. Press them. Shame them.

Mr. GRAHAM. Precisely. In 1988 the United States was not among those that were seeking an examination of the situation in Iraq.

Senator MOYNIHAN. But the situation in Kurdistan, Dr. Karim—I think the word "genocide" should be used carefully. It is too important a word to be applied to birth control or high-rise apartments, or whatever. It is one of those words we start using carelessly. It is a very serious word. The treatment of Kurds in Iran and Iraq is approaching the genocidal, is it not?

Mr. KARIM. Yes, Senator, it is approaching. The Kurdish society in Iraq, most of the people used to live in the villages and were mostly peasants. That does not exist any more. You go to Kurdistan, you see it has become like a desert.

Senator MOYNIHAN. Mr. Galbraith has just given me a note that says it is a landscape—a desert landscape interspersed with rubble that once was villages and has been deliberately destroyed. Not abandoned, but destroyed.

Mr. KARIM. That is very accurate, Senator, and just to add to that, some people who have managed to go secretly through the border, you can see in certain places even the livestock are dead from the use of the chemical. The corpses and everything are still there, and nobody has touched them since the time that the weapons had been used.

Senator MOYNIHAN. That is savage. You have given us very specific things to deal with, and this committee must do.

I am sorry that the hearing went late. I am very glad it was held. We have a record of compelling concerns.

Are there any further questions? I think there will be some written questions, if you could handle them.

We thank you all. We particularly thank you, Professor, for having come from Wisconsin. Oh, I guess you are located in Washington, are you not, now—the project is. We thank you all for being

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here. We thank our guests. They have been very thoughtful and surprisingly patient through a long and painful morning, and a necessary one.

We thank our recorder, and the very able staff behind us, and with that, the hearing is adjourned.

[Whereupon at 1:05 p.m., the committee adjourned, to reconvene subject to the call of the Chair.]

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APPENDIX

RESPONSES OF MR. KELLY AND MR. GILDER TO QUESTIONS ASKED BY SENATOR PELL

HUMAN RIGHTS

Question. Has the administration made a determination whether Iraq's conduct constitutes "A consistent pattern of gross violations of internationally recognized human rights." If not, how can the administration enforce the laws imposing sanctions on countries that meet this standard?

Answer. The United States has described Iraq's appalling human rights record in detail in our annual human rights report. We have been objective, we believe accurate, and we have pulled no punches. This question, however, uses a specific legal formulation that has implications affecting at least eight statutes relating to prohibitions of assistance and other forms of cooperation with foreign countries. We in the Department are keenly aware of these statutes. Although The President has never made a formal finding that any country is guilty of "gross violations," we are extremely careful never to engage in actions that could contravene these statutes. In the case of Iraq we also note that country's role in the sensitive Middle East region. We believe it important to preserve the Executive's flexibility in responding to events in the region which would have significant and long-term impact on our overall interests in the region.

Question. In your opinion, what countries in the last two decades have engaged in "a consistent pattern of gross violations of internationally recognized human rights?" How does Iraq's human rights record compare to that of the countries you cite? (For example, how many killings of its own citizens has the Iraqi Government engaged in as compared to that of other countries?)

Answer. As I have explained above the United States has never made a formal finding that a country is guilty of "gross violations." Clearly, Iraq's human rights record is extremely poor. In our annual human rights report, we have described Iraq's appalling human rights record in detail, describing that record as abysmal. The United States is fully aware of this situation and as a result human rights is one of our highest priorities in dealing with the Iraqi Government.

Because of the closed and secretive nature of the Iraqi's regime, compiling accurate information on the overa ll number of killings due to extrajudicial executions, execution without due process, the use of torture and other government violence is extremely difficult.

Question. The Iraqi Government asserts that it is undertaking reforms to bring about political pluralism and respect for fundamental human rights. What is your assessment of these reforms? Do you see any actual improvement in Iraq's human rights record?

Answer. Iraq is engaged in drafting a new constitution which Iraqi authorities have said will liberalize Iraq's political system and contain other guarantees protecting human rights. We have not yet seen a draft of this document and, therefore, have no firsthand assessment of it. However, we note that the present constitution provides guarantees against torture and other violations, with no apparent effect on practice. The key is for the Government of Iraq to take specific actions to improve its human rights record. This is what we are looking for, not merely words in a new constitution.

THE KURDS

Question. What is your estimate of the total number of Iraqi Kurds to die in chemical weapons attacks carried out by the Iraqi military?

Answer. There are no reliable figures with which to answer this question. Rebel Kurdish sources put the figure at between 5,000 and 10,000.

Question. What specifically has the administration done to protest the treatment of the Iraqi Kurds?

