

# Does Knowing Matter? U.S. Congressional Records and the Arming of Iraq

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## I.

Does having an informed public, aware of the nature of U.S. policy in Iraq, make a difference? Would Congress and the public have responded differently to official deception concerning U.S. policies in Iraq had they known the record of previous U.S. policies, including the export of weapons of mass destruction to the Saddam Hussein regime prior to the Gulf War? In the absence of any meaningful public inquiry on the origins of recent U.S. policy toward Iraq, this and more have been missing from public debate.

Yet the record of U.S. support for Saddam Hussein, and for U.S. arms exports to Baghdad, is not hidden. It has not been subjected to formal censorship or classification. It is part of the rich public record of Congressional hearings held over a number of years with considerable publicity then and later. But to judge by the nature of public discussion on U.S. policy, the content of this record remains largely unexamined, its meaning an unasked question. How can one explain this apparent paradox of critical evidence that is both present and invisible? What accounts for its marginalization?

There is nothing unique about this case. Others can be found that illustrate the same phenomenon. A well documented event or series of events—for which we have direct responsibility—are permanently tabled until such time that a vocal public with a sufficiently broad base demands to know. The history of U.S. policy in the Middle East offers ample examples of records being tabled as inappropriate, irrelevant, or otherwise inconvenient. Such experiences suggest the uses of ignorance or the risks of knowing for those in power. For those outside of such circles, it raises the question of how we know what we know, and what it is to learn that we don't know, as in the case of U.S. policy in Iraq.

The media play a critical role in this, as does an intellectual and academic environment that is crucial to the transmission of knowledge, including the absent/present kind. Where would you go to find informed discussion of U.S. foreign policy in the Middle East? In an academically segregated environment in which those who “do” Middle Eastern studies exist at one level, while those aiming to specialize in American politics or international relations, let alone international law, operate on others. It is worth considering the long-range consequences of such separatism, as well as the

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limits of what is offered and how open each of these specialized sectors is to critical questioning.

Those subject to such conditions, in an environment in which the Middle East is additionally approached with caution—if not a combination of fear and disdain—can hardly be accused of forgetting what it is they never knew, save in cases such as the present one, in which public inquiries in the form of Congressional hearings have much to teach us about the present war.

For many, the prime and perhaps the only sources of information on these matters are the mainstream media, even in the age of the internet when alternative sources of news are accessible. Recent coverage of the role of the Pentagon in shaping the news on Iraq as a form of “information warfare” is relevant to this discussion.<sup>1</sup> It has shaped what those who rely on the media know and don’t know about U.S. policy, not only by its selective coverage, but also by how it frames what is to be seen and how it is to be named. The analysis of the hidden hand of the Pentagon in the media goes far beyond the case of U.S. policy in Iraq. Its depiction of the corporate-military-media complex echoes some of the testimony in the earlier Congressional hearings. But its main objective is manipulation of public opinion. Its timing was designed to blunt an increasingly vocal criticism of U.S. policy in Guantanamo and Iraq, some of it including reviews of U.S. policy regarding arming Iraq that had been published in 2002 and 2003.

The discussion of U.S. Congressional hearings that follows is based on the premise that knowing does in fact matter, and that the public has the right and the moral obligation to know the policies carried out in its name, that is, to confront both their purpose and their consequences in the U.S. as in Iraq.

Claims of Iraq’s possession of weapons of mass destruction, as well as the Iraqi regime’s connections with al Qaeda, have been at the center of the G.W. Bush Administration’s justifications of the March 2003 U.S. invasion of Iraq. Since that time, both claims have been discredited. On September 8, 2006, the U.S. Senate Select Committee Report on “Postwar Findings About Iraq’s WMD Programs and Links to Terrorism and How They Compare With Prewar Assessments,” rejected both claims as based on faulty evidence. On March 12, 2008, a Pentagon study, based on interviews with former Iraqi officials as well as “the analysis of some 600,000 official Iraqi documents seized by U.S. forces after the invasion,” further confirmed the absence of any connection between Saddam Hussein and al Qaeda.<sup>2</sup> That report was not made public, although a brief summary of its conclusions were available from a mainstream media source. According to that source, the primary target of Saddam Hussein’s “Iraqi state terror operations were Iraqi citizens, both inside and outside of Iraq.”<sup>3</sup>

Valuable as are such studies and reports, they don’t begin to question the origins or present purpose of U.S. policy. For those who are or become familiar with past

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<sup>1</sup> *Behind TV Analysts, Pentagon’s Hidden Hand*, N.Y. TIMES (April 20, 2008) at A1.

