

## 22. Items relating to the situation between Iraq and Kuwait

### Initial proceedings

#### A. The situation between Iraq and Kuwait

##### **Decision of 2 August 1990 (2932nd meeting): resolution 660 (1990)**

By a letter dated 2 August 1990 addressed to the President of the Security Council,<sup>1</sup> the representative of Kuwait requested an immediate meeting of the Council to consider the Iraqi invasion of Kuwait in the early morning of that day.

By a letter dated 2 August 1990 addressed to the President of the Security Council,<sup>2</sup> the representative of the United States urgently requested, in the light of the invasion of Kuwait by Iraqi forces and the request of the representative of Kuwait, an immediate meeting of the Council.

At its 2932nd meeting, on 2 August 1990, the Council adopted the agenda item entitled "The situation between Iraq and Kuwait", included in it the two above-mentioned letters and began its consideration of the item. The Council invited the representatives of Iraq and Kuwait, at their request, to participate in the discussion without the right to vote.

The President (Romania) drew the attention of the members of the Council to a draft resolution submitted by Canada, Colombia, Côte d'Ivoire, Ethiopia, Finland, France, Malaysia, the United Kingdom and the United States.<sup>3</sup>

Commencing the discussion, the representative of Kuwait stated that in the early hours of 2 August 1990 Iraqi forces had crossed Kuwait's internationally recognized boundaries, penetrated its territory and reached its populated area. As stated by his Government a few hours earlier, Iraq had occupied Kuwait at dawn that day. The Iraqi forces had occupied crossroads and ministries and shelled the headquarters of the Government. The Government statement added that Baghdad Radio had announced that the aim of the invasion of Kuwait was to stage a coup d'état to overthrow the government and establish a new government friendly to Iraq. The speaker assured the

Council, however, that the Government of Kuwait remained in control in Kuwait and was defending the country. He said that Iraq's pretext for the invasion was false and unwarranted. If not deterred decisively by the Council, such action would threaten all international relations and jeopardize the security, sovereignty and territorial integrity of every State. It was alarming, he added, that the invasion should come from Iraq, an Arab country with which Kuwait shared historic ties, and appalling that it should occur less than one day after a round of talks between the deputy leaders of the two countries in Jeddah, Saudi Arabia. At that meeting, Kuwait had expressed its willingness to continue bilateral negotiations in Kuwait and Baghdad in order to solve the problem by peaceful means in accordance with the Charter of the United Nations and the Charter of the Arab League and the principles of non-alignment and of Islam. However, Kuwait was faced with the Iraqi invasion, which represented a flagrant violation of the Charter of the United Nations, particularly the provisions of Article 2 (3 and 4). The speaker further stated that it was incumbent on the Council to shoulder its responsibilities and to protect Kuwait, whose security, sovereignty and territorial integrity had been violated. This was a test for the Council, which was responsible for peace and security in that vital area of the world and towards all small and defenceless nations. He added that Kuwait was asking the Security Council to immediately halt the invasion and to ensure, by every means available, the immediate and unconditional withdrawal of Iraq to the international boundaries that existed before the invasion. In conclusion, he urged the Council to adopt a resolution in conformity with the Charter and with international laws and norms.<sup>4</sup>

The representative of Iraq stated that his Government's position with respect to the item before the Council was as follows: (1) the events taking place in Kuwait were internal matters which had no relation to Iraq; (2) Iraq's assistance had been requested by the "Free Provisional Government of Kuwait", to establish security and order, and was being provided solely on that basis; (3) Iraq was pursuing no goal or objective in Kuwait, with which it wished to have cordial and good-

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<sup>1</sup> S/21423.

<sup>2</sup> S/21424.

<sup>3</sup> S/21425.

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<sup>4</sup> S/PV.2932, pp. 5-8.

neighbourly relations; (4) the Kuwaitis themselves would determine their future; the Iraqi forces would withdraw as soon as order had been restored, which, his Government hoped, would take no more than a few days, or at most a few weeks; (5) as the previous Kuwaiti Government had reportedly been overthrown and there was now a new Government in Kuwait, the person in Kuwait's seat at the Council's meeting represented no one, and his statement lacked credence; and (6) the Government of Iraq rejected the flagrant intervention by the United States in those events, which was further evidence of the collusion between the United States Government and the "previous Government" of Kuwait. The speaker concluded by reiterating that his Government hoped that order would be swiftly restored in Kuwait and that the Kuwaitis themselves would decide upon their future, free from any outside intervention.<sup>5</sup>

The representative of the United States said that, according to reports received from the United States embassy in Kuwait, Iraqi forces had moved into Kuwaiti territory shortly after midnight or at about 6.30 p.m. Eastern Daylight Saving Time the previous day. They had crossed over into Kuwaiti territory all along the frontier and rapidly proceeded to Kuwait City where they were currently present. They had faced resistance by the Kuwaiti forces but the extent of casualties was not yet known. While the Iraqi invasion had been carefully planned and professionally executed, the Iraqis had made a serious mistake: instead of installing the so-called Free Provisional Government of Kuwait before the invasion, they had first invaded Kuwait and then staged the coup d'état in a blatantly deceitful effort to justify their action. Despite Baghdad's efforts to install its own regime in that country, the Emir, the Crown Prince and the Foreign Minister of Kuwait were safe and continued to direct the Government of Kuwait. The speaker informed the Council that his Government had issued a statement strongly condemning the invasion and calling for the immediate unconditional withdrawal of all Iraqi forces. The Government statement indicated that the message had been conveyed to the Iraqi Ambassador in Washington and to the Government of Iraq, through the United States Embassy in Baghdad. It added that the United States deplored the blatant military aggression and violation of the Charter and had joined Kuwait in calling for an emergency meeting

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<sup>5</sup> Ibid., pp. 11-12.

of the Security Council. The speaker emphasized that the United States had made it clear that it would support Kuwait in the current crisis. He further pointed out that it was his Government's understanding that the aggression against Kuwait had been completely unprovoked. United States policy had been to support every diplomatic effort to resolve the crisis. Before seeking the immediate adoption of a draft resolution co-sponsored by eight other members of the Council, his Government had been in touch with many States in the region. He urged the Security Council, which had seldom faced a more blatant case of the use of force, to act immediately to accept its full responsibilities and support Kuwait. In conclusion, he asked the members of the Council to act in accordance with the Charter.<sup>6</sup>

The representatives of Canada, China, Colombia, Finland, France, Malaysia, the Union of Soviet Socialist Republics and the United Kingdom, and the President of the Council in his capacity as the representative of Romania, expressed support for the draft resolution, which they either sponsored or endorsed. The representatives of Colombia, Malaysia and the United Kingdom stressed the duty of the Security Council to protect the sovereignty of small States. The representatives of France and the United Kingdom noted that the Iraqi aggression had destabilized a region that had just emerged from a lengthy and bloody conflict. All speakers called for the withdrawal of Iraqi troops and a peaceful settlement of the dispute.<sup>7</sup>

The Council then proceeded to the vote on the draft resolution before it.

Speaking before the vote, the representative of Yemen stated that his delegation would not participate in the voting on the draft resolution because it had not received instructions from its capital. He, however, emphasized Yemen's respect for the principles of the Charter of the United Nations and the right of all States to their sovereignty, territorial integrity and independence. As a matter of principle, Yemen condemned all forms of interference in the internal affairs of other States, opposed the use of force and called for the peaceful settlement of disputes. On that

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<sup>6</sup> Ibid., pp. 12-15.

<sup>7</sup> Ibid., p. 16 (Colombia); p. 17 (Canada); pp. 17-18 (France); pp. 18-19 (Malaysia); pp. 19-21 (United Kingdom); pp. 21-22 (Finland); pp. 22-23 (Soviet Union); p. 23 (China); and pp. 24-25 (Romania).

basis, Yemen called on Iraq and Kuwait to begin negotiations immediately, and supported all efforts by Arab States, individually and collectively.<sup>8</sup>

The draft resolution was then put to the vote and adopted by 14 votes in favour to none against as resolution 660 (1990). One member (Yemen) did not participate in the voting. The resolution reads:

*The Security Council,*

*Alarmed* by the invasion of Kuwait on 2 August 1990 by the military forces of Iraq,

*Determining* that there exists a breach of international peace and security as regards the Iraqi invasion of Kuwait,

*Acting* under Articles 39 and 40 of the Charter of the United Nations,

1. *Condemns* the Iraqi invasion of Kuwait;
2. *Demands* that Iraq withdraw immediately and unconditionally all its forces to the positions in which they were located on 1 August 1990;
3. *Calls upon* Iraq and Kuwait to begin immediately intensive negotiations for the resolution of their differences and supports all efforts in this regard, and especially those of the League of Arab States;
4. *Decides* to meet again as necessary to consider further steps to ensure compliance with the present resolution.

**Decision of 6 August 1990 (2933rd meeting):  
resolution 661 (1990)**

At its 2933rd meeting, on 6 August 1990, the Council resumed its consideration of the item that had been included in its agenda at the 2932nd meeting. In accordance with the decisions taken at that meeting, the President (Romania) invited the representatives of Iraq and Kuwait to take seats at the Council table. He then drew the attention of the Council members to a draft resolution submitted by Canada, Colombia, Côte d'Ivoire, Ethiopia, Finland, France, Malaysia, the United Kingdom, the United States and Zaire.<sup>9</sup> He also drew their attention to a number of other documents.<sup>10</sup>

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<sup>8</sup> *Ibid.*, pp. 26-27.

<sup>9</sup> S/21441.

<sup>10</sup> S/21426-S/21430, S/21432-S/21440, S/21443 and S/21444, which contained communications from the representatives of Italy, Japan, the Islamic Republic of Iran, Uruguay, Oman, the German Democratic Republic, South Africa, Qatar, Madagascar, Iraq, Kuwait and Italy, respectively.

Commencing the discussion, the representative of Kuwait stated that five days after the adoption of resolution 660 (1990), the “aggressor” had not withdrawn from the State of Kuwait but had, in fact, occupied the entire country. He said that the unprecedented and strong international condemnation of the invasion had given rise to hope that the invader would be induced to comply with resolution 660 (1990). Iraq, on the contrary, was actually expanding and consolidating its military occupation throughout Kuwait. The aim of the aggression was to overthrow the legitimate Government of Kuwait and install a new Government in its place, and gain hegemony over Kuwait’s resources. The objectives of the invasion were based on expansionism as seen in Iraq’s threats and subsequent attacks against neighbouring countries. Iraq was thus threatening the strategic interests of all the countries of the world, of which the Gulf was one of the most vital regions. Those objectives, in their totality, threatened international peace and security. The formation by the Iraqis of the so-called Popular Army was a cover for the occupying forces, which confirmed that they had no intention of withdrawing. The purported withdrawal of some military vehicles was a charade. The speaker therefore called on the Council to shoulder its historic responsibility by adopting the draft resolution before it, which provided for the imposition of sweeping sanctions against Iraq for its failure to comply with resolution 660 (1990).<sup>11</sup>

The representative of Iraq contended that the draft resolution before the Council contradicted resolution 660 (1990) and certain facts. He said that his Government had announced, on 3 August 1990, that it intended to start withdrawing its forces on 5 August, and stated that it had already started to do so. The draft resolution would not help to resolve the crisis, but would only exacerbate it. Nor would it help the Iraqi troops to withdraw. Referring to the second preambular paragraph of the draft resolution, which spoke about “the invasion by Iraq”, the speaker asserted that such a term had not been used during the United States invasion of Panama or Grenada, nor when Israel had invaded its neighbours. His Government therefore believed that the term was being used in the current instance to allow aggression to be committed by a third State in the region. He claimed that the draft resolution had been prepared by a single State and that pressure had been exerted on all the other States to go along,

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<sup>11</sup> S/PV.2933, pp. 5-11.

thus rendering the draft resolution null and void, since anything that had been imposed by force and threats was not legitimate under the principles of the Charter. Iraq believed, moreover, that the draft resolution would have a negative impact on the economies of developing countries, in view of its impact on the price of oil. The speaker concluded that, for all those reasons, he expected the Council to reject the draft resolution.<sup>12</sup>

The Council then proceeded to the vote on the draft resolution before it. Speaking before the vote, the representative of the United States said that the draft resolution was the Council's response to Iraq's aggression against Kuwait and its failure to comply with resolution 660 (1990), a mandatory resolution by which the Council had demanded the immediate and unconditional withdrawal of Iraqi troops from Kuwait. Iraq's actions had plunged the strategically critical area of the Gulf into crisis and placed 30 per cent of the region's oil production under Iraqi control, thus threatening international economic health and stability. Contrary to Iraq's purported promises to withdraw immediately, its troop deployments in Kuwait had been enhanced and consolidated and were dangerously provocative to other States in the region. By adopting the draft resolution, the Council would use the means available to it under Chapter VII of the Charter to give effect to its resolution 660 (1990) and meet its obligation to restore Kuwait's legitimate authority, sovereignty and territorial integrity. Referring to paragraph 5 of the draft resolution, the speaker emphasized that the draft resolution would be binding upon all States — Members and non-members alike. His Government had already frozen all Iraqi and Kuwaiti assets and barred all trade with Iraq and it welcomed the decisions by many other Governments to cease arms transfers to Iraq. He concluded that, by acting on the draft resolution, the Council would consolidate and give effect to all those unilateral actions and would pledge to the legitimate Government of Kuwait that there would be international redress for the Iraqi invasion. By its action, the Council would also declare that it would not countenance the continuation or repetition of that aggression.<sup>13</sup>

The representative of France stated that, at the national level, his Government had decided to freeze Iraqi assets and had confirmed that it would continue

not to deliver arms to Iraq. Within the framework of the European Community, his Government had actively contributed to the adoption of a declaration imposing an embargo on the import of oil originating in Iraq and Kuwait, and a halt on arms sales and military and scientific cooperation with Iraq. He stated that the magnitude of those measures was justified because of the unacceptable nature of Iraq's military aggression, which was a major violation of international law and a serious threat to international peace and security. Recalling that resolution 660 (1990), adopted under Chapter VII of the Charter, was binding on all States, he stressed that it was up to the Council to take appropriate steps to ensure Iraq's compliance.<sup>14</sup>

The representative of Malaysia stated that, although his country had actively supported resolution 660 (1990), its decision to support the adoption of the draft resolution under consideration had not been an easy one. He expressed concern about the hardship that the broad sanctions called for in the resolution would impose on Governments and on the peoples of Kuwait and Iraq, and hoped that they would be of short duration, given prompt compliance by Iraq with resolution 660 (1990). He noted that there was evidence now of a strong will within the international community, as represented by the Security Council, to uphold the principles of the Charter. Resolution 660 (1990) and the draft resolution currently before the Council embodied that collective determination. Malaysia's support for the draft resolution was not meant to be a punitive act; it was, rather, an expression of his Government's desire to be part of the international community's resolve to ensure that disputes between States were not settled through the use of force, and was predicated on the premise that it would remove the prospect of unilateral military or quasi-military action in the region by external Powers. The speaker emphasized the Council's responsibility in ensuring an early and peaceful end to the conflict. In that context, it was also the duty of the Council to ensure that the efforts to bring about the immediate and unconditional withdrawal of the Iraqi forces from Kuwait and the restoration of the legitimate Government of Kuwait were taken under the ambit of the United Nations and not unilaterally, to avoid escalation and greater turmoil.<sup>15</sup>

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<sup>12</sup> Ibid., pp. 11-13.

<sup>13</sup> Ibid., pp. 16-18.

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<sup>14</sup> Ibid., p. 21.

<sup>15</sup> Ibid., pp. 21-22.

The representative of Canada stated that his Government had been dismayed to learn that Iraq had not complied with resolution 660 (1990); that its forces remained in Kuwait; that they appeared to be consolidating their position; and that Iraq had moved large numbers of troops near the border with Saudi Arabia. This had increased the tensions in an already volatile region. Iraq's failure to comply with the terms of resolution 660 (1990) left the Council with no alternative but to consider what further measures could be applied to give effect to that resolution. The rare imposition of sanctions was not something that Canada took lightly. However, faced with the intransigence of the Iraqi regime and the extremely serious nature of its invasion and occupation of Kuwait, there could be no other alternative but to act under Article 41 of the Charter. Indeed, it had hoped that the proposed measures would have extended further, to include more explicitly financial and other services. The draft resolution would, nevertheless, impose one of the broadest sets of sanctions ever put in place against a State Member of the United Nations, covering as it did all aspects of military, economic and financial relations with Iraq and occupied Kuwait. The speaker recognized that those sanctions would impose hardships on many countries and organizations, and indeed on individuals throughout the world. However, sacrifices were necessary to maintain the peace and security of States and the integrity of the international system. The extraordinary measures contemplated were essential to exert the necessary pressure on Iraq to end forthwith its aggression and occupation of Kuwait, to safeguard the rule of law and to deter future aggressors. The speaker concluded by underlining the Security Council's particular responsibility towards small and vulnerable States, which looked to it for protection and support.<sup>16</sup>

The representative of the United Kingdom said that, over five days, hopes of Iraqi compliance with resolution 660 (1990) had not been fulfilled. Indeed, instead of an unconditional withdrawal, there had been a further entrenchment of Iraqi forces in Kuwait. Some Governments, such as the 12 member countries of the European Community, had already taken action. But individual action by States or groups of States was not sufficient. A framework for international action was needed, as provided in the form of the draft resolution before the Council. The speaker emphasized that the

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<sup>16</sup> Ibid., pp. 23-25.

draft resolution, once adopted, would remain in effect only so long as resolution 660 (1990) was not complied with. Furthermore, economic sanctions should not be regarded as a prelude to military action; rather, they were designed to avoid the circumstances in which military action might otherwise arise. Recalling paragraph 3 of resolution 660 (1990), he said that his Government attached great importance to the role of the Arab States in promoting a solution to the problem. In conclusion, he observed that the Security Council had to face its responsibilities. It had to succeed where the League of Nations had failed and where the Council itself had faltered in the past. It had a particular responsibility for small and vulnerable States. It should make of the Council what the founding fathers had intended it to be, and should set a new precedent for the better management of a world order based on respect for law, sovereignty and territorial integrity.<sup>17</sup>

The representative of China believed that the independence, sovereignty and territorial integrity of Kuwait must be respected and that resolution 660 (1990) should be implemented immediately and effectively. In keeping with that position and taking into consideration the pressing demand of many Arab countries, China would vote in favour of the draft resolution. China hoped that the Arab States would continue their mediation efforts with a view to finding a peaceful solution to the differences between them. It supported those efforts and believed that the Council should also encourage, support and facilitate them.<sup>18</sup>

The representative of the Union of Soviet Socialist Republics stated that his Government believed that no matters in dispute, however complicated they might be, justified the use of force. The invasion of Kuwait by Iraq went, moreover, against the interests of the Arab States and against the positive trends in international relations. In the light of the invasion, the Soviet Union, together with the United States, had taken the unusual step of issuing a joint appeal to the entire international community to join with them in halting all arms deliveries to Iraq. The Soviet Union had also called upon regional organizations, particularly the League of Arab States, but also the Non-Aligned Movement and the Organization of the Islamic Conference, to take all

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<sup>17</sup> Ibid., pp. 26-28.

<sup>18</sup> Ibid., pp. 28-30.

possible steps to ensure the withdrawal of Iraqi troops from Kuwait. It had also made a direct appeal to the Government of Iraq to heed the voice of the international community. The Soviet Union now believed that it was very important that resolution 660 (1990), which it had actively facilitated, be fully and immediately implemented. It would therefore support the draft resolution imposing sanctions. The decision to vote in favour had, however, been a very complicated matter for the Soviet Union because the draft resolution directly affected a whole set of relationships between the two countries developed over many years. Nevertheless, the circumstances dictated that the necessary steps be taken immediately, including steps by the Security Council, in accordance with the requirements of the Charter.<sup>19</sup>

The representative of Colombia observed that, on various occasions in the past four decades, the Security Council had condemned international conflicts, occupation and military confrontation but, owing to the exercise of the veto, it had been unable to impose sanctions against those responsible for not complying with the principles of the Charter or with the Council's decisions. He noted with satisfaction and a sense of optimism that on this occasion the five permanent members of the Council were acting unanimously to condemn the use of force by, and impose sanctions against, Iraq. His Government had joined in sponsoring the draft resolution because it regarded the intended measures not only as just but also as constituting a warning for the future course of relations in the international community.<sup>20</sup>

The representatives of Côte d'Ivoire, Ethiopia, Finland and Zaire, and the President of the Council in his capacity as the representative of Romania, expressed support for the draft resolution, which their Governments either sponsored or endorsed. They viewed Iraq's occupation of Kuwait as a violation of the principles of the Charter of the United Nations and hoped that Iraq could be induced to withdraw from Kuwait rapidly and unconditionally. The speakers stressed that the only way to settle disputes between States lay in negotiations and in resorting to the procedures provided by the Charter.<sup>21</sup>

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<sup>19</sup> Ibid., pp. 29-32.

<sup>20</sup> Ibid., pp. 48-51.

<sup>21</sup> Ibid., pp. 19-20 (Finland); pp. 33-35 (Zaire); p. 36 (Côte d'Ivoire); pp. 36-37 (Ethiopia); p. 53 (Romania).

The representative of Cuba said that the principles of non-interference in the internal affairs of States, the non-use of force, the peaceful settlement of disputes between States and respect for the independence, sovereignty and territorial integrity of all nations were essential principles of the international order. It was in defence of those principles that his Government had condemned the Iraqi invasion of Kuwait and declared that that situation must be ended with the withdrawal of Iraqi forces from Kuwaiti territory and the full restoration of Kuwait's sovereignty. His delegation was unable, however, to support the draft resolution currently before the Council for several reasons: (a) far from contributing to the settlement of the conflict, the imposition of sanctions would complicate the situation at a time when Iraq had begun withdrawing its forces; (b) the draft resolution would facilitate the interventionist actions being promoted in the region by the United States Government; and (c) it would impede the efforts of the Arab States to arrive at a solution. The speaker doubted, moreover, that the imposition of sanctions against Iraq was really motivated by a desire to defend the above-mentioned fundamental principles, so much as by a desire by a Great Power to foster its strategic interests in the Middle East. He observed that the Council had not adopted positions consistent with the defence of those principles in a number of other cases, and was averse to letting the United States choose how, where and when those principles should be applied. His delegation could not support the draft resolution because it would not help to settle the conflict and was based on inconsistency and the "unacceptable selectivity of approach" of the United States in the Council.<sup>22</sup>

The representative of Yemen stated that, since the outbreak of the conflict between Iraq and Kuwait, the President of his country had discussed it with the leaders of Iraq, Egypt and Saudi Arabia, with a view to resolving it by peaceful means on the basis of a speedy withdrawal of Iraqi forces from the territory of Kuwait. His Government intended to continue with its efforts to contain the conflict because it believed that the Arab framework provided the most effective way of achieving a peaceful settlement. He stressed his delegation's keen interest in maintaining peace and stability in the area of the Gulf and the Arabian peninsula and rejected any foreign intervention in the

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<sup>22</sup> Ibid., pp. 38-48.

internal affairs of the region. He hoped that the draft resolution would not be a pretext for such intervention.<sup>23</sup>

The draft resolution was then put to the vote, and adopted by 13 votes in favour, none against and 2 abstentions (Cuba, Yemen), as resolution 661 (1990), which reads:

*The Security Council,*

*Reaffirming* its resolution 660 (1990) of 2 August 1990,

*Deeply concerned* that the resolution has not been implemented and that the invasion by Iraq of Kuwait continues, with further loss of human life and material destruction,

*Determined* to bring the invasion and occupation of Kuwait by Iraq to an end and to restore the sovereignty, independence and territorial integrity of Kuwait,

*Noting* that the legitimate Government of Kuwait has expressed its readiness to comply with resolution 660 (1990),

*Mindful* of its responsibilities under the Charter of the United Nations for the maintenance of international peace and security,

*Affirming* the inherent right of individual or collective self-defence, in response to the armed attack by Iraq against Kuwait, in accordance with Article 51 of the Charter,

*Acting* under Chapter VII of the Charter,

1. *Determines* that Iraq so far has failed to comply with paragraph 2 of resolution 660 (1990) and has usurped the authority of the legitimate Government of Kuwait;

2. *Decides*, as a consequence, to take the following measures to secure compliance of Iraq with paragraph 2 of resolution 660 (1990) and to restore the authority of the legitimate Government of Kuwait;

3. *Decides* that all States shall prevent:

(a) The import into their territories of all commodities and products originating in Iraq or Kuwait exported therefrom after the date of the present resolution;

(b) Any activities by their nationals or in their territories which would promote or are calculated to promote the export or trans-shipment of any commodities or products from Iraq or Kuwait; and any dealings by their nationals or their flag vessels or in their territories in any commodities or products originating in Iraq or Kuwait and exported therefrom after the date of the present resolution, including in particular any transfer of funds to Iraq or Kuwait for the purposes of such activities or dealings;

(c) The sale or supply by their nationals or from their territories or using their flag vessels of any commodities or

products, including weapons or any other military equipment, whether or not originating in their territories but not including supplies intended strictly for medical purposes, and, in humanitarian circumstances, foodstuffs, to any person or body in Iraq or Kuwait or to any person or body for the purposes of any business carried on in or operated from Iraq or Kuwait, and any activities by their nationals or in their territories which promote or are calculated to promote such sale or supply of such commodities or products;

4. *Decides* that all States shall not make available to the Government of Iraq, or to any commercial, industrial or public utility undertaking in Iraq or Kuwait, any funds or any other financial or economic resources and shall prevent their nationals and any persons within their territories from removing from their territories or otherwise making available to that Government or to any such undertaking any such funds or resources and from remitting any other funds to persons or bodies within Iraq or Kuwait, except payments exclusively for strictly medical or humanitarian purposes and, in humanitarian circumstances, foodstuffs;

5. *Calls upon* all States, including States non-members of the United Nations, to act strictly in accordance with the provisions of the present resolution notwithstanding any contract entered into or licence granted before the date of the present resolution;

6. *Decides* to establish, in accordance with rule 28 of the provisional rules of procedure, a Committee of the Security Council consisting of all the members of the Council, to undertake the following tasks and to report on its work to the Council with its observations and recommendations:

(a) To examine the reports on the progress of the implementation of the present resolution which will be submitted by the Secretary-General;

(b) To seek from all States further information regarding the action taken by them concerning the effective implementation of the provisions laid down in the present resolution;

7. *Calls upon* all States to cooperate fully with the Committee in the fulfilment of its tasks, including supplying such information as may be sought by the Committee in pursuance of the present resolution;

8. *Requests* the Secretary-General to provide all necessary assistance to the Committee and to make the necessary arrangements in the Secretariat for that purpose;

9. *Decides* that, notwithstanding paragraphs 4 to 8 above, nothing in the present resolution shall prohibit assistance to the legitimate Government of Kuwait, and calls upon all States:

(a) To take appropriate measures to protect assets of the legitimate Government of Kuwait and its agencies;

(b) Not to recognize any regime set up by the occupying Power;

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<sup>23</sup> Ibid., pp. 51-52.