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Answer. The administration has repeatedly raised directly and at a senior level with the Iraqi Government our concerns regarding Iraqi Kurdish citizens. You will recall that the United States was in the forefront of those who publicly and privately criticized Iraq's use of chemical weapons against its Kurdish citizens. We have also expressed our concerns about the forced relocation of hundreds of thousands of Iraqi Kurds from the border regions to settlements in the interior. Our overall effort is to promote greater respect for the human rights of all Iraqi citizens, which will directly affect the lot of the Kurdish minority.

Question. The Iraqi Kurds find themselves isolated from the outside world. Would Voice of America broadcasts in Kurdish help alleviate that isolation?

Answer. VOA broadcasts would have only a marginal effect, especially in relation to the resources they would consume. Iraqi Kurds speak two distinct dialects (Kurmanche and Sorani) which are not easily mutually intelligible; VOA could probably not broadcast to both groups. VOA and BBC broadcast to the region in Arabic and Turkish, which many Iraqi Kurds understand.

Question. What information do you have about the torture and execution of Kurdish children?

Answer. Amnesty International has issued reports on the subject based on charges by rebel groups, and has published a report stating that the Iraqi Government has confirmed the execution of 29 Kurdish youths. Amnesty alleged that the bodies of these youths bore the marks of torture. Independent information to confirm the allegations cited in AI reports is not available.

Question. Does Iraq's treatment of the Kurds constitute "a consistent pattern of gross violations" of their human rights?

Answer. The answer we have provided to the first question addresses the "consistent pattern" issue.

The Iraqi Government has used a carrot-and-stick approach to the Kurds seeking to gain the support of as many tribes as possible.

During the war with Iran the Iraqi Government began a campaign of destroying villages of Kurds suspected of siding with Iran, and relocating their inhabitants to closely watched cities and new settlements. After the cease-fire with Iran, Iraq's campaign to dislodge rebels from the areas they controlled was accompanied by the shocking, indiscriminate use of chemical weapons killing thousands of men, women and children. After these campaigns, destruction of villages and towns and the population transfers were speeded up until finally some 500,000—about one-seventh of the Kurdish population—were displaced. Although we understand Iraqi authorities are now allowing displaced villagers to commute to their lands to cultivate the fields and orchards, we remain extremely concerned about the overall effects of this massive displacement.

Question. What is the extent to which the government of Iraq has depopulated the rural areas of Iraqi Kurdistan? In your judgment, does the depopulation of Iraqi Kurdistan constitute a human rights violation?

Answer. Since 1987, the government of Iraq has acted to establish a depopulated security zone along the full length of Iraq's borders with Iran and Turkey. The government has destroyed villages within a 30-kilometer wide zone and relocated about 500,000 Kurdish and Assyrian inhabitants into more easily controlled and protected towns, cities and newly constructed settlements within traditionally Kurdish areas. This program of forced relocation violates the human rights of those affected and is a matter of great concern, particularly against the background of Iraq's abysmal overall human rights record.

EFFECT OF PELL-HELMS SANCTIONS BILL

Question. What impact did threatened U.S. sanctions legislation (the 1988 Pell/Helms bill) have on Iraq's treatment of its Kurdish population? Do you believe the 1988 Pell/Helms sanctions bill, which passed the Senate three times, had an impact on Iraq's thinking about the use of chemical weapons as a counterinsurgency tool? If so, how?

Answer. We have no evidence that Iraq was influenced by the Pell/Helms sanctions bill. Lacking direct information, we have no good means of accurately assessing Iraqi thinking on such U.S. legislation.

CHEMICAL WEAPONS USE

Question. How extensively did Iraq use chemical weapons in the Iran-Iraq war? Did Iraq initiate the use of chemical weapons in that war? Did Iraq's use of chemical weapons put it in violation of the 1925 Geneva Protocol?

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Answer. Iraq first used chemical weapons in 1983, before Iran had acquired chemical weapons. In the late stages of the war we believe Iraq used chemical weapons extensively, Iran less so. Iraq's first use of chemical weapons would indicate that it violated its commitment to the 1925 Geneva Protocol.

RIGHT OF RETALIATION

Question. Does the United States recognize a right under international law to use chemical weapons in retaliation for such use? Was Iran's use of chemical weapons permissible retaliatory use? If not, why not?

Answer. Under a reservation the United States has taken to the 1925 Geneva Protocol, the United States has, in effect, reserved the right to respond in kind to any use of chemical weapons by an enemy state. Iraq has a similar reservation.

Iran has not taken such a reservation but would, in its relations with Iraq, be entitled under international law to claim the same right of retaliation as Iraq has reserved. As far as we are aware, however, Iran has not invoked this reservation with respect to its use of chemical weapons.