<sup>2</sup> *ABC News’ Jonathan Karl Reports*, March 12, 2008, available at <http://blogs.abcnews.com/rapidreport/2008/03/pentagon-report.html> (last visited Apr. 22, 2008).

<sup>3</sup> *Id.*

U.S. policy, however, the admission by U.S. officials that Saddam Hussein's murderous policies were directed at Iraqis should raise questions about past U.S. support for his regime.

But where does that policy fit in the history of U.S.-Iraqi relations? That dimension is missing, routinely absent from mainstream media and largely deleted from public talk, as though in deference to the alleged "weariness" of the American public with the subject of the Iraq war. Yet there is no lack of public interest in oil politics, particularly as it relates to access and supply and, above all, price. The subject is hardly unrelated to U.S. interests in Iraq, although it is unacknowledged in official talk. But there are other dimensions of past U.S. policy that are far less well known and no less important.

## II.

Following the 1979 Iranian Revolution, U.S. policy toward Iraq assumed a new level of importance. It was the Reagan administration that removed the regime of Saddam Hussein from the list of "terrorist states" in 1982. That was two years after the onset of the Iran-Iraq war, the outcome of which was a matter of great concern to Washington. That concern stemmed from the feared impact of the Iranian regime on U.S. oil interests in the Middle East. In "tilting" toward Iraq, the Reagan administration was resuming Washington's earlier interest in Iraq, a key state in the primal core of oil producing states of the region. Then, as now, the appeal of Iraq rested on its resources, which were key to both the commercial and strategic interests of the U.S., and they remain so. Hence the commitment to deny Iran a victory in the Iran-Iraq war of 1980-1988, a commitment that overrode considerations such as Saddam Hussein's murderous record, including his gassing of Kurds at Halabja in 1988.

Under then-President G.H.W. Bush, Washington continued to arm Saddam Hussein until the Iraqi regime invaded Kuwait, an oil producing state far more important to the U.S. than the Iraqi leader. Even when it went to war against Iraq, however, the U.S. was selective about its policies in Iraq. It failed to support the Iraqi uprising of March 1991 against the regime that occurred in southern Iraq, leaving the military troops, who were among those rebelling, open to Saddam Hussein's retribution. Washington had other plans after the first Gulf War, and radical change in the Iraqi state was not among them. What followed was the extended period of devastating sanctions.

Estimates indicate that the total damage to Iraq during the first Gulf War was on the order of \$200 billion, and that "the U.S.-led coalition mounted 106,000 air sorties, dropping 141,000 tons of explosives, and fired 315 cruise missiles."<sup>4</sup>

The effect of the Gulf War on U.S. veterans, notably their contamination by chemical and biological agents, with a possible connection between such agents and the weapons exported to Iraq by the U.S. in the preceding years, was among the key issues raised in Congressional hearings and notably, in the 1994 report issued by Senators Donald W. Riegle and Alfonse D'Amato.

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<sup>4</sup> *Iraq Reckoning*, THE NATION, Sept. 12, 2005, at 10.

### III.

The resulting record is extraordinary in what it reveals of U.S. policy; equally extraordinary is the fact that the record was and remains public, and yet it has been all but deleted from any meaningful analysis of U.S. policy. Still, the questions raised by these hearings can hardly be ignored, as what they expose is not conspiracy, but the pursuit of policies defended in terms of the expansion of American corporate power in a terrain crucial to U.S. oil interests. Therein lies the continuity of interests that links the policies investigated in the early 1990s with those pursued in the current war on Iraq.

What follows is a summary of some of the principal findings that emerged from the Congressional hearings held between 1990 and 1992, in addition to the reports based on their findings that subsequently appeared. It is necessarily incomplete and, following Congressional hearings, deals exclusively with the U.S. role in arming Iraq.<sup>5</sup>

Section 3a underscores the urgency of learning the truth; of getting the facts out; of knowing who was making policy and who was responsible for it.

Section 3b offers testimony presented at the Oct. 27, 1992 hearings. With dates and numbers at hand, the Senate Committee Chair enumerated U.S. exports to Iraq, a devastating record.

Section 3c reveals the views of Administration officials who confirmed the objectives of doing business with Iraq, undeterred by the nature of the regime.

Finally, section 3d turns to the connection between U.S. arms exports and the Gulf War Syndrome, not a political but a medical syndrome, rife with political meaning.