10. *Requests* the Secretary-General to report to the Security Council on the progress made in the implementation of the present resolution, the first report to be submitted within thirty days;

11. *Decides* to keep this item on its agenda and to continue its efforts to put an early end to the invasion by Iraq.

**Decision of 9 August 1990 (2934th meeting):  
resolution 662 (1990)**

By a letter dated 8 August 1990,<sup>24</sup> the representative of Kuwait requested that the Security Council immediately resume its consideration of the item entitled “The situation between Iraq and Kuwait”, in the light of the declaration by Iraq of the purported annexation of Kuwait.

By a letter dated 8 August 1990,<sup>25</sup> the representatives of the six States members of the Gulf Cooperation Council — Bahrain, Kuwait, Oman, Qatar, Saudi Arabia and the United Arab Emirates — requested an immediate meeting of the Security Council to consider the situation between Iraq and Kuwait in the light of recent developments, most significantly the declaration by the Iraqi Revolutionary Command Council annexing the State of Kuwait to Iraq.

At its 2934th meeting, on 9 August 1990, the Council included the letter from the Gulf Cooperation Council in its agenda and resumed its consideration of the item. In accordance with the decisions taken at its 2932nd meeting, the Council invited the representatives of Iraq and Kuwait to take seats at the Council table. The Council also invited the representative of Oman, at his request, to participate in the discussion without the right to vote.

The President (Romania) drew the attention of the members of the Council to a draft resolution that had been prepared in the course of the Council’s prior consultations.<sup>26</sup> He also drew their attention to a number of other documents.<sup>27</sup> The draft resolution was

then put to the vote and adopted unanimously as resolution 662 (1990), which reads:

*The Security Council,*

*Recalling* its resolutions 660 (1990) of 2 August 1990 and 661 (1990) of 6 August 1990,

*Gravely alarmed* by the declaration by Iraq of a “comprehensive and eternal merger” with Kuwait,

*Demanding once again* that Iraq withdraw immediately and unconditionally all its forces to the positions in which they were located on 1 August 1990,

*Determined* to bring the occupation of Kuwait by Iraq to an end and to restore the sovereignty, independence and territorial integrity of Kuwait,

*Determined also* to restore the authority of the legitimate Government of Kuwait,

1. *Decides* that annexation of Kuwait by Iraq under any form and whatever pretext has no legal validity, and is considered null and void;

2. *Calls upon* all States, international organizations and specialized agencies not to recognize that annexation, and to refrain from any action or dealing that might be interpreted as an indirect recognition of the annexation;

3. *Demands* that Iraq rescind its actions purporting to annex Kuwait;

4. *Decides* to keep this item on its agenda and to continue its efforts to put an early end to the occupation.

Speaking after the vote, the representative of the United States welcomed the unanimous adoption of resolution 662 (1990), deciding that Iraq’s annexation of Kuwait was null and void. The resolution was necessary because Iraq was attempting to extinguish the sovereignty of a State Member of the United Nations. The statement by the Iraqi Revolutionary Command Council was reminiscent of the rhetoric that had been used before — about the Rhineland, the Sudetenland, the Polish corridor, Mussolini’s invasion of Ethiopia and the Marco Polo Bridge incident in China. It had been used then to divide and swallow up sovereign States. The world community had not reacted, and the result had been global conflagration. Having finally learned the grim lesson of the 1930s — that peace was indivisible — the international community would not and could not let the same thing

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(S/21451), Saint Kitts and Nevis (S/21453 and S/21454), the Ukrainian Soviet Socialist Republic (S/21462) and Uruguay (S/21464) and jointly from the Soviet Union and the United States (S/21472).

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<sup>24</sup> S/21469

<sup>25</sup> S/21470.

<sup>26</sup> S/21471.

<sup>27</sup> Communications from Argentina (S/21445), Chile (S/21460 and S/21467), Cuba (S/21465), Egypt (S/21448), Ghana (S/21458), Haiti (S/21466), the Islamic Republic of Iran (S/21473), Italy (S/21444), Japan (S/21449 and S/21461), Kuwait (S/21450 and S/21452), Maldives (S/21456), Nicaragua (S/21457), Oman (S/21468), Paraguay (S/21446), the Soviet Union



happen again. By the resolution just adopted, the Council reaffirmed that this crisis was not a regional matter alone, but one that threatened all States. The speaker added that Iraq's invasion of Kuwait and its large military presence on the Saudi frontier created grave risks of further aggression in the area. He reported that his Government and others were, accordingly, at the request of Saudi Arabia, sending forces to the region to deter further Iraqi aggression. As his President had announced the day before, this action was entirely defensive in purpose, to help protect Saudi Arabia. The United States was in the course of informing the Council by letter of its action, taken under Article 51 of the Charter and consistently with Article 41 and resolution 661 (1990), which affirmed that Article 51 applied to the situation. The speaker concluded that the United States stood ready to return to the Security Council as circumstances warranted, to seek further action to implement resolution 660 (1990).<sup>28</sup>

The representative of the Union of Soviet Socialist Republics said that his Government was alarmed about the escalating confrontation in the Gulf area caused by the invasion of Kuwait by Iraq, the so-called merger of the two States, and the deployment of United States naval and air forces in Saudi Arabia. He reaffirmed the Soviet Union's firm opposition to reliance on force and to unilateral decisions, and stressed that experience had shown that the wisest way to act in conflict situations was through collective efforts, making full use of the machinery of the United Nations. Specifically, his Government favoured having the Security Council devote its attention to this extremely acute matter on a permanent basis. It was prepared to undertake consultations immediately in the Military Staff Committee, which, under the Charter of the United Nations, could perform very important functions.<sup>29</sup>

The representative of the United Kingdom observed that the international community had been misled by Iraq in a most dramatic fashion. It had been told that Iraq had no intention of invading Kuwait; the invasion followed. It had been told that Iraq intended to withdraw; the annexation followed. Now it was told that Iraq had no ambitions elsewhere in the region. Against that background, any assertions of that kind

must be regarded with legitimate suspicion and doubt. For its part, the Government of the United Kingdom, at the request of the Government of Saudi Arabia, had agreed to contribute forces to a multinational effort for the collective defence of Saudi Arabia and other threatened States in the area. It would do so in accordance with Article 51 of the Charter, which was specifically reaffirmed in the preamble to resolution 661 (1990). The presence of British forces, particularly naval forces, in the area would be of added advantage in the context of securing the effective implementation of the embargo against Iraq through the close monitoring of maritime traffic. The speaker stressed, however, that even at this stage it was not too late for Iraq to implement Council resolutions 660 (1990) and 661 (1990) and avoid the impact of the sanctions. He reiterated, moreover, that the Council must continue to support the efforts of the League of Arab States, whose summit, it was hoped, would be able to point a way out of the crisis in accordance with resolution 660 (1990).<sup>30</sup>

The representative of Cuba observed that while his delegation had no difficulty with the resolution just adopted, he wished to reiterate his country's conviction that the Security Council and the international community must act energetically and promptly to prevent the conflict from being exacerbated and from spreading. It could not be ignored that certain Powers were taking unilateral measures that were not in accordance with the Council's decisions, and had nothing to do with the desire to maintain the sovereignty or territorial integrity of Kuwait, but simply corresponded to their hegemonic designs in the Middle East. The speaker stressed that war and intervention in the region could not be justified on the basis of an arbitrary interpretation of the right to self-defence. He concluded by expressing the hope that the concerted efforts of the Arab States would result in a fair and swift solution to the conflict, thus closing the door on a unilateral approach designed solely to benefit certain great Powers.<sup>31</sup>

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<sup>30</sup> *Ibid.*, pp. 16-18.

<sup>31</sup> *Ibid.*, pp. 22-27.

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<sup>28</sup> S/PV.2934, pp. 7-10.

<sup>29</sup> *Ibid.*, pp. 11-12.

Other Council members who spoke strongly condemned and rejected Iraq's purported annexation of Kuwait.<sup>32</sup> A number<sup>33</sup> underlined the Council's responsibility for taking the necessary action to secure the withdrawal of Iraq from Kuwait, with some expressing support for such further decisions as might be required. Several speakers called upon all concerned parties to exercise restraint and to refrain from taking any other actions, including unilateral actions, which might further complicate the situation.<sup>34</sup> A number also voiced support for the efforts by the Arab States to bring about a peaceful solution to the conflict.<sup>35</sup>

The representative of Kuwait welcomed the resolution just unanimously adopted as a necessary response to Iraq's purported annexation of Kuwait. Kuwait believed the resolution's provisions to be within the framework of Chapter VII of the Charter. It looked forward, moreover, to the Council's continued support in the implementation of resolutions 660 (1990) 661 (1990) and 662 (1990), thus upholding Kuwaiti legitimacy, the principles of the Charter, and international law.<sup>36</sup>

The representative of Oman, speaking on behalf of the States members of the Gulf Cooperation Council, said that they fully supported the role of the United Nations and the Security Council in bringing about a peaceful solution to the conflict, and continued to recognize the legitimate Government of Kuwait, under the leadership of the Emir of Kuwait. They had themselves called upon Iraq to withdraw its forces immediately and unconditionally, in accordance with the resolutions adopted by the Security Council. They also rejected the purported annexation and hoped that the resolution just adopted would send a clear message to the world that such an act was null and void.<sup>37</sup>

The representative of Iraq maintained that the withdrawal of Iraq's forces from Kuwait had begun on 5 August 1990, as presaged in an official Government statement. However, some "international circles" did not want the withdrawal to proceed peacefully. They

had accordingly brought pressure to bear on the international community and issued threats against his country, making it impossible for it to complete the withdrawal in a serene climate. The speaker dismissed the allegations that Iraq was acting against a neighbouring Arab country as without foundation. Iraq respected the territorial integrity of all neighbouring Arab States, including Saudi Arabia. Military intervention in the region was, in fact, the reason for the instability there. With regard to the resolution just adopted, the speaker wished to quote some passages from a resolution adopted by the Revolutionary Command Council in Iraq, the supreme authority of his country. It stated, *inter alia*, that Kuwait had been separated from Iraq by the former colonial powers. The Iraqi Revolutionary Command Council had simply decided to restore to Iraq the portion that had been taken away from it, thus re-establishing the territorial unity of the country. The speaker concluded by declaring that his Government reaffirmed that the unity of Iraq and Kuwait was indestructible; it was an eternal and irreversible unity.<sup>38</sup>

**Decision of 18 August 1990 (2937th meeting):  
resolution 664 (1990)**

By a letter dated 18 August 1990 addressed to the President of the Security Council,<sup>39</sup> the representative of Italy requested a meeting of the Council on the situation between Iraq and Kuwait, particularly on the question of foreign nationals in the two countries.

At its 2937th meeting, on 18 August 1990, the Council included the letter from the representative of Italy in its agenda. In accordance with the decisions taken at the 2932nd meeting, the Council invited the representatives of Iraq and Kuwait to take seats at the Council table. It also invited the representative of Italy, at his request, to participate in the discussion without the right to vote.

The President (Romania) then drew the attention of the members of the Council to a letter dated 16 August 1990 from the representative of Kuwait addressed to the Secretary-General,<sup>40</sup> transmitting press reports concerning the inhumane activities of the Iraqi occupation forces against Kuwaiti citizens and foreign residents, and the massive destruction caused

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<sup>32</sup> *Ibid.*, p. 11 (France); pp. 13-15 (Canada); pp. 18-20 (Ethiopia); pp. 21-22 (Malaysia); p. 22 (China); pp. 27-28 (Finland); pp. 28-30 (Colombia); and pp. 31-32 (Romania).

<sup>33</sup> Colombia, Ethiopia, France and Malaysia.

<sup>34</sup> China, Colombia, Finland, Malaysia and Romania.

<sup>35</sup> China, Colombia, Finland and Malaysia.

<sup>36</sup> S/PV.2934, pp. 32-37.

<sup>37</sup> *Ibid.*, pp. 38-42.

<sup>38</sup> *Ibid.*, pp. 43-46.

<sup>39</sup> S/21561.

<sup>40</sup> S/21548.

by the invading forces. The President also drew their attention to a draft resolution that had been prepared in the course of the Council's prior consultations.<sup>41</sup>

Speaking before the vote, the representative of Yemen clarified that his delegation's vote in support of the draft resolution before the Council reflected its interest in the safety and well-being of all third-State nationals in Iraq and Kuwait, including Arab nationals. For similar humanitarian reasons, Yemen also called for the lifting of the embargo on food that had been imposed upon Iraq and Kuwait. It expressed concern, moreover, that the crisis in the region was becoming increasingly complicated because of the military and economic blockade that was being set up by one country against Iraq and Kuwait under Article 51 of the Charter. The speaker contended that the military blockade, established by one State without taking into consideration the role of the Security Council, was not defensive in character. He added that the military build-up in the region, an area close to his own country, went beyond the political objectives cited as a pretext for sending foreign armed forces to the region. Convinced of the interdependence of all problems in the region, his Government considered it necessary to reach a peaceful solution to the crisis, within an Arab context.<sup>42</sup>

The draft resolution<sup>43</sup> was then put to the vote and adopted unanimously as resolution 664 (1990), which reads:

*The Security Council,*

*Recalling* the Iraqi invasion and purported annexation of Kuwait, and its resolutions 660 (1990) of 2 August 1990, 661 (1990) of 6 August 1990 and 662 (1990) of 9 August 1990,

*Deeply concerned* about the safety and well-being of third-State nationals in Iraq and Kuwait,

*Recalling* the obligations of Iraq in this regard under international law,

*Welcoming* the efforts of the Secretary-General to pursue urgent consultations with the Government of Iraq following the concern and anxiety expressed by the members of the Council on 17 August 1990,

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

1. *Demands* that Iraq permit and facilitate the immediate departure from Kuwait and Iraq of third-State nationals and grant immediate and continuing access of consular officials to such nationals;

2. *Also demands* that Iraq take no action to jeopardize the safety, security or health of such nationals;

3. *Reaffirms* its decision in resolution 662 (1990) that annexation of Kuwait by Iraq is null and void, and therefore demands that the Government of Iraq rescind its orders for the closure of diplomatic and consular missions in Kuwait and the withdrawal of the immunity of their personnel, and refrain from any such actions in the future;

4. *Requests* the Secretary-General to report to the Security Council on compliance with the present resolution at the earliest possible time.

Speaking after the vote, the representative of the United States recalled that, the day before, the members of the Council had expressed their concern and anxiety over the situation of foreign nationals in Iraq and Kuwait. The Iraqi regime had responded with new actions and threats against those innocent people. The United States welcomed the Secretary-General's announcement that he would immediately send a special mission to the area. Baghdad, for its part, had continued to deny consular access to American and other nationals in Kuwait and Iraq; had begun to detain foreign nationals and to use them as "human shields" to protect strategic sites; and had announced that infants and the aged among them would be singled out for special food restrictions or denied food. While each of those actions was unacceptable to the international community, their cumulative effect was intolerable. No nation could allow such steps to be taken against its own citizens without the fullest possible response. This action by Iraq required the full and concerted solidarity of all States, as represented by the Council's unanimous adoption of the new resolution. The speaker concluded that the United States would support its full implementation.<sup>44</sup>

The representative of China was similarly grateful for the Secretary-General's prompt response to the request by Council members to appoint representatives to engage in good offices in this matter. He also expressed his Government's deep concern about the mounting tension in the Gulf region and reiterated its view that military involvement by the great Powers was not conducive to the settlement of the crisis. Lastly, he pointed out that the meeting was

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<sup>41</sup> S/21562.

<sup>42</sup> S/PV.2937, pp. 3-7.

<sup>43</sup> S/21562.

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<sup>44</sup> S/PV.2937, pp. 8-13.

focused on the consideration of the situation of foreign nationals in Iraq and Kuwait, rather than on the crisis as a whole. Therefore, although his delegation had voted in favour of the resolution just adopted, it expressed reservations about the reference in the resolution to Chapter VII of the Charter, which had broader implications.<sup>45</sup>

The representative of the Union of Soviet Socialist Republics noted that although the members of the Council, through the President of the Council, had the previous day expressed their concern at the fate of the foreign nationals in Iraq and Kuwait and requested the Secretary-General to take steps to resolve the matter, the situation continued to deteriorate. Nevertheless, the Soviet delegation was convinced that it was necessary to continue efforts to find an early solution to the problem, in accordance with the principles of humanitarianism and respect for human rights, on the basis of the norms of international law and the Charter of the United Nations. In that connection, it expressed its special hope for the success of the efforts of the Secretary-General and his representatives. At the same time, there was a broader issue: the possibility that events might develop in such a way as to lead to a new escalation of tension in the region with unforeseeable consequences. In that situation, it was important to stop military activities, to prevent them from spreading to other countries and to restore respect for international law. The Soviet Union was relying on the Arab States and their regional organization, as well as on the United Nations and the Security Council. It intended to act exclusively within the context of collective efforts for a settlement of the conflict, and wished to see political methods used to prevent a military confrontation involving even greater damage.<sup>46</sup>

The representative of the United Kingdom stressed that the Council was concerned that day with a strictly humanitarian problem. Like previous speakers, he recalled that the previous day members of the Council had asked the President of the Council to express their concern and anxiety about the foreign nationals caught in Kuwait and Iraq to the Secretary-General and also to the representative of Iraq. That had been done and the Secretary-General had already decided to send two emissaries to the Government of

Iraq to secure the release of those who were caught in the two countries. Since then, there had been two acts which violated international law and outraged international opinion: the use of innocent foreign civilians as human shields at strategic sites; and the punishment of the hundreds of thousands of foreign civilians caught in Kuwait and Iraq, particularly the weakest members of that community — a retaliation of sorts against the Security Council for having adopted resolution 661 (1990), imposing economic sanctions upon Iraq. The United Kingdom had hoped for an Arab solution to this problem, noting that a particular role had been given to the Arab League in resolution 660 (1990); it still had a few lingering hopes in that regard. The speaker added that there had been some very sensible remarks about the wider dangers in the region, and appeals for negotiation. However, while a peaceful solution was desirable, he reminded Council members that the basis of any such negotiations must be the implementation of the demands made in the Council's resolution 660 (1990), paragraph 2, and resolution 662 (1990), paragraph 1.<sup>47</sup>

A number of other Council members and the representative of Italy, on behalf of the 12 States members of the European Community, echoed the serious concern voiced by the Council about the untenable situation faced by nationals of third countries in Iraq and Kuwait, which they firmly denounced as a violation by Iraq of its obligations under international law, particularly under the International Covenant on Civil and Political Rights and the Fourth Geneva Convention.<sup>48</sup> Several welcomed the diplomatic efforts, in particular those of the Secretary-General, to enable those third-country nationals who wished to do so to leave Iraq and Kuwait without delay.<sup>49</sup>

The representative of Cuba said that his delegation had voted in favour of resolution 664 (1990) because it was based exclusively on legitimate humanitarian considerations. He stressed, however, that the same considerations should apply equally to the nationals of Iraq and Kuwait. He added that his Government had misgivings with regard to some of the elements of the resolution. Notably, it appeared to be

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<sup>45</sup> *Ibid.*, pp. 13-15.

<sup>46</sup> *Ibid.*, pp. 18-20.

<sup>47</sup> *Ibid.*, pp. 21-22.

<sup>48</sup> *Ibid.*, pp. 14-16 (Canada); pp. 16-17 (Finland); pp. 17-18 (France); pp. 22-23 (Ethiopia); pp. 23-25 (Malaysia); pp. 36-37 (Romania); and pp. 53-57 (Italy).

<sup>49</sup> Canada, Finland, Italy, Malaysia and Romania.

rather one-sided. While asking Iraq to guarantee the health of foreign nationals, the resolution was silent on the main factor that could place at risk the ability of third-country nationals or the nationals of Iraq and Kuwait to get sufficient food and medicine, namely, the unilateral action by the United States in impeding the delivery of such products to Iraq and Kuwait, which was in violation of resolution 661 (1990). That resolution exempted from the embargo medicines and, in humanitarian circumstances, foodstuffs; it was not for the United States to determine when such circumstances existed. Furthermore, resolution 661 (1990) was based on Article 41 of the Charter, which referred to measures “not involving the use of armed force”. Yet, immediately after the adoption of the resolution, the United States Government — without any request or authorization — had sent its forces to the region to ensure its implementation. Subsequently, a “de facto naval blockade” had been put into place. Then, in a communication of 16 August 1990,<sup>50</sup> the representative of the United States had informed the members of the Council that the United States was applying blockade measures, under Article 51 of the Charter and Security Council resolution 661 (1990). The speaker insisted that that resolution did not authorize or request anyone to implement it by military means. Article 51 of the Charter, moreover, recognized the right to self-defence only “until the Security Council has taken measures necessary to maintain international peace and security”. The Charter was thus being amended here as the concept of self-defence was being invoked after the Council had taken the decisions it deemed appropriate. The speaker concluded that, in order to preserve its credibility and moral authority, the Council must ensure that its resolutions and decisions were implemented in the manner in which it itself decided.<sup>51</sup>

The representative of the United States made a further statement in response to the issue raised by the representative of Cuba concerning the application of Article 51 of the Charter. He stated that, in accordance with Article 51, he wished on behalf of his Government to report that the United States had deployed military forces to the Gulf region; that those forces had been dispatched in exercise of the inherent right of individual and collective self-defence, recognized in Article 51, in response to developments and requests

from Governments in the region, including requests from Kuwait and Saudi Arabia, for assistance; and that the application of that inherent right in response to the Iraqi armed attack on Kuwait had been affirmed in resolution 661 (1990), whose penultimate preambular paragraph he read out.<sup>52</sup>

The representative of Kuwait observed that the resolution just adopted by the Council grappled with a political, legal and humanitarian issue of an unprecedented nature, involving millions of innocent citizens of various countries held hostage in Iraq and Kuwait. At a time when Iraq was calling for the easing of sanctions for humanitarian reasons, it threatened to deprive foreigners in Iraq of food, which was blackmail, and to use them as human shields. It was essential that the international community respond resolutely to stop such behaviour. Kuwait therefore fully supported the efforts of the Secretary-General aimed at finding a satisfactory solution to the problem of the detainees. The international community must, moreover, take more stringent measures to stop the Iraqi regime from trampling upon the norms on which that community was based. The whole world was looking to the Security Council. It was imperative to close ranks, to cooperate and to take joint action to protect the present and pave the way for a world free from aggression and from aggressors.<sup>53</sup>

The representative of Iraq stated that he wished to draw attention to the position adopted by the United States and the United Kingdom concerning resolution 661 (1990), and their interpretation of how it was to be implemented. He asserted that the United States had arrogated to itself the right to impose a maritime blockade against Iraq without calling it that by name. It had announced on 10 August 1990 at a meeting of the North Atlantic Treaty Organization (NATO) that the United States had the right to resort to force in order to prevent any commercial relations between third States and Iraq. The United Kingdom had followed that example, announcing on 13 August that it would use its warships to prevent any violation of the sanctions imposed by resolution 661 (1990). In taking that action, both States had declared that they were acting in self-defence, on behalf of what they had called the legitimate Government of Kuwait; they had claimed

<sup>50</sup> S/21492.

<sup>51</sup> S/PV.2937, pp. 24-33.

<sup>52</sup> *Ibid.*, pp. 33-35.