ACTIONS TO DETER CW USE

Question. What concrete actions did the United States take to deter Iraq from using chemical weapons or to punish Iraq for the use of such weapons?

Answer. The United States and 18 like-minded industrialized countries established the Australia group to attempt to prevent Iraq and other proliferating countries from obtaining the materials they needed to manufacture chemical weapons. We were also active in the U.N. in condemning Iraq's use of CW and in calling for an end to such use. In 1988 we obtained from the Iraqis a pledge to comply with their commitment to the nonuse of chemical weapons under the 1925 Geneva Protocol. Finally, we strongly supported and were instrumental in achieving the declaration from the Paris conference last year in which 149 countries, including Iraq, reaffirmed their commitment not to use chemical weapons and to work quickly toward a global ban on chemical weapons.

IRAQ CHEMICAL WEAPONS THREAT TO ISRAEL

Question. Do you consider that Iraq has threatened Israel with destruction by chemical weapons? How should Israel and the United States respond to such a threat?

Answer. In an April 1 speech to a group of military officers Iraqi President Saddam threatened to "burn up half of Israel" in retaliation for an attack on Iraq. He also claimed that Iraq had "dual chemical" weapons. Saddam later clarified, in a meeting with a delegation led by Senator Dole, that he would retaliate for any Israeli attack but would only use chemical weapons in response to an Israeli nuclear attack on Iraq. Addressing the Arab League summit May 28, he said he would respond to an Israeli attack with "weapons of mass destruction" with Iraq's own "weapons of mass destruction."

The United States has condemned these statements as outrageous and irresponsible. Rather than boasting about chemical weapons, Iraq should work with other nations to find ways to get rid of them.

We cannot speak for Israel. However, the United States has joined with other concerned nations in the Australia Group to deny Iraq and other potential proliferators access to chemical weapons precursors. We have also urged Iraq to live up to its responsibilities under the 1925 Geneva Protocol.

ISRAEL

Question. Has Iraq adopted a more hard-line approach toward Israel since the end of the Iran-Iraq war? Does this suggest that previous Iraqi policy was based on expediency?

Answer. Since the end of the war Iraq has made irresponsible and inflammatory statements vowing retaliation, including with chemical weapons, if Israel attacks with nuclear or chemical weapons.

Iraq's formal position on the Middle East peace process has not changed: Iraq will accept any solution acceptable to the Palestinians. It has sharpened its rhetoric, however, particularly in response to the issue of Soviet Jewish emigration.

Iraq has used both of these issues to pursue its own ambitions and agenda within the Arab world.

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IRAQ AND KUWAIT

Question. What is the status of Iraq's dispute with Kuwait?

Answer. Iraq has in the past put forward historical claims on Kuwaiti territory. This is reflected, inter alia, in the problem of an undemarcated border with Kuwait. The Iraqi port of Basra was unusable during the war with Iran, and Iraq is interested in securing approaches to its port of Um Qasr, which abuts Kuwaiti territory.

On July 16 Iraqi Foreign Minister Tariq Aziz sent a letter to the Secretary General of the Arab League that listed other alleged Iraqi grievances against Kuwait and the United Arab Emirates. The letter accused Kuwait of encroaching on Iraqi territory and oil fields and of seeking to undermine Iraq's economy.

The United States takes no position on the issues in dispute. However, we feel strongly that they can only be resolved by peaceful dialog between the countries involved in an atmosphere free of intimidation and inflamed rhetoric. We have made our views known to both governments.

Our gulf policy is unchanged: We remain determined to ensure the free flow of oil through the strait of Hormuz and to defend the principle of free navigation. We also remain strongly committed to defend the individual and collective security of our friends in the gulf with whom we have deep and longstanding ties.

IRAN-IRAQ PEACE TALKS

Question. What are the prospects for a peace settlement between Iran and Iraq?

Answer. The foreign ministers of Iran and Iraq had their first direct talks under U.N. auspices in Geneva on July 3. We hope these discussions will lead to progress toward a lasting peace and the implementation of U.N. Security Council Resolution 598.

We continue to support the Secretary General's efforts to implement Resolution 598, which calls for the exchange of POW's, noninterference in the internal affairs of each country, and withdrawal of forces to international boundaries. Iraq still occupies more than 2,000 square kilometers of Iranian territory.

We are especially concerned that over 100,000 POW's are still held on both sides against the principles of the Geneva Convention on prisoners of war.

LEBANON

Question. What is Iraq's involvement in Lebanon? Has Iraq's role been constructive?

Answer. On balance, Iraq's role in Lebanon has not been constructive. Iraq initially refused to support the Taif agreement or recognize the Hrawi government. Until September 1989 it provided Michel Aoun military supplies.