#### A.

In successive Congressional hearings held in 1990, through the spring and fall of 1992, and after, the full extent of official U.S. collaboration in doing business—including that in arms—with the regime of Saddam Hussein emerged in a wide ranging series of investigations. Hearings were conducted by House and Senate committees, including: the Senate Armed Services Committee (November 1990); the Senate Committee on Foreign Relations (December 1990); Subcommittees on Europe and the Middle East, those dealing with International Economic Policy and Trade of the Committee on Foreign Affairs of the House (April, May 1991); the Subcommittee on Arms Control, International Security and Science and Europe and the Middle East of the Committee on Foreign Affairs of the House (June, July 1991); the House Banking, Finance and Urban Affairs Committee (1991); Joint Hearing Before the Subcommittee on Department Operations, Research and Foreign Agriculture of the Committee on Agriculture and the Subcommittee on Foreign Affairs of the House (August 1991); Senate Committee on Foreign Relations (Oct 1991); and in May and

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<sup>5</sup> The contribution of other states in arming Iraq is discussed in a number of works including, MARK PHYTHIAN, *ARMING IRAQ* (1997); KENNETH TIMMERMAN, *THE DEATH LOBBY, HOW THE WEST ARMED IRAQ* (1992).

October 1992, the Committees on Banking, Housing, and Urban Affairs of the House and Senate.

In 1992, the House Banking, Finance and Urban Affairs Committee, chaired by Henry Gonzalez, of Texas, and the Senate Banking, Housing and Urban Affairs Committee, chaired by Donald W Riegle, Jr., of Michigan, brought the cumulative evidence of past Congressional inquiries concerning U.S. trade policy with Iraq into public view.<sup>6</sup> “During that hearing it was learned that U.N. inspectors identified many U.S.-manufactured items exported pursuant to licenses issued by the U.S. Department of Commerce that were used to further Iraq’s chemical and nuclear weapons development and missile delivery system development programs.”<sup>7</sup> According to the Congressional record of February 9, 1994, Senate Chair Donald Riegle, Jr., reported, “we found that pathogenic, which means disease-producing items, and toxigenic, meaning poisonous items, and other hazardous materials were exported from the United States to Iraq following a licensing and application procedure actually set forth by our United States Department of Commerce.”<sup>8</sup>

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<sup>6</sup> The members of the Committee on Banking, Finance and Urban Affairs, of the House of Representatives, included the following: Henry Gonzalez, Texas, Chairman; Frank Annunzio, Illinois; Stephen L. Neal, North Carolina; Carroll Hubbard, Jr., Kentucky; John J. LaFalce, New York; Mary Rose Oaker, Ohio; Bruce F. Vento, Minnesota; Doug Barnard, Jr., Georgia; Charles E. Schumer, New York; Barney Frank, Massachusetts; Ben Erdreich, Alabama; Thomas R. Carper, Delaware; Esteban Edward Torres, California; Gerald D. Kleczka, Wisconsin; Paul E. Kanjorski, Pennsylvania; Elizabeth J. Patterson, South Carolina; Joseph P. Kennedy II, Massachusetts; Floyd H. Flake, New York; Kweisi Mfume, Maryland; Peter Hoagland, Nebraska; Richard E. Neal, Massachusetts; Charles J. Luken, Ohio; Maxine Walters, California; Larry LaRocco, Idaho; Bill Orton, Utah; Jim Bacchus, Florida; James P. Moran, Jr., Virginia; John W. Cox, Jr., Illinois; Ed Weiss, New York; Jim Slattery, Kansas; Cary L. Ackerman, New York; Chalmers P. Wylie, Ohio; Jim Leach, Iowa; Bill McCollum, Florida; Marge Roukema, New Jersey; Doug Bereuter, Nebraska; Thomas J. Ridge, Pennsylvania; Toby Roth, Wisconsin; Alfred A. (Al) McCandless, California; Richard H. Baker, Louisiana; Cliff Stearns, Florida; Paul E. Gillmor, Ohio; Bill Paxon, New York; John J. Duncan, Jr., Tennessee; Tom Campbell, California; Mel Hancock, Missouri; Frank D. Riggs, California; Jim Nussle, Iowa; Richard K. Armeey, Texas; Craig Thomas, Wyoming; Sam Johnson, Texas; Bernard Sanders, Vermont.