<sup>53</sup> *Ibid.*, pp. 37-41. See also letter dated 9 August 1990 from the representative of the United States addressed to the President of the Security Council (S/21492).

that this entitled them to implement resolution 661 (1990). However, Article 51 only granted the right of self-defence until such time as the Security Council had taken measures necessary to maintain international peace and security. The Security Council had taken such measures by adopting resolution 661 (1990) and had established a Committee to guarantee its implementation. The speaker stated that, by their positions, the United States and the United Kingdom had altered the way in which the resolution was to be implemented. The machinery for implementation was no longer the invitation to States to implement the sanctions as they interpreted them, under the supervision of a committee established by the Council. Rather, the United States and the United Kingdom had transformed that machinery into a military blockade by force of arms, thereby appointing themselves the policemen of the region, acting in the name of the Security Council, under the cover of the United Nations, even though neither had granted them that right. Iraq vigorously protested against that conduct by the United States and the United Kingdom, which it believed constituted aggression against Iraq. In conclusion, the speaker stressed that Iraq would take no measure other than defending itself if it were attacked. The security and safety of foreign nationals were guaranteed if the United States and its allies guaranteed that they would not attack Iraq. However, if they persisted in their policy of aggression and attacked Iraq, then whatever the Iraqi people were subjected to would also be applied to its "foreign guests".<sup>54</sup>

The representative of the United Kingdom observed that the statement by the representative of Iraq bore no relation to the concerns that had been expressed in the debate, or to the resolution which the Council had just adopted unanimously. He had rejected, or appeared to have rejected, the very strong message that the Council had given him at the meeting. The speaker hoped that the representative of Iraq and his Government would reflect carefully before they continued down that course.<sup>55</sup>

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<sup>54</sup> S/PV.2937, pp. 42-51.

<sup>55</sup> *Ibid.*, p. 52.

### **Decision of 25 August 1990 (2938th meeting): resolution 665 (1990)**

By letters dated 24 August 1990 addressed to the President of the Security Council,<sup>56</sup> the representatives of the Federal Republic of Germany, Italy, the Netherlands, Spain and Belgium requested, in identical terms, the convening of a meeting of the Council to consider the deteriorating situation between Iraq and Kuwait and the effective implementation of Security Council resolution 661 (1990).

By a letter also dated 24 August 1990 addressed to the President of the Council,<sup>57</sup> the representatives of the States members of the Gulf Cooperation Council, namely, Bahrain, Kuwait, Oman, Qatar, Saudi Arabia and the United Arab Emirates, requested that an immediate meeting of the Council be convened to discuss the situation between Iraq and Kuwait, for the purpose of considering the adoption of measures required to implement Security Council resolutions 660 (1990), 661 (1990) and 662 (1990).

At its 2938th meeting, on 25 August 1990, the Council included the six above-mentioned letters in its agenda. Following the adoption of the agenda, the Council, in accordance with decisions taken at its previous meetings, invited the representatives of Iraq and Kuwait to take seats at the Council table; and invited the representatives of Italy and Oman to take seats at the side of the Council Chamber.

The President (Romania) drew the attention of members of the Council to a draft resolution submitted by Canada, Côte d'Ivoire, Finland, France, the United Kingdom, the United States and Zaire.<sup>58</sup> He also drew their attention to several other documents.<sup>59</sup>

Speaking before the vote on the draft resolution, the representative of Yemen reiterated that his

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<sup>56</sup> S/21634, S/21635, S/21636, S/21637 and S/21638, respectively.

<sup>57</sup> S/21639.

<sup>58</sup> S/21640, subsequently adopted without change as resolution 665 (1990).

<sup>59</sup> S/21548, S/21554, S/21555, S/21556, S/21558, S/21559, S/21560, S/21563, S/21564, S/21565, S/21566, S/21568, S/21571, S/21572, S/21574, S/21586, S/21590, S/21603 and S/21616, containing the texts of communications from Kuwait, Saudi Arabia, Namibia, the Islamic Republic of Iran, the Libyan Arab Jamahiriya, Iraq, Yugoslavia, Jordan, the Sudan, Italy, France and Guinea, respectively.

Government was continuing with efforts aimed at resolving the crisis peacefully, containing it within the region, and avoiding the use of force. In that context, Yemen found that the draft resolution moved too quickly towards the use of force to implement the provisions of Council resolution 661 (1990) on the embargo. It believed that the embargo was functioning effectively and would lead to negotiations on the implementation of resolution 660 (1990). In any event, under resolution 661 (1990), the Secretary-General had been asked to report to the Council on the progress of the implementation of the sanctions within 30 days, that is, by 4 September 1990. Why could the Security Council not wait for that report? Further, by paragraph 6 of the same resolution, the Council had established a Committee and requested it to report with its observations and recommendations regarding the implementation of the sanctions regime. That Committee had not yet reported to the Council. That was why Yemen believed there was an element of haste in the draft resolution. As to the substance of the resolution, it observed that for the first time in the history of the United Nations — and particularly in the history of the Security Council — “unclear powers were being granted to undertake unspecified actions without a clear definition of the Security Council’s role and powers of supervision over those actions”. Thus, the draft resolution called upon “States”, without identifying them, to exercise ambiguous powers in unspecified locations. Moreover, recourse to measures which might require some use of force might in itself lead to an engagement and a conflagration in the area. For those reasons, his delegation could not vote in favour of the draft resolution, while at the same time it approved its objectives.<sup>60</sup>

The representative of Cuba raised various objections to the draft resolution. Although, like the previous speaker, he recognized the efforts made by the sponsors to improve the text, it remained unacceptable. He, too, was concerned with the haste to move on to the use of force: the Council had not yet determined that the measures it had previously decided upon had proved inadequate; nor had it received the Secretary-General’s first report on the implementation of resolution 661 (1990). He contended that, after the unilateral deployment of force in the area a few days previously, the Council was being asked to endorse a *de facto* situation which had not been authorized by it

and which could not be legally justified. The wording of the draft resolution, moreover, had nothing to do with the concepts laid down in the Charter. On the contrary, it violated Articles 41, 42 and 46, and the first paragraphs of Articles 43, 47 and 48. Indeed, very few articles of Chapter VII of the Charter would be left inviolate if the Council adopted the draft resolution. It was not clear which countries would form part of the forces, who would command them, where or against whom. It was clear that such forces would be responsible to their immediate military commanders, but the Council was taking on an ambiguous responsibility because operative paragraph 1 stated “under the authority of the Security Council”. If the Council were really acting responsibly and seriously when it talked of using military force, then it should have drawn on those provisions of Chapter VII that clearly spelled out how that responsibility should be exercised. For instance, Article 46 provided that plans for the application of armed force “shall be made by the Security Council with the assistance of the Military Staff Committee”. However, although the Military Staff Committee was referred to in the draft resolution, it did not appear to have been meeting to draft any plan; nor did the speaker believe that the Council had convened it formally or informally to draw up any plan for the deployment of any forces anywhere. There was no indication, moreover, that the Council had requested certain States to make some of their military forces available to it, as envisaged in Article 43. The speaker also expressed concern about the presence of numerous air and land forces in the region, all operating under another plan than the maritime forces referred to in the draft resolution. He wondered whether the Council was also required to take responsibility for possible hostilities that might arise from the acts of forces not under its command. Finally, he stressed that, when the Council was dealing with matters of such gravity as the use of force to supposedly guarantee the implementation of its decisions, it must be extremely careful. In conclusion, he added that no decision taken by the Council could give it the political, legal or moral authority to undertake any kind of action that was in itself inhuman: that is, any action designed to deprive millions of innocent civilians of foodstuffs and medicines or medical assistance.<sup>61</sup>

The representative of Colombia welcomed the fact that the Security Council had for the first time

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<sup>60</sup> S/PV.2938, pp. 7-11.

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<sup>61</sup> *Ibid.*, pp. 11-21.

acted as envisaged by its creators to prevent and control a regional conflict. His country was gratified that the permanent members had reached agreement on intervening for that purpose. With regard to the draft resolution before the Council, he regretted the haste imposed on its drafting. While his delegation had no difficulty with the establishment of a naval blockade, apparently under Article 42 of the Charter, it shared some of the concerns expressed by the representatives of Cuba and Yemen over the fact that, under the draft resolution, the Security Council would be delegating authority without specifying to whom, or where that authority would be exercised. Colombia believed that, from the Council's point of view, the lack of preparedness to cope with a situation such as the prevailing one must be avoided in future. It accordingly believed that, after 45 years, the Security Council must finally implement Article 43 and the following articles of the Charter. The speaker concluded that, notwithstanding those comments, his delegation agreed with the substance of the draft resolution; it did not want to send an equivocal message to the Government of Iraq. It believed that there had been patent violations of resolution 661 (1990) that needed to be dealt with by the international community; and would therefore vote in favour of the draft resolution.<sup>62</sup>

The draft resolution was then put to the vote and adopted by 13 votes in favour, none against and 2 abstentions (Cuba, Yemen), as resolution 665 (1990), which reads:

*The Security Council,*

*Recalling* its resolutions 660 (1990) of 2 August 1990, 661 (1990) of 6 August 1990, 662 (1990) of 9 August 1990 and 664 (1990) of 18 August 1990 and demanding their full and immediate implementation,

*Having decided* in resolution 661 (1990) to impose economic sanctions under Chapter VII of the Charter of the United Nations,

*Determined* to bring to an end the occupation of Kuwait by Iraq which imperils the existence of a Member State, and to restore the legitimate authority and the sovereignty, independence and territorial integrity of Kuwait, which requires the speedy implementation of the above-mentioned resolutions,

*Deploring* the loss of innocent lives stemming from the Iraqi invasion of Kuwait and determined to prevent further such losses,

*Gravely alarmed* that Iraq continues to refuse to comply with resolutions 660 (1990), 661 (1990), 662 (1990) and 664 (1990) and in particular at the conduct of the Government of Iraq in using Iraqi flag vessels to export oil,

1. *Calls upon* those Member States cooperating with the Government of Kuwait which are deploying maritime forces to the area to use such measures commensurate to the specific circumstances as may be necessary under the authority of the Security Council to halt all inward and outward maritime shipping, in order to inspect and verify their cargoes and destinations and to ensure strict implementation of the provisions related to such shipping laid down in resolution 661 (1990);

2. *Invites* Member States accordingly to cooperate as may be necessary to ensure compliance with the provisions of resolution 661 (1990) with maximum use of political and diplomatic measures, in accordance with paragraph 1 above;

3. *Requests* all States to provide, in accordance with the Charter of the United Nations, such assistance as may be required by the States referred to in paragraph 1 above;

4. *Also requests* the States concerned to coordinate their actions in pursuit of the above paragraphs of the present resolution using, as appropriate, mechanisms of the Military Staff Committee and, after consultation with the Secretary-General, to submit reports to the Security Council and the Security Council Committee established by resolution 661 (1990) concerning the situation between Iraq and Kuwait, in order to facilitate the monitoring of the implementation of the present resolution;

5. *Decides* to remain actively seized of the matter.

Speaking after the vote, the representative of the United States stated that the Charter of the United Nations had been founded on the fundamental principle that the Security Council would carry a broad responsibility for the people of the world for international peace and security. The Charter empowered the Council to act in that regard, including by giving it the authority to decide to use armed force. The authority granted in the resolution just adopted was sufficiently broad to use armed force — indeed, minimum force — depending on the circumstances. Pointing out that the Council's authority to use force had rarely been exercised in the past, the speaker said that resolution 665 (1990) represented an historic and significant decision. The Council had been compelled to take that step by Iraq's blatant defiance of the Security Council and its evasion of its resolutions. The speaker stressed that no solution to the crisis could be reached without the immediate and unconditional withdrawal of Iraqi forces. While efforts must continue to bring about a peaceful solution, the United States,

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<sup>62</sup> *Ibid.*, pp. 21-22.



together with all the other members of the Council, intended to ensure that its resolutions were observed. By the resolution just adopted, the members of the Council had emphasized again their commitment to the peaceful means already adopted. They had no intention that the resolution should encourage a military escalation. It applied strictly to efforts to ensure that the trade sanctions were not violated. The speaker added that the United States had vigorously sought and fully supported collective efforts to respond to the crisis, and to enforce the trade sanctions strictly. Its naval forces, in coordination with others in the area, would use such minimum force only as necessary for that purpose. The United States delegation would continue discussions with other members of the Council concerning how best to apply the economic sanctions against Iraq, and was ready to discuss an appropriate role in the process for the Military Staff Committee. The speaker observed that a number of Member States had already sent naval forces to the region to ensure that the sanctions were effective. They had done so before the adoption of the latest resolution, at the request of the legitimate Government of Kuwait — requests made fully in accordance with the inherent right of individual and collective self-defence confirmed in Article 51 of the Charter and consistent with resolution 661 (1990). That resolution specifically affirmed the exercise of that right in response to the Iraqi armed attack on Kuwait. The new resolution — 665 (1990) — addressed the application of the mandatory sanctions of resolution 661 (1990) specifically against maritime shipping. It lent the full weight and authority of the Security Council to the efforts of States that were deploying maritime forces to ensure that the sanctions were respected. It did not address other aspects of sanctions or other provisions of resolution 661 (1990), and so clearly did not diminish the legal authority of Kuwait and other States to exercise their inherent right. Resolution 665 (1990) therefore provided an additional and most welcome basis under United Nations authority for actions to secure compliance with the sanctions mandated by resolution 661 (1990). The speaker concluded by urging the Council to continue to stand firm in its resolve to confront Iraq's wanton aggression and to preserve the principles enshrined in the Charter.<sup>63</sup>

The representative of France said that Iraq's attempts to violate the embargo threatened to diminish

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<sup>63</sup> Ibid., pp. 26-31.

the impact of resolution 661 (1990), the only peaceful means of compelling it to comply with the other Council resolutions. Quoting the President of France, who on 21 August 1990 had stated that "an embargo without sanctions would be a fiction", he affirmed that France accepted the need to apply coercion when necessary to ensure respect for the embargo. He emphasized that the resolution just adopted was not a blanket authorization for the indiscriminate use of force, but a means of ensuring respect for the embargo. It authorized verification of cargoes and destinations of maritime shipping and provided for appropriate measures to be taken in that regard, including the minimum use of force. The Government of France believed that this naturally must take place only as a last resort and be limited to what was strictly necessary. In each case, the use of coercion would require notification of the Security Council. In conclusion, the speaker stated that, while the international community had the responsibility for ensuring respect for the universal principles governing relations among States, it was within the framework of the Arab community that a concrete solution could best be found to the problems that had led to the Iraq-Kuwait crisis. Any such solution must of course be based on the Council's resolutions.<sup>64</sup>

The representative of Canada said that the invasion of Kuwait, followed by Iraq's escalating violations of the rules of international law, represented one of the most serious threats to international peace and security that humankind had faced since the signing of the Charter in 1945. At the same time, the five resolutions adopted by the Council without any dissent showed clearly the transformation of the United Nations, which was rediscovering its true mission, as conceived at San Francisco. The resolution just adopted had been made necessary by the consistent and continuing refusal of Iraq to abide by the binding decisions of the Council. Its primary objective was to bring about respect by Iraq for the rule of law. Canada very much hoped that a peaceful solution to the crisis could be found, but stressed that such a solution could be based only on compliance with the resolutions of the Council.<sup>65</sup>

The representative of Malaysia stated that no one could give any definitive assurance on the action

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<sup>64</sup> Ibid., pp. 31-32.

<sup>65</sup> Ibid., pp. 32-36.

contemplated in the resolution just adopted; the litmus test would be its implementation. Clearly, however, the course of action to be taken crossed a line from applying sanctions to a readiness to apply force, if necessary, to ensure compliance. The speaker noted that, as a member of the Non-Aligned Movement, his country was averse to having military forces from outside Powers deployed in other regions, even on the basis of legitimate appeals by aggrieved parties. It expected, therefore, that the reasons for the presence of those forces would swiftly be removed and that they would quickly leave the scene. He also observed that the link in the resolution between the countries referred to in paragraph 1 and the United Nations was not as satisfactorily spelled out as one would have wished. However, given the present realities, it was not realistic to suppose that there could be an international force under a blue flag policing and enforcing United Nations injunctions. Given the need to ensure the effectiveness of sanctions, the Security Council must be content with only the beginning of United Nations control action, although Malaysia and others would have preferred a more assertive and prominent role for the United Nations. Faced, however, with the need for urgent redress to ensure the survival of a country, Malaysia had judged that resolution 665 (1990) was preferable to protracted debates in pursuit of a perfect resolution. It was determined, though, that the Council's commitment to effective sanctions should be matched by a commitment to ensure that the resolution's implementation was kept within strict parameters: no licence had been given for action beyond that provided for in paragraph 1 of the resolution. Lastly, Malaysia underlined the need to continue diplomatic and political initiatives, calling on the Secretary-General and the Arab countries to make even greater efforts in this regard.<sup>66</sup>

The representative of Zaire observed that the resolution just adopted was a "first" in the history of the United Nations, which responded to a case unique in the annals of the Organization. It was the first case of an invasion of a State Member of the United Nations, followed by annexation of all of its territory, by another Member State. He hoped that resolution 665 (1990) would be a useful deterrent which would oblige

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<sup>66</sup> Ibid., pp. 36-38.

Iraq to respect the Council's decisions and induce it to withdraw from Kuwait unconditionally.<sup>67</sup>

The representative of the Union of Soviet Socialist Republics underlined the importance of maintaining a high degree of unity in the actions taken by members of the Security Council and of the United Nations as a whole in dealing with the difficult and explosive situation prevailing in the Gulf region. The stress must continue to be placed on methods of dialogue and negotiation. That would further strengthen the authority of the Organization and enhance the prestige of the Council. The Soviet Union supported the resolution just adopted because it favoured that kind of approach. The resolution was intended to expand the array of means available for implementing the sanctions; but it required that the measures taken be commensurate to the specific circumstances. Political and diplomatic methods should be employed to the maximum degree. It was also important that the Security Council should continue to deal with this extremely grave problem on an ongoing basis. The Soviet Union was prepared to make full use of the opportunities afforded by the machinery of the Military Staff Committee and of the Security Council Committee established under resolution 661 (1990). The speaker concluded that the swift unfolding of events made it imperative to show prudence and caution and not to permit reliance on forcible measures and actions that could give rise to explosive developments.<sup>68</sup>

The representative of Finland stated that his country and other States Members of the United Nations had set their hopes on the application of the principle of collective security in the face of aggression. Regrettably, on many past occasions, effective actions had been thwarted by disagreements and a lack of political will. On this occasion, by contrast, the whole international community seemed to be determined that collective security should work and that the aggressor should not benefit from aggression. So long as the occupation continued, the first concern of the international community must be to ensure that sanctions were strictly enforced. It was only logical, therefore, that the Council should now strengthen its role in their implementation. The resolution just adopted, in authorizing further measures at sea by

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<sup>67</sup> Ibid., pp. 38-40.

<sup>68</sup> Ibid., pp. 41-45.

Member States to ensure strict enforcement of resolution 661 (1990), was an unprecedented decision with far-reaching implications. The speaker insisted, therefore, that any concrete action by the naval forces concerned would require close attention to ensure that they served the purposes intended by the Council. Finland saw the new measures as strictly limited to the framework of resolution 661 (1990), strengthening its implementation.<sup>69</sup>

The representative of the United Kingdom considered that the reaction of the Council to the crisis had been exemplary; it showed a new spirit — a creative approach of the international community in dealing with an unprecedented crisis. The resolution just adopted enlarged the means available to Member States cooperating with the Government of Kuwait: “to use such measures commensurate to the specific circumstances as may be necessary under the authority of the Security Council ...”. He stressed that those measures included such minimum force as might be necessary to achieve the purposes of the just cited paragraph 1. Naturally, his country hoped that it would not be necessary to use force. He added that the resolution was the result of mounting evidence of breaches of sanctions on a large scale. Some of that evidence had been furnished to the Committee on economic sanctions. The United Kingdom was also aware that there was a string of tankers carrying Iraqi oil from Iraqi ports outwards from the Gulf. If those open acts of defiance succeeded, the authority of the Council, and of the United Nations itself, would be gravely undermined. In adopting resolution 665 (1990), the Council had chosen the best course for dealing with such maritime breaches of economic sanctions. The speaker noted, however, that sufficient legal authority to take action already existed under Article 51 of the Charter and the request which his Government and others had received from the Government of Kuwait; if necessary, they would use it. Noting that the resolution just adopted did not cover all aspects of the problem, he stated that whether the Council considered further measures and proceeded to other resolutions depended primarily on the Government of Iraq. That Government must recognize and respect the will of the international community, as expressed through the Council. It should not doubt the international community’s determination to see the immediate and unconditional withdrawal of Iraqi forces from Kuwait and the

restoration of the legitimate authority in that country, and to hold members of the Government of Iraq personally responsible for the outrages being committed in Kuwait.<sup>70</sup>

The representative of China stated that the pressing need of the moment was to implement effectively the four Security Council resolutions already adopted, including resolution 661 (1990), on the imposition of sanctions. In order to do so and to prevent a further worsening of the situation, China maintained that the mechanisms of the United Nations, including the Committee established under resolution 661 (1990), should be fully utilized. That Committee should expeditiously examine the implementation of the resolution and make recommendations for the Council to discuss and act upon. China also hoped to see mediation and the exercise of good offices by the United Nations Secretary-General in this regard, and would support him in playing such a role. Contrariwise, China was opposed, in principle, to military involvement by big Powers and did not favour the use of force in the name of the United Nations, since that would only aggravate the situation. It therefore held that measures must be taken within the framework of resolution 661 (1990), which did not provide for the use of force, and would naturally not allow force to be used for its implementation. Based on those considerations, the speaker’s delegation had proposed the deletion of the reference to “minimum use of force” from the previous draft of the resolution just adopted. He stressed that the present text of the resolution was limited to the implementation of resolution 661 (1990) and contained no reference to the minimum use of force. He added that, in China’s view, the reference in paragraph 1 of resolution 665 (1990) to using “such measures commensurate to the specific circumstances as may be necessary” did not contain the concept using force. Based on the foregoing, China had voted in favour of the draft resolution.<sup>71</sup>

Several other Council members, echoing the views of previous speakers, stated that, in the face of Iraq’s continued defiance of the Council’s resolutions, it was imperative that the Council take appropriate action to enforce compliance.<sup>72</sup> Through the resolution just adopted, they intended not only to meet the

<sup>69</sup> Ibid., pp. 45-47.

<sup>70</sup> Ibid., pp. 47-50.

<sup>71</sup> Ibid., pp. 52-55.

<sup>72</sup> Ibid., pp. 49-51 (Côte d’Ivoire); pp. 51-52 (Ethiopia); and pp. 54-56 (Romania).

existing shortcomings in the means available to implement earlier resolutions, but also to impress upon Iraq that the international community could not wait indefinitely. Some stressed that the new steps to be taken must be implemented under the authority of the Security Council.<sup>73</sup>

The representative of Kuwait stated that, by calling for the use of all possible means, including the military option, to tighten the sanctions regime imposed on Iraq, resolution 665 (1990) closed the loopholes in the resolution imposing the embargo, which had been exploited by the Iraqi regime. It would thus contribute to the attainment of Kuwait's legitimate demands that its entire territory and its legitimate Government be restored to it. With regard to calls — made in the Council Chamber and elsewhere — for an Arab solution of the issue, he recalled that his Government had indeed sought to settle the whole problem within an Arab framework, both before and after the invasion and occupation of his country. Iraq had, however, rejected the demands that it withdraw its forces, unconditionally, in accordance with the resolution adopted by the Arab Foreign Ministers on 2 August 1990 and the resolutions subsequently adopted by the Arab Summit and the Foreign Ministers of Muslim countries. The speaker rejected, moreover, Iraq's accusation that the international community was acting in haste. On the contrary, Kuwait's desire to safeguard the interests of its homeland and the safety of its people under occupation had prompted it to move slowly, towards the tightening of the embargo measures and the closing of all the loopholes. He added, further, that any attempt by Iraq to invoke humanitarian considerations to seek exemptions for food and medicine from the embargoed goods was only a pretext to camouflage malicious designs. All the humanitarian problems arising from aggression and occupation would be resolved once the Iraqi occupation was brought to an end. That could only happen if there were firm international solidarity, which would contribute to forcing the aggressor to implement Council resolution 660 (1990).<sup>74</sup>

The representative of Oman, on behalf of the States members of the Gulf Cooperation Council, regretted that Iraq had failed to heed the calls of the international community and the resolutions of the

League of Arab States and the Organization of the Islamic Conference to work towards a peaceful solution of the situation by withdrawing from Kuwait and restoring the legitimate authority of Kuwait. That was why his Government had joined with other States in asking the Security Council to convene the current meeting and to look into necessary measures for the implementation of its relevant resolutions, especially resolution 661 (1990), in accordance with Chapter VII of the Charter. The Gulf Cooperation Council countries welcomed, in this regard, the adoption of resolution 665 (1990), while continuing to call upon Iraq to accept all the previous resolutions in order to avoid unforeseen dangers to its people and the whole region.<sup>75</sup>

The representative of Iraq said that he had asked to speak before the voting in order to show the "illegality" of resolution 665 (1990) under the Charter of the United Nations, but that the President had denied him that privilege without citing either a precedent or a rule of procedure. He was pleased, however, that the representative of Cuba had highlighted the illegal aspect of the resolution in his statement. The resolution contravened the Charter in two respects. First, resolution 661 (1990) was based on Article 41 of the Charter, which ruled out the use of force to implement economic measures decided by the Security Council. That reservation was emphasized by the fact that five members of the Council which voted in favour of resolution 665 (1990) or abstained from voting on it had expressed doubts about its applicability and appropriateness. The representative of China had stated that he had voted in favour while convinced that it did not authorize the use of force to implement the embargo. Secondly, any use of force in accordance with the Charter fell under the provisions of Article 42 and subsequent articles — especially those that limited the use of force to the Security Council, in cooperation with the Military Staff Committee. However, resolution 665 (1990) avoided invoking the authority and purview of the Security Council under Article 42. The Council had no right to deprive itself of its own authority, or to delegate that authority to a number of States. The resolution was, moreover, very dangerous: it lay down no logical basis for or limits on the use of force, and gave no real authority to the Security Council, the Military Staff Committee, the Security Council Committee concerned or the Secretary-General in

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<sup>73</sup> Ethiopia and Romania.

