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NATIONAL EMERGENCY WITH RESPECT TO IRAQ

MESSAGE

FROM

THE PRESIDENT OF THE UNITED STATES

TRANSMITTING

A 6-MONTH PERIODIC REPORT ON THE NATIONAL EMERGENCY WITH RESPECT TO IRAQ DECLARED BY EXECUTIVE ORDER 12722 OF AUGUST 2, 1990, PURSUANT TO 50 U.S.C.



MARCH 6, 2000.—Message and accompanying papers referred to the Committee on International Relations and ordered to be printed

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To the Congress of the United States:

As required by section 401(c) of the National Emergencies Act, 50 U.S.C. 1641(c) and section 204(c) of the International Emergency Economic Powers Act (IEEPA), 50 U.S.C. 1703(c), I transmit herewith a 6-month periodic report on the national emergency with respect to Iraq that was declared in Executive Order 12722 of August 2, 1990.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *March 1, 2000.*

PRESIDENT'S PERIODIC REPORT ON THE NATIONAL EMERGENCY WITH RESPECT TO IRAQ

I hereby report to the Congress on the developments since my last report of August 24, 1999, concerning the national emergency with respect to Iraq that was declared in Executive Order 12722 of August 2, 1990. This report is submitted pursuant to section 401(c) of the National Emergencies Act, 50 U.S.C. 1641(c), and section 204(c) of the International Emergency Economic Powers Act, 50 U.S.C. 1703(c) ("IEEPA").

Executive Order 12722 ordered the immediate blocking of all property and interests in property of the Government of Iraq (including the Central Bank of Iraq) then or thereafter located in the United States or within the possession or control of a U.S. person. That order also prohibited the importation into the United States of goods and services of Iraqi origin, as well as the exportation of goods, services, and technology from the United States to Iraq. The order prohibited travel-related transactions to or from Iraq and the performance of any contract in support of any industrial, commercial, or governmental project in Iraq. U.S. persons were also prohibited from granting or extending credit or loans to the Government of Iraq.

The foregoing prohibitions (as well as the blocking of Government of Iraq property) were continued and augmented on August 9, 1990, by Executive Order 12724, which was issued in order to align the sanctions imposed by the United States with United Nations Security Council Resolution ("UNSCR") 661 of August 6, 1990. Subsequently, Executive Order 12817 was issued to implement provisions of UNSCR 778, authorizing the Secretary of the Treasury to identify the proceeds of the sale of Iraqi petroleum or petroleum products paid for by or on behalf of the purchaser on or after August 6, 1990, and directing U.S. financial institutions holding such funds to transfer them to the Federal Reserve Bank of New York ("FRBNY").

This report discusses only matters concerning the national emergency with respect to Iraq that was declared in Executive Order 12722 and matters relating to Executive Orders 12724 and 12817 (the "Executive Orders"). The report covers events from August 2, 1999 through February 1, 2000.

1. In April 1995, the U.N. Security Council adopted UNSCR 986 authorizing Iraq to export up to $1 billion in petroleum and petroleum products every 90 days for a total of 180 days under United Nations supervision in order to finance the purchase of food, medicine, and other humanitarian supplies. UNSCR 986 includes arrangements to ensure equitable distribution of humanitarian goods purchased with UNSCR 986 oil revenues to all the people of Iraq. The resolution also provides for the payment of compensation to victims of Iraqi aggression and for the funding of other U.N. activi-

ties with respect to Iraq. On May 20, 1996, a memorandum of understanding was concluded between the Secretariat of the United Nations and the Government of Iraq agreeing on terms for implementing UNSCR 986. On August 8, 1996, the U.N. Security Council (the "Security Council") committee established pursuant to UNSCR 661 ("the 661 Committee") adopted procedures it would employ in implementation of UNSCR 986. On December 9, 1996, the President of the Security Council received the report prepared by the Secretary General as requested by paragraph 13 of UNSCR 986, making UNSCR 986 effective as of 12:01 a.m. December 10, 1996.

On June 4, 1997, the Security Council adopted UNSCR 1111, renewing for another 180 days the authorization of Iraqi petroleum sales and purchases of humanitarian aid contained in UNSCR 986 of April 14, 1995. The Resolution became effective on June 8, 1997. On September 12, 1997, the Security Council, noting Iraq's decision not to export petroleum and petroleum products pursuant to UNSCR 1111 during the period June 8 to August 13, 1997, and deeply concerned about the resulting humanitarian consequences for the Iraqi people, adopted UNSCR 1129. This resolution replaced the two 90-day quotas with one 120-day quota and one 60-day quota in order to enable Iraq to export its full $2 billion quota of oil within the original 180 days of UNSCR 1111. On December 4, 1997, the Security Council adopted UNSCR 1143, renewing for another 180 days, beginning December 5, 1997, the authorization for Iraqi petroleum sales and humanitarian aid purchases contained in UNSCR 986.