The members of the Committees on Banking, Housing and Urban Affairs of the Senate included the following: Donald W. Riegle, Jr., Michigan, Chairman; Alan Cranston, California; Paul S. Sarbanes, Maryland; Christopher J. Dodd, Connecticut; Alan J. Dixon, Illinois; Jim Sasser, Tennessee; Terry Sanford, North Carolina; Richard C. Shelby, Alabama; Bob Graham, Florida; Timothy E. Wirth, Colorado; John F. Kerry, Massachusetts; Richard H. Bryan, Nevada; Jake Garn, Utah; Alfonse M. D’Amato, New York; Phil Gramm, Texas; Christopher S. Bond, Missouri; Connie Mack, Florida; William V. Roth, Jr., Delaware; Pete V. Domenici, New Mexico; Nancy Landon Kassenbaum, Kansas; Arlen Specter, Pennsylvania.

<sup>7</sup> May 25, 1994, A Report of Chairman Donald W. Riegle, Jr., and Ranking Member Alfonse M. D’Amato of the Committee on Banking, Housing and Urban Affairs With Respect to Export Administration, United States Senate, Introduction, p.1.

<sup>8</sup> *Id.* at p.3.

As Senator Riegle stated in the course of the earlier October 1992 hearings, “it seems to me that the public has a right to the facts and the right to the truth. And as awkward as it may be for some who, for whatever reasons, followed these policies and have tried to obscure that now, I think both in terms of understanding what happened here, we’ve got to have these facts out on the table in the full light of day.”<sup>9</sup> He continued, “if this could happen in the case of Iraq, where else is it happening and where else might it happen?”

Representative Jim Slattery of Kansas, who appeared before the May 8, 1992 House hearings insisted on the public’s right to know. “We are talking about the cloak of national security, and the cloak of executive privilege, being used to hide political blunders of enormous proportions.” Slattery insisted “that it is very important for us to know who in this administration made the decisions that we were going to extend credit to Iraq in light of the enormous information that we had chronicling the atrocities this government had perpetrated on its own people. We had a full knowledge of their intent.” He did not stop there. “Who in this administration was responsible? Was it the Director of the Central Intelligence Agency? Was it the Secretary of Defense? Was it the President of the United States? Who was making these decisions? Any suggestion that the people of this country don’t have a right to know this information is an outrage, as far as this Member is concerned.”<sup>10</sup>

It was in the course of these hearings that Sam Gejdenson of Connecticut, Chair of the Subcommittee on International Economic Policy and Trade, reflecting on the question of responsibility, exclaimed: “virtually every arm of a modern government, not just the intelligence agencies, not just the State and Commerce Departments, but the Agriculture Department, and the Justice Department [collaborated] to facilitate a program of aiding and abetting Saddam Hussein.”<sup>11</sup>

Several months later, at the October 27, 1992, Hearings of the Banking, Housing and Urban Affairs Committee of the Senate, Chair Donald Riegle, Jr., reminded Committee members that the Administration had been warned concerning U.S. exports to Iraq, apparently to no avail:

Despite these numerous warnings, we now know that between January 1985 and August 1990, when the invasion of Kuwait took place, the executive branch of our Government approved 771 different export licenses for sale of dual-use sensitive

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<sup>9</sup> Oct. 27, 1992, Hearings Before the Committee on Banking, Housing, and Urban Affairs, Senate, 102<sup>nd</sup> Congress, 2<sup>nd</sup> session. “Did U.S. Exports Aid Iraq’s Military Capabilities and Did the Administration Accurately Disclose its Licensing of Dual-Use Exports to Iraq.” U.S. Government Printing Office, Washington, 1992, p.24.

<sup>10</sup> May 8, 1992, Hearing Before the Committee on Banking, Finance and Urban Affairs, House of Representatives, 102<sup>nd</sup> Congress, 2<sup>nd</sup> session, “The Non-Proliferation of Weapons of Mass Destruction and Regulatory Improvement Act of 1992,” U.S. Government Printing Office, p. 9. All of the quotations in this paragraph are from the same page.

<sup>11</sup> May 29, 1992, Hearing Before the Committee on Banking, Finance and Urban Affairs, House of Representatives, 102<sup>nd</sup> Congress, 2<sup>nd</sup> session, “White House Efforts to Thwart Congressional Investigations of Pre-War Iraq Policy: the Case of the Rostow Gang,” U.S. Government Printing Office, p. 7.

equipment to Iraq. According to a State Department review of some 73 of those export licenses that were granted by the Departments of Commerce and Defense between the years 1986 and 1989, approvals were given 'for equipment with dual or not clearly stated uses for export to probable proliferation related end users in Iraq.'