<sup>74</sup> S/PV.2938, pp. 56-65.

<sup>75</sup> *Ibid.*, pp. 63-66.

supervising the use of force by maritime States. The speaker noted that many of the previous speakers had referred to the importance of continuing diplomatic efforts, especially through the Arab Group. However, it was clear that through their behaviour — in requesting meetings of the Security Council, in the hasty adoption of unjust resolutions and in holding meetings at short notice — the United States and its allies had slammed the door on any peaceful solution. He drew attention to the provocative nature of the massive deployment of troops by the latter and the blockade imposed upon the Iraqi people, and concluded by sounding a warning concerning aggression against Iraq.<sup>76</sup>

**Decisions of 13 September 1990 (2939th meeting): rejection of a draft resolution and adoption of resolution 666 (1990)**

At its 2939th meeting, held on 13 September 1990 in accordance with the understanding reached in its prior consultations, the Council adopted the agenda item entitled “The situation between Iraq and Kuwait”. The Council invited the representative of Kuwait, at his request, to participate in the discussion without the right to vote.

The President (Union of Soviet Socialist Republics) drew the attention of the Council members to two draft resolutions, one submitted by Cuba;<sup>77</sup> the other submitted by Canada, Finland, France, the Union of Soviet Socialist Republics, the United Kingdom and the United States.<sup>78</sup>

He said that, in accordance with rule 32 of the provisional rules of procedure of the Security Council,<sup>79</sup> he would put the draft resolution submitted by Cuba to the vote first.<sup>80</sup> It received 3 votes in favour (China, Cuba, Yemen), 5 against (Canada, Finland, France, United Kingdom, United States) and 7 abstentions (Colombia, Côte d’Ivoire, Ethiopia, Malaysia, Romania, Soviet Union, Zaire) and was not adopted, having failed to obtain the required number of votes.

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<sup>76</sup> *Ibid.*, pp. 66-77.

<sup>77</sup> S/21742/Rev.1.

<sup>78</sup> S/21747.

<sup>79</sup> The relevant part of rule 32 states: “Principal motions and draft resolutions shall have precedence in the order of their submission”.

<sup>80</sup> S/21742/Rev.1.

Under that draft resolution, the Council would have declared that the access to basic foodstuffs and to adequate medical assistance was a fundamental human right to be protected under all circumstances and would have decided, accordingly, that under no circumstances should actions be taken, including those resulting from the implementation of Security Council decisions such as resolutions 661 (1990) and 665 (1990), that might hinder access of the civilian population and the foreign nationals in Iraq and Kuwait to basic foodstuffs and medical assistance.

Speaking after the vote, the representative of China stated that his delegation had voted in favour of the draft resolution in the spirit of humanitarianism. China believed that the provision of foodstuffs to the civilian population and foreign nationals in Iraq and Kuwait should be carried out within the framework of resolution 661 (1990), that is, in humanitarian circumstances. China itself favoured the adoption of a resolution establishing information-seeking and food-distribution mechanisms; its vote in favour of the draft resolution did not change that position.<sup>81</sup>

The Council then proceeded to the vote on the second draft resolution before it.<sup>82</sup> Speaking before the vote, the representative of Yemen said that his Government was complying with resolution 661 (1990), in accordance with Article 25 of the Charter, despite the fact that Yemen, as a member of the Council, had not voted in favour of it. He affirmed his Government’s understanding that paragraph 3 (c) of resolution 661 (1990) exempted medical supplies and foodstuffs, for humanitarian reasons, from the embargo imposed against Iraq and Kuwait. That resolution could not be used to starve the weak and innocent in those two countries, as a way to achieve political ends, since such methods would contradict many international humanitarian agreements. Such a policy might not, moreover, induce Iraq to implement the Council’s resolutions but, on the contrary, would only harm innocent civilians. With regard to the draft resolution before the Council, Yemen believed that, while it was an attempt to deal with the humanitarian circumstances mentioned in resolution 661 (1990), it was based on a very narrow interpretation. Yemen considered, moreover, that the procedure it envisaged for obtaining information about the food situation, for deciding

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<sup>81</sup> S/PV.2939, pp. 6-7.

<sup>82</sup> S/21747.

whether to send food, and for distributing food through international humanitarian agencies was time-consuming and cumbersome. The speaker noted, further, that the draft resolution excluded bilateral efforts to send food to Iraq and Kuwait. Yet the Government of Iraq had stated that it would not allow international humanitarian agencies to transport or distribute food themselves and that it would only deal on a bilateral basis. In this regard, he thanked the sponsors of the draft resolution for accepting an amendment under which the Secretary-General was requested to use his good offices to facilitate the delivery and distribution of foodstuffs to Iraq and Kuwait. In sum, however, his country could not accept the proposed plan, which would put at risk the lives of millions of innocent civilians, and would not therefore vote in favour of the draft resolution.<sup>83</sup>

The representative of Cuba said that his Government had various reasons for not being in agreement with the draft resolution before the Council. In particular, it regarded as completely inadmissible the idea of depriving peoples of their fundamental right to receive adequate food and appropriate medical care. Resolution 661 (1990) had at least contained reference to the possibility of supplying foodstuffs in humanitarian circumstances. However, the speaker noted that members of the Council had spent countless hours trying to define the criteria for interpreting the clauses of that resolution. At the same time, the Council had received information from various sources concerning the consequences for thousands of innocent individuals, and appeals from the representatives of various countries to deal with the situation. Not only had the Security Council not responded to those appeals; under the draft resolution it proposed to establish non-urgent machinery for obtaining and analysing information about the situation — a tortuous path with regard to imperative needs and requests for food received from various Member States. The draft resolution would thus, in effect, extend and reinforce the sanctions against Iraq and Kuwait to include foodstuffs; Cuba could not therefore support it.<sup>84</sup>

The second draft resolution was then put to the vote and adopted by 13 votes in favour to 2 against (Cuba, Yemen) as resolution 666 (1990), which reads:

*The Security Council,*

*Recalling* its resolution 661 (1990) of 6 August 1990, paragraphs 3 (c) and 4 of which apply, except in humanitarian circumstances, to foodstuffs,

*Recognizing* that circumstances may arise in which it will be necessary for foodstuffs to be supplied to the civilian population in Iraq or Kuwait in order to relieve human suffering,

*Noting* that in this respect the Security Council Committee established by resolution 661 (1990) concerning the situation between Iraq and Kuwait has received communications from several Member States,

*Emphasizing* that it is for the Security Council, alone or acting through the Committee, to determine whether humanitarian circumstances have arisen,

*Deeply concerned* that Iraq has failed to comply with its obligations under Security Council resolution 664 (1990) of 18 August 1990 in respect of the safety and well-being of third-State nationals, and reaffirming that Iraq retains full responsibility in this regard under international humanitarian law including, where applicable, the Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949,

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

1. *Decides* that in order to make the necessary determination whether or not, for the purposes of paragraphs 3 (c) and 4 of resolution 661 (1990), humanitarian circumstances have arisen, the Security Council Committee established by resolution 661 (1990) concerning the situation between Iraq and Kuwait shall keep the situation regarding foodstuffs in Iraq and Kuwait under constant review;

2. *Expects* Iraq to comply with its obligations under resolution 664 (1990) in respect of third-State nationals and reaffirms that Iraq remains fully responsible for their safety and well-being in accordance with international humanitarian law including, where applicable, the Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949,

3. *Requests*, for the purposes of paragraphs 1 and 2 above, that the Secretary-General seek urgently, and on continuing basis, information from relevant United Nations and other appropriate humanitarian agencies and all other sources on the availability of food in Iraq and Kuwait, such information to be communicated by the Secretary-General to the Committee regularly,

4. *Also requests* that in seeking and supplying such information particular attention be paid to such categories of persons who might suffer specially, such as children under 15 years of age, expectant mothers, maternity cases, the sick and the elderly;

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<sup>83</sup> S/PV.2939, pp. 8-17.

<sup>84</sup> *Ibid.*, pp. 18-36.

5. *Decides* that if the Committee, after receiving the reports from the Secretary-General, determines that circumstances have arisen in which there is an urgent humanitarian need to supply foodstuffs to Iraq or Kuwait in order to relieve human suffering, it will report promptly to the Council its decision as to how such need should be met;

6. *Directs* the Committee that in formulating its decisions it should bear in mind that foodstuffs should be provided through the United Nations in cooperation with the International Committee of the Red Cross or other appropriate humanitarian agencies and distributed by them or under their supervision, in order to ensure that they reach the intended beneficiaries;

7. *Requests* the Secretary-General to use his good offices to facilitate the delivery and distribution of foodstuffs to Kuwait and Iraq in accordance with the provisions of the present resolution and other relevant resolutions;

8. *Recalls* that resolution 661 (1990) does not apply to supplies intended strictly for medical purposes, but in this connection recommends that medical supplies should be exported under the strict supervision of the Government of the exporting State or by appropriate humanitarian agencies.

Speaking after the vote, the representative of the United States said that his country had voted in favour of resolution 666 (1990) because it guaranteed the integrity of United Nations efforts to end Iraq's occupation of Kuwait by peaceful means. The resolution gave a strong role to the sanctions Committee in supporting the Council's work in applying sanctions against Iraq. It established a process that included consideration by the Committee of the food situation inside Iraq and Kuwait, and set out a procedure for the distribution of relief supplies of food under the supervision of appropriate humanitarian agencies. It also stressed that medical supplies were to be provided only under the supervision of the Government of the country from which they had been exported. The speaker emphasized that those safeguards were essential, not optional, as the Council could not count on the good faith of the Government of Iraq. Moreover, that Government had stated its intention to allocate foodstuffs not to the needy but to the army it had sent to Kuwait, and it had so far refused cooperation with humanitarian agencies. For those reasons, it had become incumbent upon the Council, in promoting the effectiveness of sanctions against Iraq, to lay down procedures to ensure that food supplies reached those for whom they were intended. The mechanisms established ensured that the international community was ready to respond to cases of genuine human need without destroying the strength

of the sanctions designed to secure Iraq's withdrawal from Kuwait. By contrast, the draft resolution submitted by Cuba, and not adopted by the Council, sought to ignore the clear terms of resolution 661 (1990) and the choice made by the Council in favour of economic sanctions as the response to Iraq's invasion of Kuwait. Rather than strengthening the sanctions by ensuring that the legitimate needs of the civilian population were met, it would have discredited sanctions as the Council's chosen instrument.<sup>85</sup>

The representative of China stated that, on the question of delivering foodstuffs to Iraq in humanitarian circumstances, his delegation had taken the following as its point of departure: first, resolution 661 (1990) should be strictly implemented so as to urge Iraq to withdraw from Kuwait, thereby paving the way for a political settlement of the Gulf crisis; and secondly, no situation should occur in which people in those two countries, particularly children, suffered from hunger. Proceeding from that position, China had found the draft resolution generally acceptable and had thus voted in favour of it. The speaker stressed, however, that the information-seeking and food-distribution mechanisms provided in the resolution just adopted should in no circumstances cause any impediment or delay in the delivery of food. He added that the situation with which the Council was now faced was an urgent one, in response to which it must be prepared to take whatever emergency measures were necessary. Citing the critical predicament faced by Asian nationals in Iraq and Kuwait as a case in point, he said it was imperative for the Council and its sanctions Committee to solve this type of problem as a priority without delay.<sup>86</sup>

The representative of France condemned Iraq's attempts to bypass the embargo imposed on it by the international community by using the distress of a foreign population it was doing nothing to help. While the Iraqi leaders had been asserting that they had several months' worth of foodstuff reserves, hundreds of thousands of foreigners were in a situation of critical shortage. The real solution to this problem lay in the speediest possible evacuation of those concerned, as provided for in resolution 664 (1990). Unable, however, to return to their countries, those concerned must be able to receive from abroad the food that Iraq

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<sup>85</sup> *Ibid.*, pp. 37-42.

<sup>86</sup> *Ibid.*, pp. 42-43.

had denied them. Security Council resolution 661 (1990) moreover, stipulated that foodstuffs could be sent to Iraq and Kuwait in humanitarian circumstances. Obviously, such supplies must be delivered in strict compliance with that resolution — that is, they must not contravene the embargo and must truly respond to humanitarian considerations without risk of diversion. The resolution just adopted provided a clearly defined framework of action for the Council and its sanctions Committee, which contained two key elements: it was indispensable that the Committee have available to it objective and impartial information on the situation regarding foodstuffs in Iraq and Kuwait, in particular with regard to children and other vulnerable persons; and it was essential that the foodstuffs supplied reached the intended beneficiaries, which could only be guaranteed if their shipment and distribution were carried out under close supervision by international organizations. France hoped that there would be movement towards Iraqi acceptance of the role of such organizations, and that Prince Sadruddin Aga Khan, whom the Secretary-General had just entrusted with the task of coordinating United Nations humanitarian actions in the region, would be able speedily to discharge his mission.<sup>87</sup>

The representative of Canada welcomed the adoption by the Council, by an overwhelming majority, of a resolution dealing with one of the most tragic aspects of the situation in Iraq and Kuwait. Like previous speakers, he noted that it established a framework by which the Council and its sanctions Committee would determine the existence of humanitarian circumstances which required foodstuffs to be supplied to the civilian population in Iraq or Kuwait; and stressed the need for such supplies to be provided through appropriate humanitarian agencies and distributed by them or under their supervision: only in that way could the Council be sure that the foodstuffs would reach their intended beneficiaries, including the most disadvantaged individuals. He called upon the Government of Iraq to cooperate fully with Prince Sadruddin Aga Khan, the Personal Representative of the Secretary-General for humanitarian assistance relating to the crisis, and to facilitate the early and full implementation of the resolution just adopted.<sup>88</sup>

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<sup>87</sup> *Ibid.*, pp. 49-53.

<sup>88</sup> *Ibid.*, pp. 53-55.

The representative of the United Kingdom observed that the Security Council was faced with yet a further breach by Iraq of international law and of its international obligations. The Government of Iraq was refusing to supply food to the poorest and most vulnerable of the third-country nationals in Kuwait, the workers from a number of Asian countries. At the same time, it was boasting that it still had considerable supplies of basic foodstuffs. Iraqi objectives were clear: by provoking a human tragedy, it was seeking to open a breach in the sanctions which the Council had imposed upon it. The resolution just adopted was designed to avoid such an outcome while at the same time meeting the real humanitarian needs of those innocent victims, as was clearly intended when the sanctions were imposed. The Council was laying down guidelines to enable food to be supplied when it could be objectively established that a humanitarian need existed, as had been established, for example, in the case of the Indian and other nationals from Asian countries. The speaker emphasized, as had other speakers, that the supervision of the supply of food must be in the hands of the United Nations and the International Committee of the Red Cross or other appropriate humanitarian agencies: a regime which, as an occupying Power, had looted medical supplies and equipment from Kuwait was likely to have little compunction about diverting food supplies from those in real need towards its own military.<sup>89</sup>

The President, speaking in his capacity as the representative of the Union of Soviet Socialist Republics, recalled that from the beginning of the crisis his country had expressed its unequivocal preference for a diplomatic solution, based on the full use of the machinery and potential of the United Nations. It had considered resolution 661 (1990) to be a necessary and severe lever for collectively influencing Iraq in view of its continuing occupation of Kuwait and its flouting of norms of international law. The Soviet delegation had been aware that the implementation of the comprehensive sanctions would create serious economic, social and humanitarian problems for many States, including its own. However, the Council could not lose sight of the fact that the fundamental reason for those problems was the continuing occupation and annexation of Kuwait by Iraq — not the sanctions adopted as a result of those actions. It was clear, moreover, that the sanctions were

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<sup>89</sup> *Ibid.*, pp. 56-59.



not aimed at causing hunger and disease among the populations of Iraq and Kuwait. On the contrary, as emphasized in a recent joint communiqué, issued by the Presidents of the Soviet Union and the United States, resolution 661 (1990) permitted the export of foodstuffs to Iraq and Kuwait for humanitarian considerations. In the light of these considerations, the Soviet Union viewed the resolution just adopted as embodying the internationally recognized need for procedures to allow for the humanitarian provision of foodstuffs and medical supplies to those two countries. The Soviet delegation had, therefore, actively participated in its preparation and supported it. It had been unable, on the other hand, to support the draft resolution submitted by Cuba since it clearly departed from the spirit and purposes and specific provisions adopted by the Council in resolution 661 (1990).<sup>90</sup>

The other members of the Council stated that, by the resolution just adopted, the Council had demonstrated that it was aware of and attentive to the humanitarian concerns that could arise from the strict application of the sanctions imposed against Iraq.<sup>91</sup> They welcomed the establishment of a clearer framework for considering and responding quickly to problems pertaining to the provision of foodstuffs to the civilian population of Iraq and Kuwait, particularly third-country nationals stranded there, although one would have wished for a more efficient system.

The representative of Kuwait stressed the following points in connection with the resolution just adopted. First, the plight of the Kuwaiti people should be kept in mind in any consideration of solutions to humanitarian questions and the effects of the brutality of the aggressor. While his country had great sympathy for the third-country nationals in Kuwait, their plight should not deflect attention from the basic problem — that is, the problem of the Kuwaitis: their food, safety, rights and land. Secondly, Kuwait had no confidence in the occupying Power. The latter should not be given any role in determining the needs of the Kuwaiti population or in regard to the distribution of food. The competent international organizations should carry out that humanitarian task. Thirdly, in no circumstances should these humanitarian questions — important, indeed vital, as they were — deflect international

attention from the crux of the question: the continued Iraqi occupation of Kuwait and Iraq's refusal to comply with international law by implementing the Security Council resolutions. The speaker observed that the measures the Council had taken since the aggression had begun were appropriate to the situation. He added, however, that it was now called upon to "turn up the heat" on Iraq to bring it to comply with the Council's resolutions and withdraw from Kuwait so that Kuwait's legitimate Government could be restored.<sup>92</sup>

**Decision of 16 September 1990 (2940th meeting): resolution 667 (1990)**

By 18 separate letters dated 15 September 1990 addressed to the President of the Security Council,<sup>93</sup> the representatives of, respectively, France, Italy, Canada, Denmark, the Federal Republic of Germany, Belgium, Finland, Austria, Hungary, Spain, the Netherlands, Greece, Ireland, Sweden, Norway, Portugal, Australia and Luxembourg requested an immediate meeting of the Council to consider the situation between Iraq and Kuwait, in view of the grave violations of international law and of the Vienna Conventions on diplomatic and consular relations which Iraq had committed by forcibly entering the premises of the embassies of France and other countries in Kuwait and abducting diplomatic personnel and foreign nationals.

At its 2940th meeting, on 16 September 1990, the Council included the 18 letters in its agenda. Following the adoption of the agenda, the Council invited the representatives of Iraq, Italy and Kuwait, at their request, to participate in the discussion without the right to vote.

The President (Union of Soviet Socialist Republics) drew attention to a draft resolution submitted by Canada, Côte d'Ivoire, Finland, France, the United Kingdom and Zaire.<sup>94</sup>

Speaking before the vote, the representative of France explained that his country had called for the immediate convening of the Council in order to consider without delay events of particular gravity that had just occurred in Kuwait. In recent days, Iraq had

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<sup>90</sup> Ibid., pp. 71-73.

<sup>91</sup> Ibid., pp. 43-47 (Zaire); pp. 47-48 (Ethiopia); pp. 59-60 (Malaysia); pp. 61-62 (Finland); pp. 62-63 (Romania); pp. 63-67 (Côte d'Ivoire); and pp. 67-68 (Colombia).

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<sup>92</sup> Ibid., pp. 74-82.

<sup>93</sup> S/21755-S/21771 and S/21773, respectively.

<sup>94</sup> S/21774; subsequently adopted without change as resolution 667 (1990).

violated international law and the Vienna Conventions on diplomatic and consular relations by forcibly entering the diplomatic premises of several countries, some of them members of the Council, and removing from them diplomatic personnel and persons not enjoying diplomatic status. In the residence of the French Ambassador, the Iraqi army had apprehended the Military Attaché of France and three other French nationals not enjoying diplomatic status. Although the former had been released, the others had joined the numerous foreigners held hostage in Iraq and Kuwait. This was a new intolerable act of aggression by Iraq, which was aimed at the international community as a whole. It compounded the initial aggression by Iraq against Kuwait and the second aggression constituted by the taking hostage of several thousand people of various nationalities. The purpose of these latest actions was clear: by attacking diplomatic and consular missions in Kuwait, Iraq was seeking the obliteration of that State. The speaker underlined the importance of the main features of the draft resolution. The Council must act vigorously and swiftly, by firmly condemning the violations that had just been committed and by demanding that Iraq immediately release not only the persons just kidnapped but all foreign nationals that had been taken hostage. It must ensure the success of the strategy chosen by the international community, namely, the embargo — by recalling that it must be strictly respected and its implementation monitored with vigilance. Finally, the Council must send Iraq a clear warning that, in view of its persistent refusal to comply with Security Council resolutions, the international community was determined to adopt other measures. The speaker concluded that it was essential that the international community continue to stand firm against all new acts contrary to international law and to the resolutions of the Council perpetrated by Iraq. He accordingly called upon the members of the Council to support the draft resolution before them.<sup>95</sup>

The representatives of Canada — whose ambassadorial residence had also been unlawfully entered and a diplomat detained — China, Colombia, Côte d'Ivoire, Ethiopia, Finland (speaking on behalf of the five Nordic countries: Denmark, Finland, Iceland, Norway and Sweden), Malaysia, Romania, the United Kingdom, the United States and Zaire, and the President, speaking in his capacity as the representative of the Union of Soviet Socialist Republics, expressed

<sup>95</sup> S/PV.2940, pp. 6-7.

support for the draft resolution which they either sponsored or endorsed. The representatives of Canada, the United Kingdom, the United States and the Union of Soviet Socialist Republics stressed the warning, contained in paragraph 6 of the draft resolution, that Iraq's failure to respond appropriately and without delay would lead the Council to adopt "further concrete measures", with some calling for immediate consultations to that end. The representative of China expressed a reservation concerning that formulation, the implications of which China found too wide and not conducive to the efforts of all parties in seeking a political settlement. The representative of Malaysia interpreted the significance of paragraph 6 as a collective determination to continue to take action through the Security Council and not unilaterally, and without any need at that stage "to resort to more force".<sup>96</sup>

The draft resolution was then put to the vote and adopted unanimously as resolution 667 (1990), which reads:

*The Security Council,*

*Reaffirming* its resolutions 660 (1990) of 2 August 1990, 661 (1990) of 6 August 1990, 662 (1990) of 9 August 1990, 664 (1990) of 18 August 1990, 665 (1990) of 25 August 1990 and 666 (1990) of 13 September 1990,

*Recalling* the Vienna Convention on Diplomatic Relations of 18 April 1961 and the Vienna Convention on Consular Relations of 24 April 1963, to both of which Iraq is a party,

*Considering* that the decision of Iraq to order the closure of diplomatic and consular missions in Kuwait and to withdraw the privileges and immunities of these missions and their personnel is contrary to the decisions of the Security Council, the international conventions mentioned above and international law,

*Deeply concerned* that Iraq, notwithstanding the decisions of the Council and the provisions of the conventions mentioned above, had committed acts of violence against diplomatic missions and their personnel in Kuwait,

*Outraged* at recent violations by Iraq of diplomatic premises in Kuwait and at the abduction of personnel enjoying diplomatic immunity and foreign nationals who were present in these premises,

<sup>96</sup> *Ibid.*, pp. 7-10 (Canada); pp. 11-12 (United Kingdom); p. 12 (Malaysia); pp. 13-15 (Finland); p. 16 (Zaire); pp. 16-17 (China); pp. 18-19 (Côte d'Ivoire); pp. 19-21 (United States); pp. 21-23 (Romania); pp. 23-26 (Colombia); pp. 26-27 (Soviet Union); and pp. 31-32 (Ethiopia).

*Considering also* that these actions by Iraq constitute aggressive acts and a flagrant violation of its international obligations which strike at the root of the conduct of international relations in accordance with the Charter of the United Nations,

*Recalling* that Iraq is fully responsible for any use of violence against foreign nationals or against any diplomatic or consular mission in Kuwait or its personnel,

*Determined* to ensure respect for its decisions and for Article 25 of the Charter,

*Considering further* that the grave nature of Iraq's actions, which constitute a new escalation of its violations of international law, obliges the Council not only to express its immediate reaction but also to consult urgently in order to take further concrete measures to ensure Iraq's compliance with the Council's resolutions,

*Acting* under Chapter VII of the Charter,

1. *Strongly condemns* aggressive acts perpetrated by Iraq against diplomatic premises and personnel in Kuwait, including the abduction of foreign nationals who were present in those premises;

2. *Demands* the immediate release of those foreign nationals as well as all nationals mentioned in resolution 664 (1990);

3. *Also demands* that Iraq immediately and fully comply with its international obligations under resolution 660 (1990), 662 (1990) and 664 (1990), the Vienna Convention on Diplomatic Relations of 18 April 1961, the Vienna Convention on Consular Relations of 24 April 1963 and international law;

4. *Further demands* that Iraq immediately protect the safety and well-being of diplomatic and consular personnel and premises in Kuwait and in Iraq and take no action to hinder the diplomatic and consular missions in the performance of their functions, including access to their nationals and the protection of their person and interests;

5. *Reminds* all States that they are obliged to observe strictly resolutions 661 (1990), 662 (1990), 664 (1990), 665 (1990) and 666 (1990);

6. *Decides* to consult urgently to take further concrete measures as soon as possible, under Chapter VII of the Charter, in response to Iraq's continued violation of the Charter of the United Nations, of resolutions of the Security Council and of international law.