On February 20, 1998, the Security Council adopted UNSCR 1153, authorizing the sale of Iraqi petroleum and petroleum products and the purchase of humanitarian aid for a 180-day period beginning with the date of notification by the President of the Security Council to the members thereof of receipt of the report requested in UNSCR 1153. UNSCR 1153 authorized the sale of $5.256 billion of Iraqi petroleum and petroleum products. On March 25, 1998, the Security Council, noting the shortfall in revenue from Iraq's sale of petroleum and petroleum products during the first 90-day period of implementation of UNSCR 1143, due to the delayed resumption in sales and a serious decrease in prices, and concerned about the resulting humanitarian consequences for the Iraqi people, adopted UNSCR 1158. This Resolution reaffirmed the authorization for Iraqi petroleum sales and purchases of humanitarian aid contained in UNSCR 1143 for the remainder of the second 90-day period and set the authorized value during that timeframe to $1.4 billion pending implementation of UNSCR 1153. The 180-day period authorized in UNSCR 1153 began on May 30, 1998. On June 19, 1998, the Security Council adopted Resolution 1175, authorizing the expenditure of up to $300 million on Iraqi oil infrastructure repairs in order to help Iraq reach the higher export ceiling permitted under UNSCR 1153. UNSCR 1175 also reaffirmed the Security Council's endorsement of the Secretary General's recommendation that the "oil-for-food" distribution plan be ongoing and project-based. Subsequently, the Security Council extended the oil-for-food program for 180-day periods twice more, on November 24, 1998 and on May 21, 1999.

Resolution 1266, adopted by the Security Council on October 4, 1999, authorized Iraq to export petroleum and petroleum products in excess of $5.2 billion per 180-day phase under the "oil-for-food" program in order to make up for revenue shortfalls from previous phases of the program. resolutions 1275 and 1280 extended the sixth phase of the program for a total of three weeks. On December 10, the Security Council extended the "oil-for-food" program for a seventh 180-day phase. On December 17, 1999, the Security Council adopted resolution 1284, which permits Iraq to export petroleum products as required to meet humanitarian needs. During the period covered by this report, imports into the United States under the program totaled about 127 million barrels, bringing total imports since December 10, 1996, to approximately 388.6 million barrels.

2. There have been no amendments to the Iraqi Sanctions Regulations, 31 C.F.R. Part 575 (the "ISR" or the "Regulations", administered by the Office of Foreign Assets Control ("OFAC") of the Department of the Treasury, during the current reporting period. As noted in my report of August 24, 1999, the Regulations were amended effective November 10, 1998, to authorize U.S. persons to enter into executory contracts for the sale of oilfield parts and equipment to the Government of Iraq in conformity with UNSCR 115 and UNSCR 1175 (63 Fed Reg 62942, November 10, 1998).

As previously reported, the Regulations were amended on December 10, 1996 to provide a statement of licensing policy regarding specific licensing of U.S. persons seeking to purchase Iraqi-origin petroleum and petroleum products (61 Fed. Reg. 65312, December 11, 1996). Statements of licensing policy were also provided regarding sales of essential parts and equipment for the Kirkuk-Yumurtalik pipeline system, and sales of humanitarian goods to Iraq, pursuant to United Nations approval. A general license was also added to authorize dealings in Iraqi-origin petroleum and petroleum products exported for Iraq with United Nations and U.S. Government approval.

All executory contracts must contain terms requiring that all proceeds of oil purchases from the Government of Iraq, including the State Oil Marketing Organization, be placed in the UN escrow account at Banque National de Paris, New York (the "986 Escrow Account"), and all Iraqi payments for authorized sales of pipeline parts and equipment, humanitarian goods, and incidental transaction costs borne by Iraq will, upon approval by the 661 Committee and satisfaction of other conditions established by the United States, be paid or payable out of the 986 Escrow Account.

3. Since my last report, OFAC has collected one civil monetary penalty in the amount of $5,000 from a U.S. company for violative transactions relating to Iraq and/or the Government of Iraq.

Investigations are continuing in several cases opened in prior reporting periods involving possible violations of the Iraqi sanctions. OFAC continues to investigate the roles played by various individuals and firms outside Iraq in the Iraqi government procurement network. These investigations may lead to additions to OFAC's listing of individuals and organizations determined to be Specially Designated Nationals ("SDNs") of the Government of Iraq.

4. OFAC has issued hundreds of licensing determinations regarding transactions pertaining to Iraq or Iraqi assets since August 1990. Specific licenses have been issued for transactions such as the filing of legal actions against Iraqi governmental entities, legal representation of Iraq, the exportation to Iraq of donated medicine, medical supplies, and food intended for humanitarian relief purposes, sales of humanitarian supplies and oilfield parts and equipment of Iraq under UNSCRs 986, 1111, 1143, 1153, 1210, 1242 and 1284, diplomatic transactions, the execution of powers of attorney relating to the administration of personal assets and decedents' estates in Iraq, and the protection of preexistent intellectual property rights in Iraq. since my last report, 65 specific licenses have been issued, most with respect to sales of humanitarian goods and oilfield parts and equipment.