Characterizing such language as "government speak," Riegle went on in the same passage to emphasize that:

At least seventeen licenses were issued for the export of bacteria or fungus cultures to either the Iraqi Atomic Energy Commission or the University of Baghdad. Licenses to export computers to a missile activity, and computers and electronic instruments to the Iraqi Atomic Energy Commission, were issued to a known procurement agent for Iraqi missile programs. A license was issued to export equipment for 'general military applications' such as jet engine repair, rocket cases, et cetera.<sup>12</sup>

### *B.*

Riegle further disclosed that the records revealed "that the U.S. Government understood exports that it was licensing could enhance Iraq's conventional military capability. The President issued National Security Directive No. 26 on October 2, 1989, stating, and I quote: 'We should seek opportunities for United States firms to participate in the reconstruction of the Iraqi economy. The United States should consider sales of non-lethal forms of military assistance.'"

In 1990 John Kelly, Assistant Secretary of State for Near Eastern and South Asian Affairs, testified before the Senate Foreign Relations Committee Hearing on U.S.-Iraqi relations. Both his testimony and that of then-Secretary of State Richard Cheney are illuminating insofar as they offer a straightforward account of U.S. policy in Iraq. Kelly denied U.S. involvement in the arms trade with Iraq, but he underscored Iraq's strategic value as a major oil producer and as a market for U.S. goods. Kelly made it clear that the nature of the Iraqi regime was of secondary interest. Neither its record of brutality, nor its violations of international conventions on chemical and biological weapons and nuclear non-proliferation, would deter U.S. support.

Further, he stated, "we do not believe . . . that Iraq poses a near-term nuclear proliferation threat. Iraq's fissile material is under International Atomic Energy Agency safeguards, and is inspected regularly."<sup>13</sup> U.S. support, Kelly declared, was a function of Iraqi resources. "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."<sup>14</sup>

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<sup>12</sup> Oct. 27, 1992, U.S. Senate Hearings, Op. Cit., p.2.

<sup>13</sup> June 15, 1990, Hearing of the Senate Foreign Relations Committee, U.S.-Iraqi Relations, Chaired by Senator Clairborne Pell, Federal News Service, p.4.

<sup>14</sup> *Id.* at p.3.

As to Iraq's role in serving U.S. business interests, Kelly's testimony emphasized Iraq's role as a growing market for agribusiness as well as defense industries. The volume of U.S. exports to Iraq in 1989 reached "about \$1 billion in agricultural commodities," including rice and grains.<sup>15</sup> As Kelly explained in the same passage, "Iraq is our largest export market for rice, which comprises 23 percent of total U.S. exports, for cattle, eggs, chickens, lumber, tobacco, and a variety of other agricultural products." At present, Kelly reminded Congressional colleagues, the U.S. had given Iraq \$500 million in guarantees under the Commodity Credit Corporation program, which, with the Export-Import Bank, was promoting U.S. trade. From this vantage point, the imposition of sanctions on Iraq was anathema. Their impact on Iraqi civilians was entirely secondary to the anticipated loss of the Iraqi market to foreign rivals.

Then, in December 1990, Secretary of Defense Richard B. Cheney appeared before the Senate Foreign Relations Committee to argue for an uninhibited politics of trade with Baghdad. But as Cheney maintained, the conditions of such trade were dependent on Iraq's political behavior and the invasion of Kuwait represented a violation of a bi-partisan consensus to control of the Gulf. Its importance was a function of its petroleum reserves. And, as Cheney explained, if you added the known "reserves in Saudi Arabia, 28%, in Iraq and Kuwait, 22%, and in the other regions, the other nations of the Gulf, in the Emirates and in Iran, et cetera, you come up to in excess of 70 percent of the world's proven oil reserves reside in the Persian Gulf."<sup>16</sup> Hence, the risk of Saddam Hussein in control of such a region was clear as "he'd have a choke hold on the world's economy, he would be able to control production levels and price, he'd be in a position to blackmail any nation which chose not to do his bidding." Further, the Secretary raised the threat of the Iraqi dictator crazed with oil wealth amassing a military arsenal of the latest and most dangerous weapons.