Iraq has now ceased its direct support of Aoun, and it has specifically recognized the Taif agreement and the Hrawi government.

BINARY CHEMICAL WEAPONS

Question. In recent remarks, Saddam Hussein seemed to indicate that Iraq possessed the capability to produce binary chemical weapons. Do you believe Iraq has that capability? If so, how was it acquired? If not, how do you explain his assertion that Iraq possessed the "dual chemical," which was believed to exist only in the United States and the Soviet Union?

Answer. We believe Saddam Hussein's claim to possess binary technology or weapons is credible. Given other Iraqi technical advances we believe Iraq probably could manufacture a relatively simple binary device indigenously, with little or no foreign assistance.

SIZE OF IRAQ'S CW ARSENAL

Question. How large is Iraq's chemical arsenal, and what capabilities do we know it to possess for delivering chemical weapons?

Answer. We do not have a good estimate on the current size of Iraq's CW stockpile. We believe that Iraq has the largest and most advanced CW program in the Arab world with a stockpile in the thousands of tons. Iraq can deliver chemical weapons using a wide variety of weapons systems, including artillery, multiple rocket launchers, mortars, and air-delivered bombs.

CW WARHEAD FOR SCUD MISSILE

Question. Is it possible that Iraq can mount chemical warheads on its modified SCUD missiles with a 400-mile range?

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Answer. Although we have no evidence to confirm Iraq has developed a chemical warhead for its SCUD or modified SCUD missiles, we judge Iraq's advances in other areas of missile development indicate that it could probably develop a warhead of this type.

BIOLOGICAL WEAPONS

Question. What is your opinion of reports that Iraq is engaging in a biological weapons program?

Answer. Iraq is actively engaged in the development of BW, including botulinum toxin and anthrax, and either has already achieved or may soon achieve full scale production. There is some debate among technical experts over whether Iraq has actually weaponized BW agents, but all agree that it is close to having an operational BW capability.

IRAQI SUPERCANNON

Question. What is the status of the case in Iraq attempted to secure eight forged steel tubes in order to construct a 131-foot cannon?

Answer. The British Government has stated that the tubes seized by British customs are components of a large cannon, based on designs for a long-range gun by Gerald Bull, a ballistics expert who was murdered in Brussels in March 1990. The matter is now in the courts in both Britain and the United States.

CAPACITOR SMUGGLING CASE

Question. In your view. does the recent case in which Iraq attempted to secure krytons (high voltage nuclear triggers) violate Iraq's commitments as a charter member of the NPT.

Answer. The switches are controlled military electrical components which could conceivably be used in a variety of applications. These include nuclear applications, such as in firing sets of nuclear devices, and nonnuclear applications, such as in the separation of missile stages. Thus, although this procurement effort calls into question Iraq's nuclear intentions, we have no evidence to indicate that this attempt is a violation of Iraq's NPT commitment.

BNL INVESTIGATION AND CCC

Question. What is the status of the investigation of irregularities in Iraqi purchases through the Banco Nazionale del Lavoro under loans guaranteed by the Commodity Credit Corporation?

Answer. The Department of Agriculture released a report May 21 on its review of the Iraq CCC program. I refer you to USDA for a detailed explanation of the report. Briefly, it concluded that the high prices paid by Iraq for corn, rice, and sugar from 1985 to 1987 reflected market conditions, and there was no evidence to suggest that commodities sold to Iraq had been diverted.

The report suggested that certain exporters improperly included freight charges in amounts registered with and guaranteed by USDA. In addition, it concluded that a number of exporters provided Iraq with "after sales services," which, if unreported at the time the guarantees were obtained, would violate GSM regulations. These possible violations have been turned over to the USDA Inspector General for review.

The BNL case is the subject of a grand jury investigation in Atlanta, and I therefore cannot comment on any aspect of it.

IRAQ—POISON GAS

Question. German machinery produced the poison gas which was used against the Kurds. Under the precedent of the Nuremberg trials, could the German businessmen who sold poison gas equipment to Iraq be charged with war crimes or crimes against humanity?

Answer. No. The Nuremberg trials involved crimes committed as part of the Nazi war effort in the Second World War. Use of poison gas by Iraq against its own population occurred during an internal military action that would not fall under the law of international armed conflict. Moreover, the Nuremberg trials were conducted in an international penal tribunal specially established following the war. There is presently no such international penal tribunal under which international crimes may be tried.

Criminal prosecution of persons who may have sold poison gas equipment to Iraq would depend upon applicable domestic laws.

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COMMITTEE ON FOREIGN RELATIONS
UNITED STATES SENATE

ONE HUNDRED FIRST CONGRESS

SECOND SESSION

JUNE 15, 1990

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