Since December 10, 1996, OFAC has issued specific licenses authorizing participation by U.S. persons in commercial sales of humanitarian goods to Iraq funded by Iraqi oil sales, and imports of Iraqi petroleum products, pursuant to UNSCRs 986, 1111, 1143, 1153, 1210, 1242, and 1284, valued at more than $452 million. Of that amount, approximately $377 million represents sales of basic foodstuffs, $38 million for medicines and medical supplies, $31 million for water testing and treatment equipment, and $6.5 million to fund a variety of United Nations activities in Iraq. International humanitarian relief in Iraq is coordinated under the direction of the United Nations Office of the Humanitarian Coordinator of Iraq. Assisting U.N. agencies include the World Food Program, the U.N. Population Fund, the U.N. Food and Agriculture Organization, the World Health Organization, and UNICEF. As of January 11, 2000, OFAC had authorized sales valued at about $17 million of humanitarian good during the current reporting period. In addition, in conformity with UNSCR 1153 and UNSCR 1175, OFAC has issued 64 licenses since November 10, 1998, authorizing U.S. persons to enter into executory contracts for the sale of oilfield parts and equipment to the Government of Iraq. The oil infrastructure merchandise covered by such contracts is valued at approximately $15 million.

In October 1992, OFAC issued directive licenses to eight commercial banks ordering the transfer of a total of $200 million in blocked Iraqi oil funds to the FRBNY for further transfer to and use by the United Nations in Iraq. This action was taken pursuant to UNSCR 778 and Executive Order 12817. Under UNSCR 986, and its successors, the funds were to have been repaid from the proceeds of the oil-for-food program.

In late 1998, OFAC was informed that money was flowing back into the FRBNY. At the request of the Department of State, OFAC licensed the distribution of Iraqi funds repaid by the United Nations, and held at the FRBNY, to the eight commercial banks. The licenses were issued April 14, 1999, jointly to the FRBNY and the eight commercial banks. A total amount of $37,694,734.46 was transferred, representing $36,474,145.00 in principal (amounts received from the United Nations) and $1,220,589.46 in interest (earned at the FRBNY). As of January 12, 2000, an additional total of $17,319,828 has been received at the FRBNY.

5. The expenses incurred by the federal government in the six-month period from August 2, 1999 through February 1, 2000 that

are directly attributable to the exercise of powers and authorities conferred by the declaration of a national emergency with respect to Iraq are reported to be about $1.3 million, most of which represent wage and salary costs for federal personnel. Personnel costs were largely centered in the Department of the Treasury (particularly in the Office of Foreign Assets Control, the U.S. Customs Service, the Office of the Under Secretary for Enforcement, and the Office of the General Counsel), the Department of State (particularly the Bureau of Economic and Business Affairs, the Bureau of Near Eastern Affairs, the Bureau of International Organization Affairs, the Bureau of Political-Military Affairs, the Bureau of Intelligence and Research, the U.S. Million to the United Nations, and the Office of the Legal Adviser), and the Department of Transportation (particularly the U.S. Coast Guard).

6. The United States imposed economic sanctions on Iraq in response to Iraq's illegal invasion and occupation of Kuwait, a clear act of brutal aggression. The United States, together with the international community, is maintaining economic sanctions against Iraq because the Iraqi regime has failed to comply fully with relevant United Nations Security Council resolutions. Iraqi compliance with these resolutions is necessary before the United States will consider lifting economic sanction. Security Council resolutions on Iraq call for the elimination of Iraqi weapons of mass destruction, Iraqi recognition of Kuwait and the inviolability of the Iraq-Kuwait boundary, the release of Kuwaiti and other third-country nationals, compensation for victims of Iraqi aggression, long-term monitoring of weapons of mass destruction capabilities, the return of Kuwaiti assets stolen during Iraq's illegal occupation of Kuwait, renunciation of terrorism, an end to internal Iraqi repression of its own civilian population, and the facilitation of access by international relief organizations to all those in need in all parts of Iraq. Nine years after the invasion, a pattern of defiance persists: a refusal to account for missing Kuwaiti detainees; failure to return Kuwaiti property worth millions of dollars, including military equipment that was used by Iraq in its movement of troops to the Kuwaiti border in October 1994; sponsorship of assassinations in Lebanon and in northern Iraq; cessation of all cooperation with the UN Special Commission and the International Atomic Energy Agency in accordance with Security Council resolutions; and ongoing widespread human rights violations. As a result, the UN sanctions remain in place; the United States will continue to enforce those sanctions under domestic authority.

The Iraqi government continues to violate basic human rights of its own citizens through systematic repression of all forms of political expression, oppression of minorities, and arbitrary arrests and executions. The Government of Iraq has repeatedly said it will not comply with UNSC Resolution 688 of April 5, 1991. The Iraqi military routinely harasses residents of the north, and has attempted to "Arabize" the Kurdish, Turkomen, and Assyrian areas in the north. Iraq has not relented in its attacks against civilian population centers in the south, including the razing of villages.

The policies and actions of the present Iraqi regime continue to pose an unusual and extraordinary threat to the national security and foreign policy of the United States, as well as to regional peace

and security. The Security Council resolutions affirm that the Security Council review Iraq's policies and practices in judging Iraq's compliance with those resolutions. Because of Iraq's failure to comply fully with these resolutions, the United States will continue to apply economic sanctions to deter it from threatening peace and stability in the region.

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