The above positions reaffirmed U.S. policy that, after the 1979 Iranian Revolution, as suggested earlier in this essay, led to a rapprochement with the Iraqi regime. That, in turn, led to the promotion of policies designed not only to export arms to Baghdad in the course of its war with Iran, but also to open Iraq to U.S. corporate expansion. As the 1992 Senate Hearings confirmed, between 1985 and 1990 "the Commerce Department approved at least 200 export licenses for the Iraqi armed forces, major weapons complexes, and enterprises identified by the Central Intelligence Agency as diverting technology to weapons programs."<sup>17</sup> But, as Henry Gonzalez's testimony revealed, the policy pursued by the Reagan and G.H.W. Bush Administrations "did not preclude the approval of export licenses even for the more dangerous weapons programs." Further clarification of what such programs included

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<sup>15</sup> *Id.* at p.4.

<sup>16</sup> Dec. 3, 1990, Testimony by Secretary of Defense Richard B. Cheney, Hearing of the Senate Armed Services Committee on The Persian Gulf Crisis. Federal News Service, p.4.

<sup>17</sup> Oct. 27, 1992, Senate Hearings, *Op. Cit.*, p. 15.

yielded information on “quantities of lethal biological agents that could have been cultured and grown in very large quantities in an Iraqi biological warfare program.”<sup>18</sup>

### C.

Included in the testimony that came before the Senate Banking Committee meeting in the fall of 1992 was the report that Gary Milhollin, director of the Wisconsin Project on Nuclear Arms, had issued in June 1991. It was based on information obtained from the Commerce Department. Under the title, “Licensing Mass Destruction: U.S. Exports to Iraq: 1985-1990,” Milhollin restated the Commerce Department’s role in 1985-1990 period, adding that among the “sensitive U.S. exports to Iraq” were those “capable of making nuclear weapons or long-range missiles if diverted from their claimed civilian purposes.”<sup>19</sup> Milhollin identified the material and its destination, as well as the violations incurred in failing to report the export of missile and nuclear technology to the Departments of State and Energy, respectively.

Milhollin pointed out that “front companies for every known nuclear, chemical and missile site in Iraq bought American computers, with total American computer exports exceeding \$96 million.”<sup>20</sup> He identified major U.S. exports to Iraq that he placed under the “dangerous technology” category. Included in it were rocket casinas (“general military repair applications such as jet engines, rocket cases, etc.”).<sup>21</sup> And, as Milhollin continued, “this was the declared purpose of two U.S. exports to Iraq, valued at \$1.4 million and approved on January 20 and February 10, 1988. The first was for precision machine tools, the second for lasers.” The Iraqi purchasing this equipment was “a procurement agent for the Iraqi SCUD missile program,” that would allow Iraq “to make precision parts for missiles, and also be able to rework the cases of its short-range SCUD missiles, enabling them to carry more fuel and fly farther.” The enhanced capacity, as Milhollin explained, meant that Iraqi SCUDs could target Tel Aviv as well as U.S troops in Saudi Arabia.

The Commerce Department approved the export of radar in 1988, knowing both its purpose and destination. “The effect was to provide ground support for Iraqi missiles, and to help Iraq detect and shoot down U.S. planes in the Gulf War.”<sup>22</sup> Under the heading, “Guilty Knowledge,” Milhollin offered evidence that the Commerce Department had been informed by the Defense Department of an Iraqi site, “Sa’ad 16,” “Iraq’s largest and most important missile research site,”<sup>23</sup> that was additionally known to be developing “non-conventional weapons.” It received over half a million

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<sup>18</sup> Feb. 9, 1994, *Arming Iraq: The Export of Biological Materials and the Health of Our Gulf War Veterans Before the S. Comm. on Banking Housing and Urban Affairs*, 103rd Cong. 1-2, available at <http://thomas.loc.gov/home/r103query.html> by searching “arming Iraq.”

<sup>19</sup> Oct. 27, 1992, Senate Hearings, Op. Cit., p.102.

<sup>20</sup> *Id.* at p.102.

<sup>21</sup> *Id.* at p.103.

<sup>22</sup> *Id.* at p.105.