Speaking after the vote, the representative of Cuba expressed his appreciation to the delegation of France for its willingness to seek compromise formulations that had made it possible for all members of the Council to support the resolution just adopted. He voiced concerns, however, about some of its elements. His delegation found the reference to

“aggressive acts” to be somewhat excessive in this context, noting that such an expression had not been used even in resolution 660 (1990), condemning the Iraqi invasion of Kuwait. It was also concerned about paragraph 6, since it might be inferred that some Powers could use its provisions to exacerbate the conflict and press on to military action. His delegation regretted, moreover, that no mention was made in the text of the need to continue the efforts to find a peaceful solution to the conflict, or of the responsibility that could and should devolve upon the Secretary-General in connection with diplomatic missions in Kuwait.<sup>97</sup>

The representative of Italy stated that the offence against the French Embassy was regarded as an offence against all members of the European Community. However, it was more. Iraq's action against the embassies in Kuwait affected the very bases of civilized relationships between nations. It must, therefore, elicit a response not just from the individual countries affected, but from the whole international community as represented in the Security Council — for Iraq's action constituted an offence against the whole international community. Italy accordingly fully supported the measures contained in resolution 667 (1990), in particular its paragraph 5, calling upon Iraq to respect the Council's previous resolutions. Should that not happen, it was prepared to support such further actions as the Council might take under paragraph 6 of the resolution.<sup>98</sup>

The representative of Kuwait stated that Iraq's act of aggression against the embassies in Kuwait was merely a continuation of Iraq's aggression against the Kuwaiti Embassy and diplomatic personnel in Baghdad, and of the crimes committed by the Iraqi occupation forces in Kuwait. Those actions deserved the Council's most vigorous condemnation. Further, as they were the result of the continued occupation of Kuwait, the Security Council should consider the adoption of further measures to put an end to that occupation: it should tighten the vice by every possible means and procedure to compel Iraq to comply with its decisions and withdraw from Kuwait. In the meantime, he expressed Kuwait's appreciation to all States that had faced up to the difficulties imposed by Iraq and had kept their embassies open in Kuwait. He also

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<sup>97</sup> *Ibid.*, pp. 28-31.

<sup>98</sup> *Ibid.*, pp. 32-35.

expressed gratitude to the Council, which continued to keep under consideration the situation between Iraq and Kuwait with a sense of responsibility, firmness and persistence in pursuing the need to apply the provisions of the Charter.<sup>99</sup>

The representative of Iraq contended that the claim of intrusion into the residence of the French Ambassador was “false and unfounded”. The instructions given to the local authorities in the “province of Kuwait” stipulated that those residences should not be entered, although they no longer had diplomatic immunity. He asserted that the Government of France had been looking for a pretext to create unfounded tension and escalate the situation. Iraq’s position was clear: it respected the Vienna Conventions on diplomatic and consular relations. He concluded that the resolution adopted by the Council would in no way promote a peaceful solution to the crisis.<sup>100</sup>

**Decision of 24 September 1990 (2942nd meeting): resolution 669 (1990)**

At its 2942nd meeting, held on 24 September 1990 in accordance with the understanding reached in its prior consultations, the Council resumed its consideration of the item entitled “The situation between Iraq and Kuwait”.

The President (Union of Soviet Socialist Republics) drew the attention of the members to a draft resolution that had been prepared in the course of the Council’s consultations.<sup>101</sup> The draft resolution was then put to the vote and adopted unanimously as resolution 669 (1990), which reads:

*The Security Council,*

*Recalling* its resolution 661 (1990) of 6 August 1990,

*Recalling also* Article 50 of the Charter of the United Nations,

*Conscious* of the fact that an increasing number of requests for assistance have been received under the provisions of Article 50 of the Charter,

*Entrusts* the Security Council Committee established by resolution 661 (1990) concerning the situation between Iraq and Kuwait with the task of examining requests for assistance under the provisions of Article 50 of the Charter and making

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<sup>99</sup> *Ibid.*, pp. 36-37.

<sup>100</sup> *Ibid.*, pp. 38-41.

<sup>101</sup> S/21811; adopted without change as resolution 669 (1990).

recommendations to the President of the Security Council for appropriate action.

**Decision of 25 September 1990 (2943rd meeting): resolution 670 (1990)**

At its 2943rd meeting, held on 25 September 1990 in accordance with the understanding reached in its prior consultations, the Council resumed its consideration of the item entitled “The situation between Iraq and Kuwait”. Following the adoption of the agenda, the President (Union of Soviet Socialist Republics) observed that the following members of the Council were, like his own country, represented by their Foreign Ministers, whom he welcomed: Canada, China, Colombia, Ethiopia, Finland, France, Malaysia, Romania, the United Kingdom, the United States, Yemen and Zaire. The Council invited the representative of Kuwait, at his request, to participate in the discussion without the right to vote.

The President then drew the attention of the Council members to a draft resolution submitted by Canada, Côte d’Ivoire, Finland, France, Romania, the Union of Soviet Socialist Republics, the United Kingdom, the United States and Zaire.<sup>102</sup> He also drew their attention to several other documents.<sup>103</sup>

At the outset of the Council’s deliberations, the Secretary-General stated that, during the weeks since 2 August, the Security Council had been shouldering the heavy responsibility which the Charter had placed on it but which, in earlier circumstances, it had been unable to exercise. He added that the Council should view its responsibility not just as that of restoring peace, but of upholding and maintaining peace with justice. He stressed that the power of the Security Council was the power of principle, commanded by the solidarity of nations opposed to the transgression of the Charter of the United Nations. What made the Council’s task particularly onerous — but ultimately fruitful — was that principles must be consistently applied and the Council’s actions must be based on equity and perceived to be so. Enforcement provisions under Chapter VII of the Charter had not been used before in such a manner and on such a scale as they

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<sup>102</sup> S/21816; subsequently adopted without change as resolution 670 (1990).

<sup>103</sup> S/21812; and S/21814 and S/21815, containing communications from the representatives of Iraq and Kuwait, respectively, addressed to the Secretary-General.

were in the present crisis. The United Nations was being subjected to an unprecedented test. It needed to demonstrate that the way of enforcement was qualitatively different from the way of war; that as such action issued from a collective undertaking, it required a discipline all its own; that it strove to minimize undeserved suffering to the extent possible, and to search for solutions to the special economic problems confronted by States arising from the carrying out of enforcement measures; that what it demanded from the targeted State was not surrender but the righting of the wrong that had been committed; and that it did not foreclose diplomatic efforts aimed at a peaceful solution consistent with the principles of the Charter and the determinations made by the Security Council. The Secretary-General recalled that during his recent visit to Jordan he had felt the need to emphasize publicly that one wrong did not justify another. He noted, further, that the effort to correct one international wrong did not mean that other wrongs should be left unaddressed. In his view, the world situation generally, and particularly the situation in the Middle East as a whole, presented itself as a proving ground for the international community's probity in establishing the rule of law. If peace were to be made secure, justice must have the last word.<sup>104</sup>

The Council then proceeded to vote on the draft resolution before it. Speaking before the vote, the representative of Yemen said that the crisis between Iraq and Kuwait had developed at the end of the cold war era and that the shift from confrontation to cooperation had brought about a new phase in international relations. The application of the principles of the Charter by the organs of the Organization, especially the Security Council, fell within that historical context. He stated that the response to the Iraq-Kuwait crisis would affect the nature and evolution of the new world order. In addressing the crisis, the Council had to choose beforehand between the two options of peace and war. Peace required a commitment to sustained efforts to achieve the aims of the Security Council resolutions through peaceful means in a manner that avoided escalation and confrontation. War, which would break out if force were used by certain Powers, could lead to catastrophe in the region and have wider implications for the world. It would wreck the new world order at the very outset, especially if force was used outside the

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<sup>104</sup> S/PV.2943, pp. 6-8.

authority of the Council. Yemen expected the Council to take positive measures towards a peaceful resolution of the crisis so that its resolutions would not be used as a justification and pretext for war but as an inspiration for peace. It had therefore submitted to the Council a draft resolution that called on all parties, including the countries of the region, to intensify diplomatic efforts and on the Secretary-General to continue his good offices. The speaker asserted that the crisis was being escalated through the application of Chapter VII without any parallel effort to encourage peaceful solutions, especially within an Arab framework, and that famine would result from an inhuman interpretation of "humanitarian cases" under resolution 666 (1990). Recalling his country's position on the crisis, he stressed that the road to war would not lead to the promotion of democracy in the region.<sup>105</sup>

The representative of Cuba recalled that his country had voted in favour of the resolutions that rejected the inadmissible invasion of Kuwait, but had felt obliged, for the same reasons of principle, not to join with the rest of the Security Council on other occasions. He believed that the Council must be consistent in fulfilling its obligations under the Charter. However, the Council had been inconsistent in the past and continued to be so in cases such as Palestine, Lebanon, apartheid and Cyprus. It had also lacked consistency in the decisions it had hastily taken since August. Deft in adopting one resolution after another, it had been circumspect towards the growing calls from many States under Article 50 of the Charter. It had imposed inhuman sanctions denying thousands of innocent people their fundamental right to basic food and health care. It had acted in haste, in response to alleged violations of the embargo, without awaiting information from the Secretary-General. The Council was again being asked to strengthen the economic measures against Iraq without pausing to consider the consequences for third parties. Moreover, the draft resolution contained threats that other measures, presumably military, would be used against Iraq, and lashed out at any State that might disregard the resolutions already adopted, although no indication to that effect had been received. Cuba viewed this text — whose measures would extend to international air communications between Iraq and other States in a manner that had little to do with the 1944 Charter of the International Civil Aviation Organization — as a

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<sup>105</sup> *Ibid.*, pp. 11-18.

step towards a military outbreak, rather than a settlement of the conflict. Finally, the speaker stated that he would have voted in favour of paragraph 13 of the draft resolution, which dealt with the plight of the Kuwaiti population under foreign occupation, had the sponsors accepted a separate vote on that paragraph. In conclusion, he hoped that the Council would soon devote some time to efforts that would give peace a chance.<sup>106</sup>

The draft resolution was then put to the vote and adopted by 14 votes in favour to 1 against (Cuba) as resolution 670 (1990), which reads:

*The Security Council,*

*Reaffirming* its resolutions 660 (1990) of 2 August 1990, 661 (1990) of 6 August 1990, 662 (1990) of 9 August 1990, 664 (1990) of 18 August 1990, 665 (1990) of 25 August 1990, 666 (1990) of 13 September 1990 and 667 (1990) of 16 September 1990,

*Condemning* Iraq's continued occupation of Kuwait, its failure to rescind its actions and end its purported annexation and its holding of third-State nationals against their will, in flagrant violation of resolutions 660 (1990), 662 (1990), 664 (1990) and 667 (1990) and of international humanitarian law,

*Condemning also* the treatment by Iraqi forces of Kuwait nationals, including measures to force them to leave their own country and mistreatment of persons and property in Kuwait in violation of international law,

*Noting with grave concern* the persistent attempts to evade the measures laid down in resolution 661 (1990),

*Noting also* that a number of States have limited the number of Iraqi diplomatic and consular officials in their countries and that others are planning to do so,

*Determined* to ensure by all necessary means the strict and complete application of the measures laid down in resolution 661 (1990),

*Determined also* to ensure respect for its decisions and the provisions of Articles 25 and 48 of the Charter of the United Nations,

*Affirming* that any acts of the Government of Iraq which are contrary to the above-mentioned resolutions or to Articles 25 or 48 of the Charter, such as Decree No. 377 of 16 September 1990 of the Revolutionary Command Council of Iraq, are null and void,

*Reaffirming* its determination to ensure compliance with its resolutions by maximum use of political and diplomatic means,

*Welcoming* the Secretary-General's use of his good offices to advance a peaceful solution based on the relevant resolutions of the Council and noting with appreciation his continuing efforts to this end,

*Underlining* to the Government of Iraq that its continued failure to comply with the terms of resolutions 660 (1990), 661 (1990), 662 (1990), 664 (1990), 666 (1990) and 667 (1990) could lead to further serious action by the Council under the Charter, including under Chapter VII,

*Recalling* the provisions of Article 103 of the Charter,

*Acting* under Chapter VII of the Charter,

1. *Calls upon* all States to carry out their obligations to ensure strict and complete compliance with resolution 661 (1990) and in particular paragraphs 3, 4 and 5 thereof;

2. *Confirms* that resolution 661 (1990) applies to all means of transport, including aircraft;

3. *Decides* that all States, notwithstanding the existence of any rights or obligations conferred or imposed by any international agreement or any contract entered into or any licence or permit granted before the date of the present resolution, shall deny permission to any aircraft to take off from their territory if the aircraft would carry any cargo to or from Iraq or Kuwait other than food in humanitarian circumstances, subject to authorization by the Security Council or the Security Council Committee established by resolution 661 (1990) concerning the situation between Iraq and Kuwait and in accordance with resolution 666 (1990), or supplies intended strictly for medical purposes or solely for the United Nations Iran-Iraq Military Observer Group;

4. *Decides also* that all States shall deny permission to any aircraft destined to land in Iraq or Kuwait, whatever its State of registration, to overfly their territory unless:

(a) The aircraft lands at an airfield designated by the State outside Iraq or Kuwait in order to permit its inspection to ensure that there is no cargo on board in violation of resolution 661 (1990) or the present resolution, and for this purpose the aircraft may be detained for as long as necessary; or

(b) The particular flight has been approved by the Security Council Committee; or

(c) The flight is certified by the United Nations as solely for the purposes of the Military Observer Group;

5. *Decides further* that each State shall take all necessary measures to ensure that any aircraft registered in its territory or operated by an operator who has his principal place of business or permanent residence in its territory complies with the provisions of resolution 661 (1990) and the present resolution;

6. *Decides moreover* that all States shall notify in a timely fashion the Security Council Committee of any flight between its territory and Iraq or Kuwait to which the

<sup>106</sup> Ibid., pp. 19-23.

requirement to land in paragraph 4 above does not apply, and the purpose for such a flight;

7. *Calls upon* all States to cooperate in taking such measures as may be necessary, consistent with international law, including the Chicago Convention on International Civil Aviation of 7 December 1944, to ensure the effective implementation of the provisions of resolution 661 (1990) or the present resolution;

8. *Also calls upon* all States to detain any ships of Iraqi registry which enter their ports and which are being or have been used in violation of resolution 661 (1990), or to deny such ships entrance to their ports except in circumstances recognized under international law as necessary to safeguard human life;

9. *Reminds* all States of their obligations under resolution 661 (1990) with regard to the freezing of Iraqi assets, and the protection of the assets of the legitimate Government of Kuwait and its agencies, located within their territory and to report to the Security Council Committee regarding those assets;

10. *Further calls upon* all States to provide to the Security Council Committee information regarding the action taken by them to implement the provisions laid down in the present resolution;

11. *Affirms* that the United Nations, the specialized agencies and other international organizations in the United Nations system are required to take such measures as may be necessary to give effect to the terms of resolution 661 (1990) and of the present resolution;

12. *Decides* to consider, in the event of evasion of the provisions of resolution 661 (1990) or of the present resolution by a State or its nationals or through its territory, measures directed at the State in question to prevent such evasion;

13. *Reaffirms* that the Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949, applies to Kuwait and that, as a High Contracting Party to the Convention, Iraq is bound to comply fully with all its terms and in particular is liable under the Convention in respect of the grave breaches committed by it, as are individuals who commit or order the commission of grave breaches.

Speaking after the vote, the representative of the United States said that the international community had rarely been so united and determined that aggression should not succeed. By resolution 661 (1990) and its successor resolutions, it had set a high and rising penalty upon Iraq for each day it failed to abandon its aggression. By the resolution just adopted, the Council provided for the following additional measures: (a) it stated explicitly that resolution 661 (1990) would include commercial air traffic; (b) it agreed to consider measures against any Government that might attempt to evade the international quarantine, given that the

more effective the enforcement of the sanctions, the more likely a peaceful resolution of the conflict would be; (c) it reminded Iraq that it must respect its international obligations, especially the humanitarian provisions of the Fourth Geneva Convention; and (d) it put the Government of Iraq on notice that its continued failure to comply could lead to further action, including action under Chapter VII of the Charter. The speaker stated further that, while the international community had made clear its desire to exhaust every peaceful possibility for resolving the crisis, the Charter also envisaged the possibility of further individual and collective measures to defend against aggression and flagrant violations of international humanitarian law. He emphasized that the sanctions were not aimed at the Iraqi people, but at reversing the aggressive policies of the Iraqi Government. The Council had acknowledged that its sanctions could be costly to many Member States. Its members had a duty to make sure that no nation was crippled because it had stood for the principles of international order. The United States was coordinating an international effort in this regard to provide assistance to those desperately in need. The speaker observed that, with the ending of the cold war, the United Nations had been reborn. The vision of the Charter and the promise of international cooperation seemed suddenly within reach, and the United Nations was at last beginning to control the proliferation of conflicts. If the Organization was to fulfil its mission, the Council must reverse Saddam Hussein's aggression.<sup>107</sup>

The representative of France said that the new state of international relations allowed the United Nations to deal collectively with the situations it faced in order to foster the new international order. He stated that this new order aimed at ensuring the primacy of law and justice over force and arbitrary power and that, in the case of the Gulf crisis, the embargo was the instrument of that policy. Resolution 670 (1990) strengthened, in the area of air transport, means of control similar to those laid down for sea transport by resolution 665 (1990) and fully met the concerns of the European Community and the Western European Union. He stressed that the resolution was important not just by virtue of its provisions, but also because it demonstrated the Council's confidence in the policy of embargo as a weapon of peace. It was in that spirit that the Council had decided on an embargo, and that the

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<sup>107</sup> Ibid., pp. 26-32.

means of monitoring it had been strictly set out and would be further added to if necessary. He concluded by calling on the Arab world to find a political way out of the conflict and, in so doing, to be guided by the resolutions of the Council which had set out the principles on which any solution must be based.<sup>108</sup>

The representative of Canada said that the united response to the crisis held great hope for future collective action through the United Nations. The Council's resolutions stated in clear terms the path Iraq must follow if it wished to resume its place in the international community. Once it had withdrawn totally and unconditionally from Kuwait and allowed all those who wished to do so to leave Iraq and Kuwait, Iraq could pursue its disputes with its neighbours through the channels established for the peaceful resolution of disputes, including the United Nations. The speaker paid tribute to the individuals and the countries that had paid a significant price for upholding the Charter and the rule of international law. The resolution just adopted tightened the sanctions against Iraq and set out the means by which their effectiveness was to be assured. It also underlined to Iraq that its continued failure to comply with the Council's resolutions could lead to further action by the Council under the Charter, with potentially severe consequences.<sup>109</sup>

The representative of the United Kingdom stated that Iraq's seizure of Kuwait had confronted the post-cold-war world with its first crucial test. The United Nations, for the first time in its history, had responded the way its founding fathers had intended. The United States, the Soviet Union, China, Western and Eastern Europe, Japan and a decisive majority of Arab and Muslim countries stood together in a unique coalition to defeat aggression. To those who had expressed the desire to see the Council concentrate its efforts on the search for peace, he said that it was precisely by adopting resolution 670 (1990), by tightening sanctions and making them more effective that the Council was working for the peaceful reversal of aggression and for a peaceful end to the crisis. There were many small countries with reason to fear a more powerful neighbour, and many international frontiers whose existence was resented by one or another party. If Saddam Hussein were allowed to get away with the spoils of conquest, then other would-be aggressors

would take heart; the Council could not allow that to happen. No member of the Council relished the possibility of war. It was President Saddam Hussein who had used force, to accomplish the invasion. The threat to the security and stability of the Gulf came from Iraq. That was why such a large coalition of peacekeeping forces had been assembled there. The speaker stressed that it was not the United States ranged against Iraq, but the States united — in a coalition against aggression, whose members wanted to see the independence of Kuwait restored by peaceful means, and to secure the release of the foreign nationals being held hostage. He concluded that success in this effort would not only do justice to Kuwait; it would strengthen hopes of a more secure world order, based on the implementation of the resolutions of the Council, whether in the Middle East or elsewhere.<sup>110</sup>

The representative of Finland said that the adoption of resolution 670 (1990) under Chapter VII signalled the determination of the Security Council to continue to uphold and strengthen the principle of collective security. That principle implied that the security of Kuwait was also the security of all other States, particularly the small Member States. The fact that it had not always been possible in the past to apply the provisions of Chapter VII of the Charter and summon the collective strength of the international community against aggression was no argument against the application of effective sanctions in the current crisis. It was desirable that everyone know that, if needed, the Security Council had the will and the capability to use effectively the instruments at its disposal, as was now being demonstrated by the Council in concrete action. The speaker concluded by emphasizing that the world community wanted a peaceful outcome to the crisis, and that it must be based on the Council's resolutions.<sup>111</sup>

The representative of China recalled that his country had voted in favour of Security Council resolution 660 (1990) and its successor resolutions, including the one just adopted, with a view to safeguarding the basic norms governing international relations and restoring peace and security in the Gulf region. It had done so in the belief that the resolutions were aimed at promoting a political settlement of the

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<sup>108</sup> Ibid., pp. 32-34.

<sup>109</sup> Ibid., pp. 36-38.

<sup>110</sup> Ibid., pp. 39-42.

<sup>111</sup> Ibid., pp. 43-46.



crisis by peaceful means, an approach which China advocated. It supported the role played by the Council and the efforts of the Arab States and the Secretary-General in the search for a solution. While China understood and respected the necessary defensive steps taken by some Gulf countries out of consideration for their security, it did not, in principle, favour military involvement in the Gulf region by big Powers since such involvement would only make the situation even more complicated. The speaker called on the countries concerned to exercise maximum restraint so as to prevent further deterioration of the matter. He also stressed that, in implementing the provisions of resolution 670 (1990) with regard to civil aircraft, the countries concerned should strictly abide by relevant international law and take rigorous steps to prevent any action that might endanger the safety of such aircraft and the people on board.<sup>112</sup>

The representative of Colombia underlined the urgent need to explore all the possible avenues of diplomacy to solve the problems of the Gulf, and to avoid a military confrontation there. His country believed that the Council should encourage an Arab solution to the conflict, as recommended in resolution 660 (1990). Regional participation in the solution of problems frequently offered more possibilities for success than the intervention of extraregional Powers, as evidenced by the Central American peace process of recent years. Colombia had voted in favour of resolution 670 (1990), which further developed resolution 661 (1990) on an embargo against Iraq. While aware of the price of, and the suffering brought about by, an embargo, it preferred that to the price of war. The speaker added that his delegation wished that the Council, in addition to the resolution just adopted, had adopted another one, calling on all parties, in particular on the countries of the region, to undertake maximum efforts to achieve a peaceful settlement.<sup>113</sup>

The representative of Malaysia observed that it was appropriate for the Council to meet at the level of Foreign Ministers to weigh and pronounce on important and critical issues, such as the one before it. However, the meeting should not be taken to mean that the Council was ganging up and closing the door on Iraq. He noted that Malaysia had supported all the resolutions adopted on this crisis, including the one

just adopted, in furtherance of the objective of the international community: to bring about the withdrawal of Iraqi forces and the restoration of Kuwait. As the application of sanctions on air traffic and transportation was risky and complicated, Malaysia had insisted that paragraph 7 of the new resolution refer to the Chicago Convention. It had supported the resolution since its thrust and objective was to make sanctions effective and ensure compliance. The speaker noted, however, that many countries were enduring much suffering because of the sanctions against Iraq, and urged that the Council and its Sanctions Committee do more to address their needs under Article 50. He expressed unease, moreover, about the apparent headlong rush with which the Council had moved from one resolution to another in a period of seven weeks, wondering whether enough time was given for each resolution to take effect. He wondered whether the Council's haste was aimed at making sanctions effective or whether it was readying itself to conclude that sanctions were not effective and that other measures therefore had to be taken. Malaysia did not regard war as inevitable or accept that events were escalating towards a confrontation. It believed that many outside the Council shared its sense of uneasiness and that the Council should take stock of where it was going. The speaker added that his country was averse to the involvement of the armed forces of major Powers in any region, fearing the consequences of their long-term presence. It thus felt uneasy about having been party to authorizing the use of forces of certain countries under resolution 665 (1990), although it knew that the forces of those countries were there also upon the request of Kuwait under Article 51 of the Charter. The speaker urged Iraq to respond positively to the Council's resolutions, and thus remove the reason for the foreign presence and avoid the outbreak of war. In a broader context, Malaysia hoped that the new spirit of cooperation and determination within the Council would be sustained so that it could act effectively in resolving many existing regional conflicts, including in the Middle East. There could be no double standards in the Council and if, on the question of Palestine, Israel continued to be obdurate and unresponsive, the Council should not hesitate to apply all the pressure and sanctions needed to ensure compliance.<sup>114</sup>

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<sup>112</sup> *Ibid.*, pp. 48-51.

<sup>113</sup> *Ibid.*, pp. 51-57.

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<sup>114</sup> *Ibid.*, pp. 59-65.

The President, speaking in his capacity as the representative of the Union of Soviet Socialist Republics, also took note of the unusual nature of the Council's meeting, marked by the participation of so many Ministers for Foreign Affairs of the Council's member States. He thought this might be the first time that discussion of a specific situation in the Council had taken place at such a high level, a fact that showed the critical nature of the situation and the desire to resolve it as speedily as possible. The Council had the task of settling a most drastic crisis that had put the firmness of the civilized world order to the test. The Council's unanimous demand for the unconditional withdrawal of Iraqi troops from Kuwait had set the terms for the solution of the crisis. The Soviet delegation was hopeful that the goal would be achieved in the light of the transformation of the Council into an effective mechanism for the maintenance of international peace and security. By acting consistently and without delay, the Council had justified the mandate entrusted to it by the Charter. The resolution just adopted was a perfectly logical step, given Iraq's stubborn refusal to implement the Council's decisions; it was a completely legitimate reaction to Iraq's continuing challenge to the international community. The speaker emphasized that the new decision was aimed at ensuring compliance with the sanctions against Iraq and was in strict conformity with the Charter of the United Nations and the norms of international law. His Government regarded the expansion of the sphere of monitoring the application of the sanctions as a continuation of the efforts aimed at achieving a peaceful solution of the conflict. The speaker observed that, from the start of the crisis, the Soviet Union had placed the stress on collective efforts based on the rights and capabilities of the United Nations, and on the need to resolve the crisis through non-military, political and diplomatic methods. It remained convinced that the focus of joint efforts must be a de-escalation of the crisis and a political solution. However, that did not diminish its determination to achieve a cessation of the aggression, and if the steps now being taken did not achieve that result, the Soviet Union would be ready to consider the possibility of additional steps, in accordance with the Charter. The speaker added that the extent to which it would be possible to implement the peacemaking potential of the United Nations in this context would depend on the consistency of the efforts made by all States, particularly those of the Arab States, and the Secretary-

General. He hoped that the significant calls made at the meeting for restoration of the international legal order would be heard and correctly understood in Iraq and that the leadership of that country would choose a course of action leading to the peaceful resolution of the crisis. In conclusion, he echoed several previous speakers in calling for the Council, once the Gulf crisis was resolved, to concern itself, without delay, with healing other age-old wounds of that region, first and foremost through a solution of the problems of Palestine and Lebanon.<sup>115</sup>

Other members of the Council underlined their commitment to the Charter system of collective security and to a peaceful settlement of the Gulf crisis. They stated that they had either sponsored or supported the resolution just adopted, providing for the strengthening of sanctions, as it offered the only option allowing the international community to avoid war.<sup>116</sup>

The representative of Kuwait stated that the participation of the Foreign Ministers of the States members of the Security Council demonstrated their firm determination to use the capabilities and powers of the Council to implement its resolutions and spare the region and its peoples the scourge of a conflagration. By the resolution just adopted, the Council confirmed that the battle was between the leaders of Iraq on the one hand and the entire world on the other. The rejection by Iraq's leaders of the Council's resolutions had transformed the aggression against Kuwait into an aggression against the entire civilized world, its values and norms of behaviour. The world could no longer accept the continuation of the Iraqi aggression: Iraq must be forced by all means available under the Charter to heed the international will and withdraw its forces from the territory of Kuwait. The speaker observed that the economic embargo against Iraq was not an end in itself. It was a peaceful means to attain an objective: implementation by Iraq of the binding resolutions of the Council. Thus, despite its negative effects for the peoples of Kuwait and Iraq, and indeed for other peoples and States, it was necessary. The speaker added that the Council's resolutions — particularly 660 (1990), 662 (1990) and 664 (1990) — set limits that must not be overstepped, conceded or subjected to negotiation. He noted, moreover, that the elements of those resolutions had

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<sup>115</sup> *Ibid.*, pp. 73-77.

<sup>116</sup> *Ibid.*, pp. 46-47 (Zaire); pp. 57-60 (Côte d'Ivoire); pp. 66-67 (Ethiopia); and pp. 68-73 (Romania).

been adopted in a decision taken at the Emergency Arab Summit Conference, while the resolutions themselves had been endorsed by the Islamic States at a ministerial meeting. The Security Council's will had thus been united with the will of the Arab and Islamic world, isolating the Iraqi regime. He concluded by paying tribute to the courageous and steadfast role played by the Secretary-General in combating the injustice done to Kuwait.<sup>117</sup>

**Decision of 29 October 1990 (2951st meeting):  
resolution 674 (1990)**

At its 2950th meeting, held on 27 October 1990 in accordance with the understanding reached in its prior consultations, the Security Council resumed its consideration of the item entitled "The situation between Iraq and Kuwait". Following the adoption of the agenda, the Council invited the representatives of Iraq and Kuwait, at their request, to participate in the discussion without the right to vote. The item was considered at the 2950th and 2951st meetings.

At the outset of the Council's deliberations, the President (United Kingdom) drew the attention of the members of the Council to a draft resolution submitted by Canada, Finland, the United Kingdom, the United States and Zaire,<sup>118</sup> which was subsequently also sponsored by France, Romania and the Union of Soviet Socialist Republics. He also drew their attention to a letter dated 18 October 1990 from the representative of Kuwait addressed to the Secretary-General,<sup>119</sup> transmitting the text of a Decree-Law promulgated by the Government of Kuwait concerning the holding in trust by the State of Kuwait of property belonging to Kuwaitis or residents of Kuwait.

The representative of Kuwait stated that the Council was meeting in order to ensure that the focus remained where it should be: on deterring aggression, ending the Iraqi occupation of Kuwait — which was entering its eighty-fifth day — and halting the inhuman practices against Kuwait's people, its identity and its institutions, and against the large number of third-country nationals living in Kuwait. Despite eight binding resolutions adopted thus far by the Security Council, and notwithstanding all the efforts aimed at

resolving the crisis peacefully, Iraq had not shown the slightest sign that it was responding to the call for its complete, immediate and unconditional withdrawal from Kuwait. On the contrary, it had embarked on consolidating its occupation and expanding its military deployment, while practising the harshest forms of oppression and terrorism against the Kuwaiti people. The Kuwaiti people, however, backed by an unprecedented world consensus and by the Security Council, refused to budge from their position and their just demands; they would not accept what had happened as a fait accompli or make any concessions. The speaker emphasized that the Iraqi regime was liable under the Fourth Geneva Convention for all the crimes it had committed against the citizens and foreign residents of Kuwait, and the peace and security of the region. The draft resolution before the Council specifically identified another aspect of Iraq's responsibility: restitution for damages suffered by the Government and people of Kuwait, in accordance with General Assembly resolution 3281 (XXIX) on the Charter of Economic Rights and Duties of States, which provided, under article 16, for restitution and full compensation for the exploitation and depletion of the resources and property of a people and country under occupation. He added that, pursuant to the legal obligations and moral responsibilities of the State of Kuwait towards its citizens and foreign residents who had lost their property and funds, a Decree-Law had been issued by the Emir of Kuwait on 18 October 1990,<sup>120</sup> proclaiming that all property of Kuwaitis and foreigners resident in Kuwait were held in trust by it. Pursuant to the Decree, the lawful Government of Kuwait would have the right to resort, as necessary or appropriate, to any judicial, administrative or legal mechanisms in any State, with a view to protecting such property. The speaker urged the Iraqi regime to comply with the Council's resolutions and not to underestimate its resolve, and the resolve of Kuwait, its Emir, Government and people, to take all measures to make the aggressor respond to the international will and comply with it by withdrawing unconditionally. He stressed that Kuwait was determined to make full use of the rights safeguarded to it under the Charter of the United Nations. It expected the Council to consider promptly what additional measures were needed to

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<sup>117</sup> Ibid., pp. 78-83.

<sup>118</sup> S/21911; subsequently adopted without change as resolution 674 (1990).

<sup>119</sup> S/21887.

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<sup>120</sup> S/21887, annex.

achieve its ultimate goal of dislodging the aggressor and restoring Kuwait's legitimate Government.<sup>121</sup>

The representative of the Union of Soviet Socialist Republics observed that, in the decisions of the Security Council calling for the unconditional and immediate withdrawal of the Iraqi forces from Kuwait, a unique solidarity among various countries had appeared for the first time in many decades. In the Gulf, the ability of the world community to act in accordance with the new criteria of international politics was being tested, as was its ability to make those responsible for the conflict obey the norms of international law. The Soviet Union was convinced that Iraq's illegal actions, whose continuation challenged the international community, must be halted immediately. The draft resolution, which the Soviet delegation had participated in drafting, contained a strong indication of the Council's resolve to do everything possible to prevent the very tense situation from degenerating into a military conflict. The Soviet Union believed that if there was even the slightest chance of a political settlement it must be seized and fully exploited. It was doing everything it could to promote such a settlement of the crisis: to that end, the special representative of the President of the Soviet Union was currently in Baghdad. The speaker was pleased to see that many other countries were also active in the search for a peaceful solution — both within the context of the Security Council and the Non-Aligned Movement and within the Arab States themselves. A very important contribution was also being made in this regard by the Secretary-General. The speaker pointed out that the draft resolution also repeated the Council's demand that Iraq implement the will of the world community and strictly observe the norms of international law: that was critical if the world wished to live in a state of legality and good order.<sup>122</sup>

At its 2951st meeting, on 29 October 1990, the Council resumed its consideration of the item. In accordance with the decisions taken at the previous meeting, the Council invited the representatives of Iraq and Kuwait to take seats at the Council table. The President drew the attention of the members of the Council to a letter dated 19 October 1990 from the representative of Kuwait addressed to the Secretary-

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<sup>121</sup> S/PV.2950, pp. 3-15.

<sup>122</sup> *Ibid.*, pp. 13-17.

General,<sup>123</sup> transmitting the texts of the addresses delivered at the opening of the Kuwaiti People's Congress held at Jeddah, Saudi Arabia, from 13 to 15 October 1990.

The representative of Iraq said that each of the eight resolutions adopted by the Council on the "so-called Gulf crisis", as well as the draft resolution currently before it, had been justified as promoting the cause of peace and the avoidance of war, and opposing the use of force. However, those pushing the Council to adopt those resolutions, one after another, had seen nothing wrong in flouting one or other principle of the Charter, international instruments or norms of international law. He feared that such an approach might lead to a slippery slope, endangering the United Nations and its credibility. He wished, therefore, to expose four glaring contradictions between the Council's resolutions and the Charter of the United Nations, on the one hand, and, on the other, between the actions of some permanent members of the Council in relation to the Gulf crisis and especially to Iraq, and the letter and spirit of Security Council resolutions. First, Article 24 (2) of the Charter stipulated that, in discharging its duties concerning the maintenance of international peace and security, the Council must act in accordance with the purposes and principles of the United Nations. The speaker feared that, in adopting the resolutions on the Gulf crisis in quick succession, the Council had not paid enough attention to the purposes and principles of the United Nations; these were the constitutional guarantee that the Council would not exceed its mandate and that no Member State would act arbitrarily in exercising its responsibilities as a member of the Council or in justifying any measure it might take under the pretext of implementing Council resolutions. He stressed that the main purpose of the United Nations, as enshrined in Article 1 (1) of the Charter, was "to bring about by peaceful means, and in conformity with the principles of justice and international law, adjustment or settlement of international disputes or situations which might lead to a breach of the peace". This did not suggest that the Council was an international court or a judicial body. The Council was, after all, a political organ. Nevertheless, the Council and its members were duty bound to observe the principles of justice and international law because their very membership of the Council and the rights and privileges as members of

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<sup>123</sup> S/21892.

the Council derived from the Charter. However, by adopting eight resolutions under Chapter VII of the Charter without consulting with Iraq, the Council had disregarded the most elementary principle of justice, which demanded that each party to a dispute should be given the opportunity to put forward its rights and claims and to clarify what it deemed to be the appropriate means of settling the dispute. Furthermore, the Council, by rushing to adopt resolutions against Iraq, had disregarded the other peaceful means available and avoided the use of good offices to bring to light the causes of the conflict, with a view to finding a peaceful and realistic solution to it.

Secondly, the speaker observed that although some had defended the approach of adopting hasty, harsh resolutions as being in the interests of peace and a peaceful settlement of the conflict, the very opposite was the case. The express purpose of each resolution had been to escalate the situation and abort every international or regional peace effort or initiative. The draft resolution currently before the Council would make it possible for the warmongers to declare that they had exhausted all peaceful means and that the only option left was war. The United States had, in fact, started its military build-up on land and sea even before it had been asked to do so by any State in the region. Before the adoption of resolution 661 (1990), the United States and its ally, the United Kingdom, had taken the initiative of establishing a naval blockade. That was an act of war and an act of aggression under the definition of aggression adopted by the General Assembly. Resolution 661 (1990), moreover, had been designed to provide the United States with cover for its acts of aggression towards Iraq and to allow it to claim that it was acting lawfully even though the resolution did not authorize the United States or any other State to blockade Iraq.

The speaker claimed, thirdly, that the assertion that certain States — especially the United States and its allies — had the right to use force against Iraq in self-defence under Article 51 of the Charter was a falsehood that ran counter to the Charter. The right to use force in individual or collective self-defence was subject to a time scale stipulated in Article 51: it was authorized until such time as the Security Council had taken measures. The speaker maintained that since all the Council resolutions had been adopted under Chapter VII, and the Council had decided to remain seized of the situation until it was resolved, no State

had the right to use force. When the United States and its allies committed acts of aggression against Iraq and described them as peace measures, they were simply using the right of self-defence as a pretext while violating the terms of Article 51.

Fourthly, the speaker drew attention to Article 52, in Chapter VIII of the Charter, which provided that the Security Council should encourage the development of peaceful settlement of local disputes through regional arrangements. It was a grave matter that the Council had completely and deliberately disregarded the Arab initiatives calling for a peaceful Arab solution of the Gulf crisis. This created a dangerous situation in which foreign Powers would benefit at the expense of legitimate Arab interests. There was a need for an Arab framework because the Arab States were interconnected with each other by demography, communications, strategic and immediate interests, water and oil resources, religious beliefs and, above all, by the Palestinian cause. The fact that the United States and the Security Council had ignored the initiative of 12 August 1990 by President Saddam Hussein, in which he called for dealing with all the region's problems on an equitable basis, was proof that the United States was determined to prevent any peaceful Arab solution to the crisis, and that it was motivated by its economic, financial and strategic designs on the region.

Finally, the representative of Iraq commented on the draft resolution before the Council. He noted that it consisted of two parts: part A, which had been prepared by the United States, the United Kingdom and other permanent members; and part B, which had been drafted by the non-aligned countries. The two parts were contradictory in letter and in spirit. Iraq nevertheless welcomed the appeal in part B for peaceful solutions in order to spare the region the devastating war for which the United States was gearing up against Iraq. However, it felt that, if the Council intended to make proper use of the Secretary-General's good offices, it would be inappropriate to limit his freedom of action to implementation of the unjust resolutions. Good offices could not bear fruit if their aim was to secure capitulation and the surrender of Iraq's rights and its national security. With regard to paragraphs 1 to 4, instead of creating conditions for a peaceful settlement, they would further complicate the situation since they ignored Iraq's rights and the negative consequences of the Council's earlier

resolutions. Paragraph 5 of the draft exposed the contradictions in the Council's resolutions, which imposed a blockade and restrictions on the import of foodstuffs into Iraq, but at the same time called on Iraq to provide foodstuffs and other essentials to the nationals of third countries. Paragraphs 8 and 9, concerning restitution and compensation, most severely contradicted the Charter and attempted to paralyse Iraq's economic potential and its international relations. Iraq believed that the Council had exceeded its mandate in this regard: it was a political body consisting of members who sought only to advance their own political interests, not a judicial body consisting of independent, impartial judges competent to rule on matters of compensation for those entitled to it in any conflict. The speaker stressed, moreover, that the losses being suffered by all States, including developing countries, as a result of increased oil prices and the embargo, were far greater than those suffered by third-country nationals forced to leave their work and return to their countries because of the worsening of the Gulf crisis. Furthermore, the losses suffered by third-country nationals had not resulted directly from the Gulf crisis, but from the massing of ground, sea and air forces in the region, particularly by the United States, and the deteriorating economic situation caused by the economic embargo against Iraq and the arbitrary decisions of the Council's sanctions Committee. In conclusion, the speaker reiterated Iraq's desire to avoid war and establish peace in the region, so that Arab solidarity might be strengthened and all the problems might be solved on an equal footing. At the same time, Iraq stressed its right and readiness to defend itself against any foreign aggression.<sup>124</sup>

The representative of Kuwait maintained that it was the Iraqi regime, not the Security Council, which had violated the Charter, when it launched its aggression against Kuwait and occupied and annexed the country by military force. It continued, moreover, to commit vicious acts against the people and foreign residents of Kuwait, in violation of international conventions, including the Fourth Geneva Convention and the Vienna Convention on diplomatic immunity. The speaker recalled that the Kuwaiti authorities had sought for over 12 years to persuade the Iraqi regime to negotiate and solve its problems with Kuwait peacefully, most recently just before the invasion. As for Arab initiatives, he observed that the League of

Arab States had met in Cairo at the very beginning of the aggression and adopted a resolution condemning it and calling on Iraq to withdraw fully and unconditionally before the Security Council meetings. The Arab Summit had, moreover, met in an emergency session in Cairo and adopted a resolution which embodied the Arab view on how the dispute should be solved, through the call of the Arab leaders for the unconditional and complete withdrawal of Iraq, the restoration of Kuwait's legitimacy, and full compensation for the losses it had sustained. However, Iraq had rejected that resolution as it had all the resolutions of the Security Council. As for international initiatives, the latest example was the mission of Mr. Primakov, the emissary of the Soviet President. The speaker observed that the Security Council had deferred voting on the draft resolution in order to give him a chance to convince the Iraqi regime of its isolation and that the only solution, as well as its only salvation, lay in complying with the resolutions of the Council. The meeting had been disappointing. As expected, the Iraqi regime simply wanted to take advantage of such initiatives to gain time in order to try to divide the alliance against it and to consolidate its annexation of Kuwait. The speaker stressed to the representative of Iraq, however, that he and his Government were mistaken: there was international determination to stop the Iraqi aggression and Kuwait would be liberated. The Security Council would stand firm and would adopt resolution after resolution until it forced the Iraqi regime to comply and avoid destroying the region.<sup>125</sup>

The draft resolution was then put to the vote and adopted by 13 votes in favour, none against and 2 abstentions (Cuba, Yemen), as resolution 674 (1990), which reads:

*The Security Council,*

*Recalling* its resolutions 660 (1990) of 2 August 1990, 661 (1990) of 6 August 1990, 662 (1990) of 9 August 1990, 664 (1990) of 18 August 1990, 665 (1990) of 25 August 1990, 666 (1990) of 13 September 1990, 667 (1990) of 16 September 1990 and 670 (1990) of 25 September 1990,

*Stressing* the urgent need for the immediate and unconditional withdrawal of all Iraqi forces from Kuwait and for the restoration of Kuwait's sovereignty, independence and territorial integrity and of the authority of its legitimate Government,

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<sup>124</sup> S/PV.2951, pp. 2-37.

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<sup>125</sup> *Ibid.*, pp. 37-45.

*Condemning* the actions by the Iraqi authorities and occupying forces to take third-State nationals hostage and to mistreat and oppress Kuwaiti and third-State nationals, and the other actions reported to the Council, such as the destruction of Kuwaiti demographic records, the forced departure of Kuwaitis, the relocation of population in Kuwait and the unlawful destruction and seizure of public and private property in Kuwait, including hospital supplies and equipment, in violation of the decisions of the Council, the Charter of the United Nations, the Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949, the Vienna Convention on Diplomatic Relations of 18 April 1961, the Vienna Convention on Consular Relations of 24 April 1963 and international law,

*Expressing grave alarm* over the situation of third-State nationals in Kuwait and Iraq, including the personnel of the diplomatic and consular missions of such States,

*Reaffirming* that the above-mentioned Geneva Convention applies to Kuwait and that, as a High Contracting Party to the Convention, Iraq is bound to comply fully with all its terms and in particular is liable under the Convention in respect of the grave breaches committed by it, as are individuals who commit or order the commission of grave breaches,

*Recalling* the efforts of the Secretary-General concerning the safety and well-being of third-State nationals in Iraq and Kuwait,

*Deeply concerned* at the economic cost and at the loss and suffering caused to individuals in Kuwait and Iraq as a result of the invasion and occupation of Kuwait by Iraq,

*Acting* under Chapter VII of the Charter,

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*Reaffirming* the goal of the international community of maintaining international peace and security by seeking to resolve international disputes and conflicts through peaceful means,

*Recalling* the important role that the United Nations and the Secretary-General have played in the peaceful solution of disputes and conflicts in conformity with the provisions of the Charter,

*Alarmed* by the dangers of the present crisis caused by the Iraqi invasion and occupation of Kuwait, which directly threaten international peace and security, and seeking to avoid any further worsening of the situation,

*Calling upon* Iraq to comply with its relevant resolutions, in particular resolutions 660 (1990), 662 (1990) and 664 (1990),

*Reaffirming* its determination to ensure compliance by Iraq with its resolutions by maximum use of political and diplomatic means,

A

1. *Demands* that the Iraqi authorities and occupying forces immediately cease and desist from taking third-State nationals hostage, mistreating and oppressing Kuwait and third-State nationals and any other actions, such as those reported to the Council and described above, that violate the decisions of the Council, the Charter of the United Nations, the Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949, the Vienna Convention on Diplomatic Relations of 18 April 1961, the Vienna Convention on Consular Relations of 24 April 1963 and international law;

2. *Invites* States to collate substantiated information in their possession or submitted to them on the grave breaches by Iraq as per paragraph 1 above and to make this information available to the Council;

3. *Reaffirms its demand* that Iraq immediately fulfil its obligations to third-State nationals in Kuwait and Iraq, including the personnel of diplomatic and consular missions, under the Charter, the above-mentioned Geneva Convention, the Vienna Convention on Diplomatic Relations, the Vienna Convention on Consular Relations, general principles of international law and the relevant resolutions of the Council;

4. *Also reaffirms its demand* that Iraq permit and facilitate the immediate departure from Kuwait and Iraq of those third-State nationals, including diplomatic and consular personnel, who wish to leave;

5. *Demands* that Iraq ensure the immediate access to food, water and basic services necessary to the protection and well-being of Kuwaiti nationals and of third-State nationals in Kuwait and Iraq, including the personnel of diplomatic and consular missions in Kuwait;

6. *Reaffirms its demand* that Iraq immediately protect the safety and well-being of diplomatic and consular personnel and premises in Kuwait and in Iraq, take no action to hinder these diplomatic and consular missions in the performance of their functions, including access to their nationals and the protection of their person and interests, and rescind its orders for the closure of diplomatic and consular missions in Kuwait and the withdrawal of the immunity of their personnel;

7. *Requests* the Secretary-General, in the context of the continued exercise of his good offices concerning the safety and well-being of third-State nationals in Iraq and Kuwait, to seek to achieve the objectives of paragraphs 4, 5 and 6 above, in particular the provision of food, water and basic services to Kuwaiti nationals and to the diplomatic and consular missions in Kuwait and the evacuation of third-State nationals;

8. *Reminds* Iraq that under international law it is liable for any loss, damage or injury arising in regard to Kuwait and third States, and their nationals and corporations, as a result of the invasion and illegal occupation of Kuwait by Iraq;

9. *Invites* States to collect relevant information regarding their claims, and those of their nationals and

corporations, for restitution or financial compensation by Iraq, with a view to such arrangements as may be established in accordance with international law;

10. *Requires* that Iraq comply with the provisions of the present resolution and its previous resolutions, failing which the Council will need to take further measures under the Charter;

11. *Decides* to remain actively and permanently seized of the matter until Kuwait has regained its independence and peace has been restored in conformity with the relevant resolutions of the Security Council;

B

12. *Reposes its trust* in the Secretary-General to make available his good offices and, as he considers appropriate, to pursue them and to undertake diplomatic efforts in order to reach a peaceful solution to the crisis caused by the Iraqi invasion and occupation of Kuwait, on the basis of resolutions 660 (1990), 662 (1990) and 664 (1990), and calls upon all States, both those in the region and others, to pursue on this basis their efforts to this end, in conformity with the Charter, in order to improve the situation and restore peace, security and stability;

13. *Requests* the Secretary-General to report to the Security Council on the results of his good offices and diplomatic efforts.