<sup>23</sup> *Id.* at p.106.

dollars' worth of U.S. computers in eight cases, seven of which were approved after November 1986.<sup>24</sup>

Milhollin's testimony pointed to the "Violations of Procedures" by the Commerce Department, including its repeated failure to inform appropriate U.S. agencies, such as the Departments of Energy and Defense, of the transactions it had undertaken. As Milhollin pointed out, the Department had the right to reject items that were in violation of accepted criteria. The latter "include the following tests: whether the stated end use is acceptable, whether the item could aid nuclear weapon or missile development, whether the importing country has a nuclear or missile development efforts, and whether the recipient country has good 'non-proliferation credentials.'" <sup>25</sup>

Milhollin's report contained the list of known Iraqi 'end users.' Included in it was Iraqi Airways, the Iraqi Air Force, the Iraqi Atomic Energy Commission, the State Organization for Technical Industries, the Sa'ad General Establishment works on military plans, the Monsour Factory, the Ministry of Defense, the Ministry of Industry and Military Industrialization. In addition, there was the Al-Qaqaa State Establishment, considered partially responsible for Iraq's nuclear development project; and the Technical Corporation for Special Projects, the University of Mosul location, and other sites.<sup>26</sup>

#### D.

There was another dimension of the Hearings that generated intense interest and concern: the relationship between U.S. arms exports to Iraq, notably chemical and biological weapons, and 'Gulf War Syndrome,' the classification of illnesses affecting Gulf War Veterans. What the impact of these weapons was then and later on Iraqis was not discussed.

In May 1994, Senator Donald W. Riegle, Jr., and Senator Alfonse M. D'Amato issued a joint Report that identified "U.S. Chemical and Biological Warfare-Related Dual Use Exports to Iraq and Their Possible Impact on the Health Consequences of the Gulf War."<sup>27</sup> The testimony offered in this Report addressed the so-called Gulf War Syndrome. The 1994 Report was based on the findings presented at the October 1992 Senate Hearings, as well as subsequent research carried out by the same Committee in 1993. What emerged from this data was, according to the Introduction to the above Report, "a large body of evidence linking the symptoms of the syndrome to the exposure of Gulf War participants to chemical and biological warfare agents,

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<sup>24</sup> *Id.* at p.105.

<sup>25</sup> *Id.* at p.109.

<sup>26</sup> *Id.* at pp.113-119.

<sup>27</sup> May 25, 1994, "U.S. Chemical and Biological Exports to Iraq and Their Possible Impact on the Health Consequences of the Persian Gulf War," A Report of Chairman Donald W. Riegle, Jr. and Ranking Member Alfonse M. D'Amato of the Committee on Banking, Housing and Urban Affairs with Respect to Export Administration. United States Senate 103<sup>rd</sup> Congress, 2<sup>nd</sup> Session, *available at* <http://www.gulfweb.org/bigdoc/report/riegle1.html>

chemical and biological warfare pre-treatment drugs, and other hazardous materials and substances.”<sup>28</sup>

Successive administrations denied all such claims, as well as U.S. responsibility for Gulf War Veterans’ illnesses. The Defense Department insisted that its Defense Science Board had found no evidence of the use of such weapons or of the accompanying exposure until 2004, when it reconsidered its earlier positions.<sup>29</sup>

According to the Senators’ findings, between 1985 and 1989, “pathogenic (meaning ‘disease-producing’), toxigenic (meaning ‘poisonous’), and other biological research materials were exported to Iraq pursuant to application and licensing by the U.S. Department of Commerce.”<sup>30</sup> The same report indicated that said materials “were not attenuated or weakened and were capable of reproduction.”

Among the agents exported to Iraq was anthrax, “a major component in the Iraqi biological warfare program,” according to the Report.<sup>31</sup> In addition, the following were found: *histoplasma capsulatum*, *brucella melitensis*, and *clostridium perfringens*. Additional agents were identified in the first chapter of the May 25, 1994 Report. They included “several shipments of E. Coli and genetic materials, human and bacterial DNA, were shipped directly to the Iraq Atomic Energy Commission.” In this and the previous cases, Riegle provided the dates of export as given to him by the Commerce Department.

The export of anthrax has special significance in the context of the 2003 U.S. invasion of Iraq. As Geoffrey Holland, then of the University of Sussex, explained in his critical essay “United States Exports of Biological Materials to Iraq: Compromising the Credibility of International Law,”<sup>32</sup> the 2003 U.S. and U.K. invasion of Iraq “was predicated upon Iraq’s possession of ‘weapons of mass destruction’—the primary threat presented both to Parliament and the People being anthrax. This anthrax was exported to Iraq from the U.S., having previously been exported from Britain, where it had been tested as a biological weapon ‘because its capability to produce infection and death after the inhalation of spores had been demonstrated in the laboratory.’” As Holland argued, the information was known to the U.S. and U.K., as well as to Canada, but it was also known to the British public. Their

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<sup>28</sup> *Id.* at p.1.