Speaking after the vote, the representative of Yemen stressed the importance of making continuous efforts to contain the crisis by peaceful means within an Arab framework, and expressed his delegation's gratitude that this point was reflected in paragraph 12 of the resolution just adopted. However, his delegation believed that the resolution did not give the Secretary-General sufficient freedom to undertake initiatives independently in order to reach the desired peaceful solution. It also found that there were other constraints on States that could have made endeavours to reach such a solution. The speaker observed that there were those who were frightened by peaceful efforts and opposed them. They included those who tried to deepen divisions among the Arab countries and to weaken the Arab nation in its struggle to realize the inalienable rights of the Palestinian people; those who sought to destroy Iraq's military, economic and social capabilities in order to serve the purposes and ambitions of Israel to achieve hegemony over the region; and those who wished to make the foreign military presence in the Gulf region more than a mere passing phenomenon. The speaker stated that Yemen's support for a peaceful solution was grounded in its close proximity to the conflict, which had greatly

affected the economy of the country and its people. He vowed in conclusion that Yemen would pursue its efforts to reach a peaceful solution, to which there was no alternative.<sup>126</sup>

The representative of Cuba considered it obvious that Kuwait had the right to claim compensation for loss and damage caused as a result of the invasion and occupation of its territory. The Council had stated and reiterated its view as to who was the aggressor and who was the victim. There was therefore no need for another Council resolution reaffirming Kuwait's inherent rights as the victim of aggression. In Cuba's opinion, the resolution just adopted sought, moreover, to give the Council certain tasks outside its purview, and at the same time to prevent the Council from discharging certain obligations it did have. In the first place, neither Chapter VII, under which the resolution was adopted, nor any other Chapter of the Charter gave the Council any authority to make legal decisions. The Council had no power to make decisions as to liability or to determine compensation or restitution, such as a court might do. The only reference in the Charter to such matters appeared in Article 92, which defined the International Court of Justice as the principal judicial organ of the United Nations; and the only reference in the Charter to the issue of compensation or restitution was to be found in Article 36 of the Court's Statute, which formed an integral part of the Charter of the United Nations. Only the General Assembly, moreover, had the power to discuss the functions and powers of the respective organs. The speaker questioned what powers the Council was giving itself under paragraph 2 of the resolution, with regard to the collating of substantiated information on the alleged grave breaches by Iraq, and the calls on States to provide that information. What would the Council do with that information? Was it turning itself into a court of law, despite having no responsibilities in that regard? There were also references to international law in paragraphs 8 and 9 of the resolution, which was contradictory since the Charter and the Statute of the Court were part of international law. It might be inferred from those paragraphs that the Council, too, had some powers to make decisions on questions of liability and responsibility with regard to compensation and restitution "as a result of the invasion and illegal occupation of Kuwait by Iraq". That phrase might have many interpretations, including, for instance, the

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<sup>126</sup> *Ibid.*, pp. 48-55.



possibility that Iraq would have to shoulder the cost of the military deployment by some Powers in the Gulf region or could be held responsible for damages to third States resulting from the measures adopted by the Council in dealing with the crisis. If that were the case, the Council would not only be trying to take on powers beyond its competence, but also indirectly avoiding its responsibilities under Article 50 of the Charter. The speaker welcomed the reference in paragraph 12 of the resolution to the potential use by the Secretary-General of his good offices to reach a peaceful solution to the crisis. However, he regretted that the Council had not expressed more clearly its gratitude and support for the Secretary-General's continuing efforts in this regard. He considered that, despite that positive paragraph, the text was by and large one more step towards war. Finally, he observed that from a political and moral standpoint the Council — and, in particular, some of the sponsors of the resolution — was not in the best position to deal with the issues addressed in it. The Council had been inconsistent in the application of the principles involved and should not accept the imposition of criteria and strategies devised solely for the benefit of certain major Powers.<sup>127</sup>

The representative of Malaysia considered it only logical that the enforcement actions of the Council under Chapter VII of the Charter should be accompanied by diplomatic efforts to secure compliance with its resolutions and achieve a peaceful solution. The intertwining of both elements in the resolution just adopted gave recognition to the fact that neither course of action could be pursued exclusively. As the custodian of international peace and security, the Council did not discharge its responsibilities by a “single-track commitment to a course of action”, but by always leaving the door open to diplomatic efforts and initiatives. Malaysia and three other non-aligned members of the Council — Colombia, Cuba and Yemen — had pressed the idea of the Council's involvement on the diplomatic front, believing that this was needed if the Council was to entrust the Secretary-General with using his good offices and undertaking diplomatic efforts to secure a peaceful settlement of the crisis. This was reflected in paragraph 12 of the resolution, though some would have wished for a more specific and clearer reference. In Malaysia's view, the Council should not be so circumspect about the usefulness and indeed the necessity of using the good

offices of the Secretary-General, especially when such a role was outlined in Articles 98, 99 and 100 of the Charter. Furthermore, it should allow adequate room for the Secretary-General to examine all factors that could contribute towards diplomatic efforts. The speaker believed that the peaceful course of action taken so far by the Council to secure the withdrawal of Iraqi forces and the restoration of Kuwaiti independence and sovereignty must be allowed to show results; economic sanctions were having an impact, and international support for them had been firm and effective. He concluded that the resolution just adopted was a coherent message that the Council stood firm and united in upholding the principles of the Charter and international law, and warned that the Council's ability and determination to take further enforcement measures should not be doubted.<sup>128</sup>

The representative of China stated that resolution 674 (1990) and other relevant Council resolutions reflected the determination of the international community to safeguard the purposes and principles of the Charter of the United Nations and to maintain international peace and security, and constituted a good foundation for the settlement of the Gulf crisis. His Government favoured a peaceful settlement of the crisis on the basis of the implementation of those resolutions and opposed the use of force. The Chinese delegation therefore supported the Secretary-General's mediation and good offices and the Arab and Gulf countries as well as other parties in their endeavours to seek a peaceful solution. It appreciated the inclusion of a provision to that effect in the resolution just adopted.<sup>129</sup>

The representative of Colombia recalled that at the end of September her country, together with Cuba, Malaysia and Yemen, had submitted a draft resolution requesting the Secretary-General to use all the avenues of dialogue and diplomacy to obtain Saddam Hussein's compliance with the Council's resolutions. That text was never considered by the Council as it was argued that it would send the wrong message to the Iraqi leader. Almost a month later, some elements from that draft had been incorporated into what was now resolution 674 (1990). While her delegation would have preferred paragraph 12 of the resolution to be adopted with the broad terms used in the original draft,

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<sup>127</sup> Ibid., pp. 53-68.

<sup>128</sup> Ibid., pp. 68-72.

<sup>129</sup> Ibid., pp. 76-77.

it had voted in favour of the resolution as it wished once again to resolutely condemn Iraq's actions.<sup>130</sup>

The representative of the United States observed that the statement by the representative of Iraq had already been well answered in the Council. To listen to the invader of Kuwait attempt to lecture the Council on the meaning of the Charter was astounding and certainly not persuasive. The speaker reiterated his Government's commitment to a policy of seeking peaceful implementation of the Council's resolutions on Iraq. These were clear. The international community had acted in unison to condemn Iraq's unprovoked aggression against Kuwait and had taken appropriate and measured steps to implement the Council's resolution calling for immediate and unconditional withdrawal. Concerted action under Article 41 was already having an effect. However, should Iraq continue to ignore and deny the international community, the Council would have to take further measures as prefigured in the resolution just adopted. The United States would actively support such efforts. In the new resolution, the Council had spoken out clearly against Iraq's efforts to destroy the sovereign State of Kuwait through organized looting, destruction, systematic terrorizing of local and foreign innocent civilians, and even murder. The resolution made it clear, moreover, that Iraq was liable for full restitution or compensation for the losses and damages it had caused by its illegal invasion and occupation of Kuwait. The speaker anticipated that the Council would address this question more fully in the days ahead. Baghdad must hear from the Council clearly: unprovoked aggression entailed crippling costs. By its resolution, the Council also demanded that Iraq cease its deliberate mistreatment of innocent citizens and observe the fundamental principles of international conduct among States. The speaker stressed, in this regard, that every nation had a duty to protect its citizens; this was a fundamental obligation. The United States would do that which was necessary to meet its obligations to its own citizens.<sup>131</sup>

The President, speaking in his capacity as the representative of the United Kingdom, stated that the continued assertion by the Iraqi authorities that Kuwait was the nineteenth province of Iraq — in defiance of Security Council resolutions 660 (1990) and 662

(1990) — alone underlined the need for further action by the Council to remind Iraq of the determination of the international community that it should end its illegal acts. He set out the basis for several of the provisions of the resolution just adopted. The arbitrary arrests, beatings and killings by the occupying forces justified the need for States to collate information they had on grave breaches of the Fourth Geneva Convention and of international law, as set out in paragraph 2. Iraq's continued looting and pillaging of Kuwait, and destruction of its infrastructure, provided the basis for the requirements for restitution and compensation set out in paragraphs 8 and 9 of the resolution. The speaker stressed the desirability of a peaceful solution to the crisis, but reiterated that a settlement could come about only through Iraq's compliance with the Council's resolutions. His delegation had complete confidence in the Secretary-General, whose efforts to explore the prospects for a peaceful settlement had been rebuffed by the Government of Iraq late in August. It supported the Secretary-General's use of his good offices, but underlined that this should occur "as and when he considered it appropriate". The resolution just adopted demonstrated the Council's determination to maintain pressure against Iraq until such time as its illegal behaviour was brought to an end. Other measures of enforcement, including those under Chapter VII of the Charter, would need to be taken to bring this about if Iraq showed no willingness to move.<sup>132</sup>

At the same meeting, the representatives of Canada, Côte d'Ivoire, Ethiopia, Finland, France, Romania and Zaire, who had either sponsored or supported resolution 674 (1990), drew attention to the balanced nature of the text.<sup>133</sup> In the face of Iraq's persistent defiance, the Council had sent a clear message that its unity and resolve to end the Iraqi occupation of Kuwait were as strong as ever. Iraq would, moreover, be held responsible for the lawlessness perpetrated by its occupation, with all its attendant consequences. At the same time, the resolution stressed the need to press ahead with the quest for a peaceful solution to the crisis, provided that it resulted in Iraq's withdrawal from Kuwait without further delay. Several speakers emphasized the

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<sup>130</sup> Ibid., pp. 77-80.

<sup>131</sup> Ibid., pp. 88-91.

<sup>132</sup> Ibid., pp. 92-95.

<sup>133</sup> Ibid., pp. 46-48 (Ethiopia); pp. 72-73 (Côte d'Ivoire); pp. 73-76 (France); pp. 81-82 (Romania); pp. 82-85 (Zaire); p. 86 (Finland); and pp. 87-88 (Canada).

importance of encouraging the Secretary-General to use his good offices in this regard,<sup>134</sup> as reflected in paragraph 12 of the resolution. One<sup>135</sup> drew attention to the fact that in the resolution the Council once again signalled that should Iraq continue blatantly to ignore the will of the international community, as expressed by the Council, further measures under the Charter would be required.

**Decision of 28 November 1990 (2962nd meeting): resolution 677 (1990)**

At the 2959th meeting, on 27 November 1990, the President of the Council (United States) stated, before the adoption of the agenda, that he had been informed by the representative of Kuwait that he intended during his statement to utilize audio-visual materials relating to the item under consideration. In keeping with past practice, the President had accordingly requested the Secretariat to make the necessary technical arrangements. He then drew the attention of the members of the Council to the provisional agenda for the meeting.<sup>136</sup>

Speaking on a point of order, the representative of Cuba proposed that an additional item be added to the provisional agenda, so that the Council could consider a draft resolution<sup>137</sup> on the situation in the territories occupied by Israel. This gave rise to a procedural discussion,<sup>138</sup> relating to the preparation of the provisional agenda, which concluded with the acceptance of an invitation by the President to Council members to meet in informal consultations immediately following the statement by the representative of Kuwait.

The original agenda was thereupon adopted without objection. The Council continued its consideration of the item entitled "The situation between Iraq and Kuwait" at its 2959th, 2960th and 2962nd meetings, on 27 and 28 November 1990.

Following the adoption of the agenda, the Council invited the representative of Kuwait to take a seat at the Council table, in accordance with the

decisions taken at its 2950th meeting. The following were also invited, at their request, to participate in the discussion without the right to vote: at the 2959th meeting, the representatives of Bahrain, Egypt and Saudi Arabia; at the 2960th meeting, the representative of Qatar; and at the 2962nd meeting, the representatives of Bangladesh, the Islamic Republic of Iran and the United Arab Emirates. The Council also decided, at the request of the representative of Egypt, to extend an invitation at its 2959th meeting to Mr. A. Engin Ansay, Permanent Observer of the Organization of the Islamic Conference to the United Nations, under rule 39 of its provisional rules of procedure.

At the 2959th meeting, the President drew the attention of the Council to a draft resolution submitted by Kuwait,<sup>139</sup> which was subsequently co-sponsored by Canada, Côte d'Ivoire, Ethiopia, Finland, Romania, the United Kingdom and Zaire. He also drew their attention to a number of other documents.<sup>140</sup>

At the same meeting, the representative of Kuwait observed that 116 days had passed since the Iraqi invasion and occupation of Kuwait. During that period, the Security Council had adopted 10 resolutions under Chapter VII of the Charter demanding Iraq's immediate and unconditional withdrawal from Kuwait. However, the Iraqi regime had rejected any move towards peace: it had rejected the resolutions of the Council, as well as those of the League of Arab States, the Islamic Conference and the Movement of Non-Aligned Countries. It had rejected even the humanitarian endeavours of the Secretary-General, and had refused to receive any team from the International Committee of the Red Cross or any other international or regional humanitarian agency. In its aggression and occupation of Kuwait, the Iraqi regime had not only targeted the territory for expansion, but had gone far beyond that. It had embarked upon unprovoked killings, torture, displacement, rape,

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<sup>139</sup> S/21966; subsequently adopted without change as resolution 677 (1990).

<sup>140</sup> S/21914, S/21943, S/21951, S/21955, S/21961, S/21962, S/21963 and S/21965, which contained letters dated 28 October and 15, 20, 23 and 26 November 1990, respectively, from the representative of Kuwait, concerning the barbaric acts which the Iraqi occupying forces had committed and were continuing to commit in Kuwait, and requesting that the Council meet urgently to resume consideration of the item entitled "The situation between Iraq and Kuwait".

<sup>134</sup> Canada, Finland, France, Romania.

<sup>135</sup> Canada.

<sup>136</sup> S/Agenda/2959.

<sup>137</sup> S/21933/Rev.1.

<sup>138</sup> For the procedural discussion, see S/PV.2959, pp. 2-11.

See also chapter II, case 1, on rule 7 of the Council's provisional rules of procedure.

humiliation and intimidation of innocent civilians, organized looting of all movable items, and the destruction of immovable assets. The speaker introduced several speakers who spoke on videotape about their experiences under the occupation and its effects on individuals and the economy in Kuwait. He also showed several slides depicting the economic implications of the occupation both on the Kuwaiti economy and on other countries. Following this presentation, the representative of Kuwait contended that the Iraqi goal in all those inhumane practices was to wipe out the Kuwaiti identity by changing the demographic composition of the country. That had been evident when the occupying army had begun confiscating all Kuwaiti identification documents, including citizenship certificates, passports, driving licences and identity cards, and burning the archives of many ministries dealing with citizens' affairs. Some Kuwaitis, however, had managed to transfer out of the country the civil records of Kuwait's total population up to the first day of August 1990. The speaker asked the Council to adopt the draft resolution before it, which would authorize the Secretary-General to keep those records at the United Nations as the legal and official instrument to be relied on when Kuwait was liberated. He added that the current conditions called, *inter alia*, for protection of the civilian population, in accordance with the Fourth Geneva Convention of 1949, and its Additional Protocol II of 1977, as well as the ensuring of their security, safety and their right to remain on their land; and the inviolability of Kuwait's demographic composition. He also requested the Council to form a fact-finding commission and to dispatch it to Kuwait to assess the extent of destruction and sabotage of assets and properties belonging to the Government, individuals and companies, and to assess reparations for them. Further, he requested the Council to protect the Kuwaiti captives and to ensure their humane treatment in accordance with the First and Third Geneva Conventions of 1949. Finally, the speaker observed that, although the Charter called for the peaceful settlement of disputes, in Article 2 (3 and 4), it also provided a remedy when peaceful endeavours failed: in Articles 41 and 42 in Chapter VII. He stated that the Security Council, as custodian of the Charter, must not allow aggression to continue to stand or be rewarded. That would undermine the edifice of the international order.<sup>141</sup>

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<sup>141</sup> S/PV.2959, pp. 14-61.

In accordance with the understanding reached earlier in the meeting, the President then adjourned the meeting and invited the members to join him for informal consultations. He stated that the next meeting of the Council to continue consideration of the item on its agenda would be fixed in consultation with the members of the Council.

At the 2960th meeting, on 27 November 1990, the representative of Saudi Arabia expressed abhorrence of the crimes being committed by the Iraqi occupying forces in Kuwait against Kuwaitis and foreigners alike, as described by the representative of Kuwait, condemned the Iraqi regime and charged it with full responsibility for its invasion of Kuwait and violations of law committed during the occupation. He regretted hearing some calls aimed at appeasing the situation and condoning the crimes. He insisted that the Arab and Muslim nation, the international community and the Security Council must shoulder their responsibility to remove injustice from Kuwait, to check the aggressors, return the whole country to its people, make those responsible bear the consequences of their actions, and safeguard the security of the region and its countries from their evil intentions. Noting that the Council would be meeting again on 29 November to discuss the situation, the speaker looked forward to its taking a firm stand, which he hoped would set matters right before they ran out of control.<sup>142</sup>

The representative of Egypt echoed those views, adding that his country joined with Kuwait in calling upon the Council to adopt the resolutions necessary to safeguard the national identity of the Kuwaiti people and to record all instances of subversion and aggression against that identity until the legitimate Government was returned to power and the Kuwaiti people were liberated from the yoke of occupation. With regard to the latter, he stated that the sole way to ensure respect for human rights of peoples under occupation was for that occupation to end: that applied to Kuwait as it did to any other occupied territory or country. The speaker concluded by quoting from a recent statement by the President of Egypt: "In the coming difficult weeks, we will spare no effort to reach a peaceful solution to the Gulf crisis. However, Kuwait

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<sup>142</sup> S/PV.2960, pp. 3-11.

must be liberated and the wrongs and injustice against it must be righted.”<sup>143</sup>

At the same meeting and the 2962nd meeting, on 28 November 1990, the representatives of Bahrain, the Islamic Republic of Iran, Qatar and the United Arab Emirates, and Mr. A. Engin Ansary, Permanent Observer of OIC to the United Nations, expressed outrage and grave concern at the horrific acts perpetrated by Iraq’s occupation forces in Kuwait against Kuwaiti citizens and foreigners. Those acts constituted serious violations of international humanitarian law, and included grave breaches of the Geneva Convention relative to the Protection of Civilian Persons in Time of War for which the Iraqi authorities would be held responsible. The representative of the Islamic Republic of Iran added that the only means of establishing peace in the Gulf area was through the implementation of relevant Security Council resolutions and the total withdrawal of foreign forces from this sensitive region.<sup>144</sup>

The representative of the United Kingdom recalled that the Council had repeatedly reminded Iraq in recent weeks of its obligations under international humanitarian law, including the Fourth Geneva Convention. It had done so most recently in resolution 674 (1990), adopted on 29 October. Iraq had, however, persistently acted with a callous disregard of the Convention. Far from observing its provisions, it was engaged in a determined campaign to expunge the very identity of the State of Kuwait and to change its demographic structure. Each day, Iraq advanced further down that road. It was the duty of the international community to demonstrate to Iraq that aggression did not pay, and to bring the occupation to an end as quickly as possible in conformity with the resolutions of the Council.<sup>145</sup>

The representative of France stated that the shocking testimony they had heard confirmed the reality and magnitude of the human rights violations committed by the Iraqi occupation forces in Kuwait. He stressed that the international community should mobilize to help preserve the national identity of

Kuwait, now threatened with systematic destruction by the occupier.<sup>146</sup>

The President, in his capacity as the representative of the United States, cited further instances of grave breaches of the Fourth Geneva Convention committed by Iraqi authorities. Underlying those horrifying Iraqi crimes was a declared policy just as unacceptable and abhorrent as the acts it had engendered: to eradicate the sovereign and independent State of Kuwait. That policy must fail. States Members of the United Nations were all bound by their Charter obligations to oppose Iraq’s policy, accomplish the withdrawal of Iraqi forces from Kuwait and to obtain the re-establishment of legitimate Kuwaiti authority. The speaker was confident that the Council, in line with the careful and patient decisions it had taken since the crisis began on 2 August, retained its determination to take effective measures to suppress the Iraqi aggression and to reaffirm the principles on which a safe, secure and prosperous world must rest.<sup>147</sup>

At the 2962nd meeting, the draft resolution was put to the vote and adopted unanimously as resolution 677 (1990), which reads:

*The Security Council,*

*Recalling* its resolutions 660 (1990) of 2 August 1990, 662 (1990) of 9 August 1990 and 674 (1990) of 29 October 1990,

*Reiterating its concern* for the suffering caused to individuals in Kuwait as a result of the invasion and occupation of Kuwait by Iraq,

*Gravely concerned* at the ongoing attempt by Iraq to alter the demographic composition of Kuwait and to destroy the civil records maintained by the legitimate Government of Kuwait,

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

1. *Condemns* the attempts by Iraq to alter the demographic composition of Kuwait and to destroy the civil records maintained by the legitimate Government of Kuwait;

2. *Mandates* the Secretary-General to take custody of a copy of the population register of Kuwait, the authenticity of which has been certified by the legitimate Government of Kuwait and which covers the registration of the population up to 1 August 1990;

3. *Requests* the Secretary-General to establish, in cooperation with the legitimate Government of Kuwait, an order

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<sup>143</sup> Ibid., pp. 16-20.

<sup>144</sup> Ibid., pp. 12-15 (Observer of OIC); pp. 21-22 (Bahrain); pp. 23-30 (Qatar); and S/PV.2962, pp. 10-12 (United Arab Emirates); and p. 16 (Islamic Republic of Iran).

<sup>145</sup> S/PV.2962, pp. 3-9.

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<sup>146</sup> Ibid., pp. 9-10.

<sup>147</sup> Ibid., pp. 18-22.

of rules and regulations governing access to and use of the said copy of the population register.

Speaking after the vote, the representative of Kuwait expressed his gratitude to all the members of the Council for voting in favour of the resolution just adopted. In doing so, they had reaffirmed that the invading Iraqi regime's practices were null and void in their bid to obliterate Kuwaiti identity.

**Decision of 29 November 1990  
(2963rd meeting): resolution 678 (1990)**

At its 2963rd meeting, on 29 November 1990, the Council resumed its consideration of the situation between Iraq and Kuwait and, in accordance with the decisions taken previously, invited the representatives of Iraq and Kuwait to take seats at the Council table.

The President of the Council (United States) noted that the following members of the Council were represented by their Foreign Ministers: Canada, China, Cuba, Ethiopia, Finland, France, Malaysia, Romania, the Union of Soviet Socialist Republics, the United Kingdom, the United States and Zaire. He stated that their presence there, for only the fourth time in the Security Council's history that Foreign Ministers had assembled, symbolized the seriousness of the present situation and the significance of the meeting.

He began the meeting with the following quotation, which he believed aptly set the context for the Council's discussions that day:

There is no precedent for a people being the victim of such injustice and of being at present threatened by abandonment to an aggressor. Also, there has never before been an example of any government proceeding with the systematic extermination of a nation by barbarous means in violation of the most solemn promises made to all the nations of the Earth that there should be no resort to a war of conquest and that there should not be used against innocent human beings terrible poison and harmful gases.

He stated that, although those words could well have come from the Emir of Kuwait, they had not. They had been spoken by Haile Selassie, the leader of Ethiopia, in 1936, a man who had seen his country conquered and occupied, as Kuwait had been since 2 August. Sadly, that appeal to the League of Nations had fallen upon deaf ears, the League's efforts to redress aggression had failed and international disorder and war had ensued. History had now given the international community another chance. With the end of the cold war, there was a chance to build the world

envisaged by the founders of the United Nations, a chance to make the Security Council and the Organization true instruments for peace and justice across the globe. The United Nations must not be allowed to go the way of the League of Nations. The threat to international peace created by Iraq's aggression must be met. The debate the Council was about to have would, therefore, rank as one of the most important in the history of the United Nations. It would surely do much to determine the future of the Organization. The Council's aim must be to convince Saddam Hussein that the just and humane demands of the Council and of the international community could not be ignored. If Iraq did not reverse its course peacefully, then other necessary measures, including the use of force, should be authorized. The choice must be put to the Iraqi leader in unmistakable terms.<sup>148</sup>

The President then drew the attention of the Council members to a draft resolution submitted by Canada, the Union of Soviet Socialist Republics, the United Kingdom and the United States,<sup>149</sup> which Romania and France had joined in sponsoring.

The representative of Kuwait expressed the hope that the Council's historic meeting would reflect the true voice of the international community, showing a landmark united stand condemning aggression and demonstrating yet again its resolve to counter it. He paid tribute to the Foreign Ministers attending the meeting, whose presence underlined its historic importance and was viewed by the Kuwaiti people as an expression of support. The Council had convened that day to express its resolve that the principles of the Charter should take concrete form and that the principle of collective security should be the framework for regulating international relations, so that people might rest assured that the strong would not prey on the weak and that those who harboured aggressive intentions should hesitate and consider before resorting to force because they now knew that the world would reverse their aggression. The speaker paid tribute to those countries that had contributed to the multinational force, which was a concrete translation of the international community's determination to stand firm against aggression and to ensure that the use of force bore no rewards. He reiterated that the Iraqi aggression had not been limited

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<sup>148</sup> S/PV.2963, pp. 2-6.

<sup>149</sup> S/21969; subsequently adopted without change as resolution 678 (1990).

to the occupation of land but had become a systematic campaign to destroy the economic and social infrastructure of Kuwait, and to transform its demographic composition. He recalled that the Council had adopted 11 mandatory resolutions under Chapter VII of the Charter in which it had demanded the immediate and unconditional withdrawal of Iraq from Kuwait, and had sought to secure Iraqi compliance by peaceful means through the imposition of a total economic embargo, together with other measures; that similar resolutions had been adopted at the pan-Arab, pan-Islamic level and within the framework of the Non-Aligned Movement; that personal initiatives and endeavours had been undertaken by prominent personalities, including the Secretary-General and envoys from the Soviet Union, China and other countries, aimed at persuading the Iraqi leadership to respond to the international will; and that efforts in the same vein had also been made by some Arab States whose positions were not totally in line with the Security Council resolutions and who had kept open the channels of communication with Baghdad. Despite all those efforts and good offices, however, the Iraqi regime persisted in its intransigence and obduracy, rejecting all overtures, disdaining all peaceful attempts, and defying the international community. No one could claim now that the international community had not given Iraq a full opportunity to comply with the international will or that the international community had not offered good, feasible grounds for a peaceful settlement. The speaker observed that the Iraqi regime had sought to deflect attention from its aggression against Kuwait by invoking issues that had nothing to do with it: it cited, for instance, the danger of the foreign presence in the region, but it knew that it was the real reason for that presence; and it attempted to link its aggression against and occupation of Kuwait to the question of Palestine, calling for an Arab solution, from which, however, it was the first to dissent and which it used to sow dissension among Arab ranks. The speaker concluded that the international community, represented by the Security Council, should therefore feel free, at that stage, to use all necessary means available to it and in cooperation with the Government of Kuwait, as provided for in the draft resolution, to implement the Council's resolutions so as to put an end to Iraq's defiance and opposition to the will of the international community.<sup>150</sup>

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<sup>150</sup> S/PV.2963, pp. 7-18.