<sup>29</sup> On Oct. 15, 2004, The New York Times published an article by Scott Shane, *Chemicals Sickened Gulf War Veterans, Latest Study Finds*, which reported on the findings of a panel appointed in 2002 by Anthony Principi, Secretary of Veterans’ Affairs. According to the research presented to the panel by Dr. Robert Haley, chief of epidemiology at the University of Texas South-Western medical Center in Dallas, “Although it’s not proven, the preponderance of the evidence supports a new explanation—brain cell damage, nervous system damage caused by chemical exposures.” Scott Shane *Chemicals Sickened Gulf War Veterans, Latest Study Finds*, N.Y. TIMES (Oct. 15, 2004) at A25.

<sup>30</sup> May 25, 1994, Riegle Report, Ch.1. “U.S. Exports of Biological Materials to Iraq,” p.241, available at [http://www.gulfweb.org/bigdoc/report/r\\_1\\_2.html](http://www.gulfweb.org/bigdoc/report/r_1_2.html).

<sup>31</sup> *Id.* at p.4.

<sup>32</sup> Geoffrey Holland, University of Sussex, “United States Exports of Biological Materials to Iraq: Compromising the Credibility of International Law,” June 2005, available at [http://deepblade.net/journal/Holland\\_JUNE2005.pdf](http://deepblade.net/journal/Holland_JUNE2005.pdf).

reaction to these disclosures led “more than 20% of Britain’s MPs—representing approximately 12 million people” to demand a “U.N. investigation into U.S. exports.” The call failed.

#### IV.

In the very period in which the above Congressional hearings were being held in Washington, the U.N.S.C. adopted Res. 687 (1991),<sup>33</sup> which recalled the Geneva Protocol of 1925 with its Prohibition of the Use in War of Asphyxiating, Poisonous or Other Gases, and of Bacteriological Methods of Warfare, as well as the 1972 Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on their Destruction, signed by Great Britain and the United States on April 10, 1972.<sup>34</sup>

Article 111 of the 1972 Convention merits special attention. That Article called on signatories “not to transfer to any recipient whatsoever, directly or indirectly, and not in any way to assist, encourage, or induce any State, group of States or international organizations to manufacture or otherwise acquire any of the agents, toxins, weapons, equipment or means of delivery specified in article 1 of this Convention.” U.S. export policies to Iraq, as disclosed in the Riegler report of 1994, were in violation of the 1972 Convention, as was Britain for having failed to report such violations, as required according to Article VI of the same Convention.<sup>35</sup>

It is useful to recall as well that U.N.S.C. Res. 687 (1991), not only reaffirmed the 1925 Geneva Protocol and the 1972 Convention, but also recognized that the actions demanded of Iraq “represent steps towards the goal of establishing in the Middle East a zone free from weapons of mass destruction and all missiles for their delivery and the objective of a global ban on chemical weapons.”<sup>36</sup>

Is it possible in the light of what we now know, to remain silent, to turn away from knowing?

The troubling policy record revealed in the above hearings was a preface to the first Gulf War, the brutal application of sanctions, the war before the war, and then the 2003 U.S. invasion and occupation of Iraq. It is, in short, part of the legacy of U.S. policy in Iraq, the long range consequences of which—beyond the devastation of Iraq and its impact on the Middle East—are difficult to calculate, including in the United States itself. It is to be hoped that those who have read these pages and discovered dimensions of U.S. policy of which they had perhaps been unaware, will

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<sup>33</sup> United Nations S/RES/687 (1991), 8 April 1991, Resolution 687 (1991) Adopted by the Security Council at its 2981<sup>st</sup> meeting, on 3 April 1991, *available at* <http://www.fas.org/news/un/iraq/sres/sres0687.htm>.

<sup>34</sup> For additional information and analysis of the 1972 Convention, *see* The Harvard Sussex Program on CBW Armament and Arms Limitation, The 1972 Biological and Toxin Weapons Convention (BCW), *available at* <http://www.fas.harvard.edu/~hsp/biologic.html>.

<sup>35</sup> Holland, *Op. Cit.*, *see supra* note 31.

<sup>36</sup> UNSC/RES/687, Apr. 8, 1991, Part C no.14.

not turn away but will be encouraged to continue to defy deception, to ask why, and to demand to know the truth of policies carried out in our collective name.

I thank the editors of Unbound for their invitation to contribute to this special issue.