The representative of Iraq recalled that when, on 25 August, the Council had been debating the text that became resolution 665 (1990), he had tried in his statement to focus the Council's attention on the legal requirements which it must observe in adopting any resolution involving the use of force. Otherwise, he had argued, the Council would be acting beyond its jurisdiction and its action should be deemed null and void. He believed that the same argument applied in the current situation, for an even better reason. For, under the Charter, any use of force was deemed to be an act of aggression except in three exceptional cases: (1) a case involving self-defence under Article 51, wherein the use of force was limited to the period until the Security Council was seized of the matter; (2) a situation in which sanctions under Article 41 had proved to be ineffective, in which case the Council could act collectively under Article 42 and could use force in accordance with the mechanism provided for in Article 43 — that is, under the command and control of the Security Council, in coordination with the Military Staff Committee; and (3) a case under Article 106, which provided that should the Council fail to reach special agreements with Member States to put forces under Security Council command, the parties to the Four-Nation Declaration of October 1943, together with France, could, in consultation with other Members of the United Nations, undertake joint action on behalf of the Organization against any country. Those were the three exclusive cases in which the use of force might legally be authorized by the Security Council. However, the Council had apparently considered that in the present case the legal requirements were “disposable niceties”.

The speaker accordingly wished to focus attention on the political aspects of the dispute. The implication of the draft resolution before the Council was that Iraq knew nothing but the use of force. That was not correct. His Government had advocated peace, and continued to do so. However, it wanted a comprehensive, durable and just peace that would safeguard the rights of all parties. That entailed dialogue with the Government of his country, but that had been blocked by the United States. As a cover for its aggressive and imperialist policies in the region, the United States alleged that the crisis was not the result of its stand against Iraq; it claimed that the world stood against Iraq in a manner unprecedented in the annals of the United Nations. However, that simply exposed the fact that it was only small States that did not enjoy veto

power in the Security Council or the protection of a super-Power permanent member that were subject to sanctions under Chapter VII of the Charter. Thus, for instance, the United States had, over many years, forestalled international unanimity and prevented the imposition of sanctions on Israel for its expansionist and aggressive policies against the Palestinians and the Arab people at large. Indeed, the current crisis had shown, among other things, that the United States totally dominated the Security Council and its arbitrary and biased procedures. The speaker reiterated that Iraq desired peace — not for itself alone, but for the entire Middle East region, on the basis of the implementation of all Security Council resolutions. That approach had been embodied in the initiative set out by the President of Iraq, Saddam Hussein, on 12 August. He argued that the problems of the Middle East were not isolated from one another, but had common historical roots and were linked politically. It was clear that one problem often caused the eruption of other problems, and that the current situation in the region was also the result of the effects of a chronic problem that remained unresolved. Linkage between the problems in the region was therefore natural and logical. The speaker concluded by asking whether the Council would measure up to its historic responsibility of establishing a comprehensive, just and lasting peace through an integrated approach which dealt with all the problems of the region. For Iraq's part, it desired peace. However, if the United States imposed war upon it, the Iraqi people would defend itself against injustice and tyranny.<sup>151</sup>

The Council then proceeded to vote on the draft resolution before it. Speaking before the vote, the representatives of Yemen and Cuba expressed their opposition to it and the representative of China his reasons for abstaining.

The representative of Yemen stated that the credibility of the Council was at stake as it was not applying the same standards to another crisis in the Middle East region as it was to the crisis in the Gulf: he drew attention to the plight of the Palestinian people that had been systematically denied its basic right to national self-determination. On the Gulf crisis, he observed that since the invasion of Kuwait by Iraq, the Council had adopted 11 resolutions, calling for the complete withdrawal of Iraqi forces from Kuwait, the immediate release of all hostages and the restoration of

the legitimate Government of Kuwait. Moreover, the Council had imposed on Iraq the most sweeping and enforceable sanctions regime to secure the implementation of those resolutions. The draft resolution before the Council would, in effect, authorize States to use force in order to ensure Iraq's compliance. Yemen could not support a draft resolution that would authorize States to use force, for the following reasons. First, the draft text was so broad and vague that it was not limited to the purpose of enforcing the Council's 11 resolutions. It would thus be up to those States with military forces in the area to decide on the prerequisites for the restoration of international peace and security in the region, which might lead to a military confrontation on a larger scale. Secondly, the draft text was not related to a specific article in Chapter VII of the Charter; hence the Council would have no control over those forces, which would fly their own national flags. Furthermore, the command of those forces would have nothing to do with the United Nations, although their actions would have been authorized by the Security Council. It was a classic example of authority without accountability. Yemen advocated a peaceful approach to resolving the crisis, in accordance with relevant Council resolutions. It believed that the comprehensive and almost totally airtight sanctions regime would eventually force Iraq to comply and withdraw from Kuwait. It was too early to say that sanctions were not working; patience was needed. A peaceful approach to the crisis should also involve active diplomatic activity.<sup>152</sup>

The representative of Cuba stated that his country did not seek to establish any linkage between an Iraqi withdrawal from Kuwait and the situation in the Arab territories occupied by Israel; but he asked whether it was not incongruous to invoke norms for some that were ignored for others. He added that the President of the Council, bypassing the established rules and procedures, had ignored a request to convene the Council in order to consider a draft resolution prepared contemporaneously, on the subject of Palestine.<sup>153</sup> As for the draft resolution under consideration, Cuba believed that it would not be advisable to adopt a resolution which was a virtual declaration of war, a fixed-term ultimatum before hostilities were launched,

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<sup>151</sup> Ibid., pp. 19-31.

<sup>152</sup> Ibid., pp. 32-38.

<sup>153</sup> On the application of rule 2 of the provisional rules of procedure of the Security Council, see chapter I, cases 1-4.



and which was equivalent to giving the United States and its allies *carte blanche* to use their enormous sophisticated military capability. Moreover, the text violated the Charter by authorizing some States to use military force in total disregard of the procedures established by the Charter. Cuba would have favoured a firm resolution aimed at ensuring respect for the will of the international community, and at the same time being generous and magnanimous, a resolution that rectified the decision to prevent food and medicine from reaching vulnerable groups in Iraq. This would have given great moral authority to the United Nations, lending force to its demands.<sup>154</sup>

The representative of China stated that, as a result of his visits to countries in the region, he believed that members of the international community, including his country, shared common ground on the Gulf crisis on two points: they all opposed the Iraqi invasion and annexation of Kuwait and called on Iraq to withdraw from Kuwait immediately, while at the same time, they all wished to see the crisis settled through peaceful means. The United Nations, as an international organization for the maintenance of peace and security, should act with caution and avoid taking hasty action on such a major question as authorizing some Member States to take military action against another Member State. China had voted in favour of the resolutions adopted on the subject thus far because, although the sanctions measures were severe, they were not in the domain of the use of force. However, in the draft resolution before the Council, the wording “use all necessary means” was used, which, in essence, permitted the use of military action. That ran counter to the consistent position of the Government of China, which was to try its utmost to seek a peaceful solution. The Chinese delegation could not, therefore, vote in favour of the draft resolution. On the other hand, the Gulf crisis had arisen as a result of the Iraqi invasion and annexation of Kuwait, and Iraq had thus far not taken any practical steps on the key question of withdrawing troops from Kuwait. In this connection, the speaker noted that the draft resolution would call on Iraq to comply fully with resolution 660 (1990) and the subsequent relevant Council resolutions urging Iraq to withdraw from Kuwait immediately. Since China was in favour of that position, it would not cast a negative vote on the draft resolution either. The speaker concluded by stressing that the international

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<sup>154</sup> S/PV.2963, pp. 52-60.

community should maintain and strengthen its political, diplomatic and economic pressure on Iraq, in the hope of securing a peaceful solution to the crisis.<sup>155</sup>

The representative of Colombia said that it was the Council’s responsibility, in accordance with Chapter VII of the Charter, not merely to threaten Iraq but also to take positive action towards achieving a peaceful settlement. If today the Council was opening the way for the option of using force, let it do the same for the peace option. In Colombia’s view, the best hope of reaching a peaceful solution lay in creating a framework for negotiations. Such a framework would address the future of the economic sanctions, of procedures for settling the financial claims and territorial disputes, and what procedure would be followed in guaranteeing regional peace and stability. Clarifying those issues could facilitate compliance with Security Council resolutions without in any way rewarding the invader for his action. As the countdown began towards the deadline of 15 January 1991 set out in the draft resolution, Colombia wished the Secretary-General to make continuous use of his good offices, and would itself step up its own efforts to promote a peaceful settlement of the conflict. The draft resolution afforded Iraq one last opportunity to react and withdraw its troops peacefully from Kuwaiti territory. This pause of goodwill must not, however, be misinterpreted by the Iraqi authorities since the members of the Council, in authorizing Member States to use all necessary means, were expressing a clear position which, if ignored, would place full responsibility for ensuing developments on them. Hoping that reason would prevail, the speaker announced that his delegation would vote in favour of the draft resolution.<sup>156</sup>

The representative of Zaire praised the spirit of cooperation in the Security Council which had enabled its members to act with greater unity. Reminding Iraq of its obligations as a Member of the United Nations and a member of the Non-Aligned Movement, he urged the Iraqi authorities to think again and peacefully withdraw from Kuwait before the deadline laid down in the draft resolution. He stressed that the international community and the members of the Council, motivated by the purposes of the Charter and responsible for maintaining international peace and

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<sup>155</sup> *Ibid.*, pp. 61-63.

<sup>156</sup> *Ibid.*, pp. 38-42.

security while guaranteeing the political independence and territorial integrity of States Members of the Organization, could not tolerate this affront by a single Member State. Aware, however, of its historic responsibilities, the Security Council could not envisage other measures against Iraq without giving it a reasonable pause for reflection after four months of refusal to withdraw from Kuwait. The Council had therefore felt that it should be granted an additional delay of at least 45 days so that it might comply with the resolutions adopted by the Council so far and restore to Kuwait its independence and territorial integrity. It was in that context that one must view the current initiative of the Council, authorizing all Member States cooperating closely with the Government of Kuwait to use all necessary means to implement resolution 660 (1990) and to restore international peace and security in the area, unless by 15 January 1991 Iraq had withdrawn all of its forces from Kuwait.<sup>157</sup>

The representative of Ethiopia recalled the serious failure of the League of Nations to act in defence of its own Covenant 55 years before, and take a stand against the blatant aggression committed by an expansionist State against the Ethiopian people. With the benefit of hindsight, it was often asserted, perhaps rightly, that had the League of Nations acted more forcefully and in unison at that critical time in defence of international legality, the world might have been spared the destruction and tragedy of the Second World War. In the 1990s, the international community must not repeat the mistakes of the 1930s. Almost four months had elapsed since the invasion of Kuwait. During that time, numerous diplomatic efforts had been made to resolve the crisis peacefully. However, the peaceful measures taken so far, including economic sanctions, had not produced the desired results, for the occupation of Kuwait continued. Although the patience of the world community was running out, the Council was offering Iraq one more chance to respect the will of the international community and withdraw from Kuwait within the time frame provided for in the draft resolution. The speaker observed that many had argued that the international community must wait still longer before considering additional measures. However, experience had shown that economic sanctions could have an effect only with the passage of time, and with complete, universal compliance. More importantly, the

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<sup>157</sup> Ibid., pp. 43-48.

people of Kuwait rightfully demanded the immediate restoration of their sovereignty. The Council must not, therefore, wait much longer, for justice delayed could be justice denied. The speaker added that thinking should begin about a post-Iraqi-withdrawal scenario. In that context, the Council should reaffirm and strengthen its determination to work towards peace and stability in the entire region. He concluded that his delegation would vote in favour of the draft resolution to underline its determination that aggression should be thwarted and not rewarded.<sup>158</sup>

The draft resolution was then put to the vote and adopted by 12 votes in favour, 2 against (Cuba, Yemen) and 1 abstention (China), as resolution 678 (1990), which reads:

*The Security Council,*

*Recalling and reaffirming* its resolutions 660 (1990) of 2 August 1990, 661 (1990) of 6 August 1990, 662 (1990) of 9 August 1990, 664 (1990) of 18 August 1990, 665 (1990) of 25 August 1990, 666 (1990) of 13 September 1990, 667 (1990) of 16 September 1990, 669 (1990) of 24 September 1990, 670 (1990) of 25 September 1990, 674 (1990) of 29 October 1990 and 677 (1990) of 28 November 1990,

*Noting* that, despite all efforts by the United Nations, Iraq refuses to comply with its obligation to implement resolution 660 (1990) and the above-mentioned subsequent relevant resolutions, in flagrant contempt of the Security Council,

*Mindful* of its duties and responsibilities under the Charter of the United Nations for the maintenance and preservation of international peace and security,

*Determined* to secure full compliance with its decisions,

*Acting* under Chapter VII of the Charter,

1. *Demands* that Iraq comply fully with resolution 660 (1990) and all subsequent relevant resolutions, and decides, while maintaining all its decisions, to allow Iraq one final opportunity, as a pause of goodwill, to do so;

2. *Authorizes* Member States cooperating with the Government of Kuwait, unless Iraq on or before 15 January 1991 fully implements, as set forth in paragraph 1 above, the above-mentioned resolutions, to use all necessary means to uphold and implement resolution 660 (1990) and all subsequent relevant resolutions and to restore international peace and security in the area;

3. *Requests* all States to provide appropriate support for the actions undertaken in pursuance of paragraph 2 above;

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<sup>158</sup> Ibid., pp. 48-52.

4. *Requests* the States concerned to keep the Security Council regularly informed on the progress of actions undertaken pursuant to paragraphs 2 and 3 above;

5. *Decides* to remain seized of the matter.

Speaking after the vote, the representative of France stated that the fact that the Council was meeting for the second time that year at the level of Foreign Ministers — once again, as on 25 September, to discuss the crisis resulting from Iraq's aggression against Kuwait — underlined the seriousness with which the international community viewed the situation and the extent to which its continuation, in defiance of the Council's successive resolutions, was provocative and unacceptable. In the wake of recent developments in international relations, conditions had been created conducive to a new world order that respected sovereignties and identities. Could the Council then tolerate such a blatant challenge for any extended period of time, especially in a region which was so highly sensitive, where the expectations for security and stability called for special consideration? Since the Council's calls had fallen on deaf ears, it was compelled to resort to a higher level of pressure in the face of the continuing challenge to the international community. That was the meaning of the resolution just adopted: it constituted one last invitation to implement the Council's resolutions, coupled with a warning which opened the way to the use of direct means of action. If Iraq chose to remain locked into the use of force, the Council was left with no other choice but to resort to the same means. While France was committed to the search for a peaceful solution, Iraq's leaders must entertain no doubt as to the Council's resolve. Law must prevail, and the goal the Council had set in its resolutions must be achieved. That was in the interest of all States; at stake was the future of relations among States in building a more secure and stable world. It was in that spirit that France had voted in favour of the resolution just adopted. The speaker added three further comments regarding the meaning of his country's vote. First, assuming there were no adverse changes in the circumstances, France did not intend to introduce or support any further action extending the scope or nature of the sanctions in place, or any new Council measures regarding Iraq until the date of the expiry of the deadline in paragraph 2 of the resolution. Secondly, that undertaking was without prejudice to the rights of his Government under the Charter, including its rights in the event that the Government of Iraq allowed any harm to come to

foreign nationals held against their will by that Government. Finally, his Government recalled the terms of paragraph 13 of resolution 670 (1990), under which individuals were personally responsible for grave breaches of the Fourth Geneva Convention, and stated that those involved in violations of the laws relating to armed conflict, including the prohibition against initiating the use of chemical and biological weapons contrary to the Geneva Protocol of 1925, to which Iraq was a party, would similarly be held personally responsible.<sup>159</sup>

The representative of Canada stated that Foreign Ministers had gathered, for a second time in the Council's consideration of Iraq's invasion of Kuwait, to adopt a resolution which demonstrated that their collective resolve was firm. They were determined to respond to the challenge of Iraq's aggression, which went to the heart of what they had been trying to do at and through the United Nations for the previous 45 years: their attempt to build a workable world Organization able to prevent, or to reverse, the most blatant and dangerous of international offences — the acquisition by force of another country's territory and, in this specific case, an effort to extinguish a United Nations Member in its entirety. The speaker quoted the Prime Minister of Canada to the effect that Canada stood with the overwhelming majority of the world community, including its partners on the Security Council, in giving Saddam Hussein an opportunity to reflect carefully on the consequences of his action and a reasonable timetable to withdraw from Kuwait. It saw no contradiction between continuing to apply pressure through economic sanctions — giving diplomacy a chance — and giving President Hussein a period of time to withdraw from Kuwait. The speaker stressed that, in the resolution just adopted, the Council was saying that, should Iraq choose to ignore its obligations under international law, and under Security Council resolutions, the Member States, cooperating with the Government of Kuwait, would be authorized to use all necessary means, including the use of force, to ensure Iraq's compliance with those resolutions. Whether force was actually used was up to Iraq. It had been offered a pause of goodwill — a period of time in which it could reverse the actions it had taken. If Iraq did have legitimate concerns with Kuwait, those should be negotiated by the two Governments, as contemplated in resolution 660 (1990), the first

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<sup>159</sup> *Ibid.*, pp. 66-68.

adopted by the Council in response to the invasion. However, Iraq must first comply with the Council's resolutions. As to other existing tensions in the Middle East, Canada believed that, if the new unity of the international community and collective determination of the Security Council could be sustained, then a just, lasting and comprehensive solution to the Arab-Israeli dispute might be within grasp. That was a matter that could only be addressed, however, separately from the current crisis; Iraq's offence was *sui generis* and its undoing, according to the principles of international law and the interests of international security, was essential.<sup>160</sup>

The representative of Malaysia observed that the resolution just adopted presented Iraq, in clear terms, with the choice of complying with the relevant resolutions within a specific time frame or facing the certainty of force authorized by the Council. The decision to support the resolution had not been an easy one for his country. However, as a small nation and a member of the Organization of the Islamic Conference and the Non-Aligned Movement, it was Malaysia's duty to support and uphold the unity and resolve of the Council to reverse aggression and to restore peace. Malaysia's stand against strong nations invading or annexing small ones was well known; it applied not only to Iraq but to all others. The international community could not compromise on this if it were to build strong foundations for a new world order. As for allowing more time for sanctions to have the necessary impact, the Council was faced with the reality that it would be months before it could be deduced that sanctions had had effects. In the meantime, Iraq had shown no indication of complying with the Council's resolutions, the destruction of Kuwait and the atrocities against its people continued, and several thousand foreigners remained as hostages. Malaysia wished to make it clear, however, that its support for resolution 678 (1990) was not without reservations. The authorization of force, in the event that Iraq did not comply within the time frame specified, could only be done under the terms of the Charter of the United Nations. Malaysia had not agreed to any attempt unilaterally to apply Article 51 of the Charter once the Council was seized of the matter. In this regard, it had always insisted on the centrality of the United Nations role in the maintenance of international peace and security. Any proposed use of force must be brought

before the Council for its prior approval, in accordance with the provisions of Chapter VII of the Charter. The speaker regretted that the resolution did not adequately reflect the point that when the Council authorized countries to use force, those countries were fully accountable for their actions to the Council through a clear system of reporting and accountability. Such a precedent might not bode well for the future. He added that resolution 678 (1990) did not provide a blank cheque for an excessive or indiscriminate use of force. The Council had not authorized actions outside the context of its resolutions 660 (1990), 662 (1990) and 664 (1990). Malaysia warned against any action purportedly taken under the resolution that would lead to the virtual destruction of Iraq. On the question of the Palestinians in the occupied territories, the speaker expressed his disappointment with the Council over its inability for more than three weeks to address the matter properly and have a vote, which raised questions on the procedure and conduct of the Council.<sup>161</sup> While it was absurd to speak of linkages, each action of the Council was evaluated, one against the other. With regard to the situation under consideration, his delegation hoped that Iraq would take advantage of the period given, as a pause of goodwill, for it to take stock of the situation. Steps taken by Iraq to comply with the relevant resolutions would enhance the prospects for a peace framework that would fully address issues between Iraq and Kuwait, bring about an early removal of foreign forces from the region, and allow for a positive consideration of the wider questions of peace and security in the region. Efforts along those lines being pursued by Colombia had Malaysia's support. It felt that such a framework could become a complement to resolution 678 (1990), facilitating Iraqi compliance. The speaker concluded by imploring Iraq to comply with the Council's resolutions, adding that the onus for the avoidance of the use of force was clearly on Iraq.<sup>162</sup>

The representative of the United Kingdom stated that the Council had gathered to make a strong bid for peace. No State represented on the Council had any zest for war. With the resolution just adopted, the Council had put into place the latest and strongest of the peaceful pressures on Iraq. The speaker acknowledged that there had been many acts of

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<sup>160</sup> *Ibid.*, pp. 69-74.

<sup>161</sup> See also the consideration of rule 2 of the Council's provisional rules of procedure, in chapter I, cases 1-4.

<sup>162</sup> S/PV.2963, pp. 74-78.

international injustice since 1945, and that too many of them still persisted. However, in a world composed of nation States, and in an organization like the United Nations, which consisted solely of nation States, the obliteration of one Member State by another was an act on its own. Such an act of aggression undermined and threatened the whole structure of international order. The response of the international community had therefore been swift and severe, but also peaceful. Nearly four months had passed since the aggression. Sanctions were in place and had been convincingly applied. One of the main purposes of the resolution just adopted was to remove any uncertainties and set out for Iraq exactly how it stood and how the Council stood. There was no ambiguity about what the Council required: Iraq must withdraw all its forces unconditionally and completely to the positions on which they had stood on 1 August. If not, then Member States, acting with the Government of Kuwait, were authorized to use such force as necessary to compel compliance. Like the representative of France, the speaker stated that, from then until the expiry of the 15 January 1991 deadline, unless there was any adverse change in circumstances, his Government did not intend to introduce or support any Council action to extend the scope or nature of the sanctions or any new measures in the Council against Iraq. However, it reserved its rights under the Charter should Iraq allow any harm to come to the foreign nationals whom it was holding against their will. He also recalled the terms of paragraph 13 of resolution 670 (1990), under which individuals were held personally responsible for grave breaches of the Geneva Convention, and stated that the United Kingdom would also hold personally responsible those involved in violations of the laws of armed conflict, including the prohibition against initiating the use of chemicals or biological weapons contrary to the Geneva Protocol of 1925, to which Iraq was a party. The speaker concluded that there was an option for peace, which Iraq held in its hands. The international community had not added that day to its demands. It was not asking for anything except the reversal of the aggression. The Iraqis now had a period of grace in which to respond. By 15 January — the date in the resolution — the aggression would be nearly six months old. No one could accuse the Council of impatience. The military option was reality,

not bluff; if it had to be used, it would be used with the full backing of the Council.<sup>163</sup>

The representative of Finland said that the invasion of Iraq by Kuwait had created a situation of unprecedented danger. Iraqi aggression imperilled the very existence of a State Member of the Organization, had created human suffering on a vast scale, and directly challenged the system of collective security under the Charter. Collective security meant that the security of Kuwait was also the security of all other States, particularly of the smaller ones. The foundations of their own security were at stake. The world community had shown determination in the face of that aggression: the occupation would not be allowed to stand. However, it had also shown much patience. The Council had taken action as provided for under Chapter VII of the Charter, with the sanctions imposed four months before remaining the principal instrument deployed to persuade the Iraqi leadership of the need to change course. According to the Charter, should the Council consider that economic and diplomatic measures have proved to be inadequate, it may take further action as may be necessary to restore international peace and security. Acting under those provisions, the Council was simply giving effect to what was the core of the United Nations system of collective security. The authority of the Council must be upheld. It was confronted with the situation in which one Member State claimed the right to obliterate another. Such an act was precisely the kind of aggression that the drafters of the Charter had intended to prevent, and if necessary, suppress. The speaker concluded that it was late, but not yet too late for Iraq to do what was necessary for the achievement of a peaceful solution to the crisis. The resolution just adopted should be regarded as a warning. As others had noted, there were no plans to extend in the coming period, until the date mentioned in the resolution, the scope of the sanctions already in force. Those weeks should be fully used to achieve a peaceful way out of the crisis. The good offices of the Secretary-General were available in that regard.<sup>164</sup>

The representative of Côte d'Ivoire stated that the resolution just adopted was a logical outcome of Iraq's non-compliance with the resolutions adopted earlier by the Council, especially resolution 660 (1990). The Iraqi

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<sup>163</sup> Ibid., pp. 78-83.

<sup>164</sup> Ibid., pp. 83-85.

leaders would not attain their objective of leading the international community to accept out of weariness a situation entailing the occupation, subjugation and destruction of an independent State Member of the United Nations. The international community could not allow a dangerous precedent to be set that would create serious threats to the peace for the great majority of the small States that made up the United Nations and for which the Charter was the best shield in the preservation of their sovereignty and integrity. It could not allow aggression such as that committed by Iraq against a small neighbouring country to thwart the Organization's efforts to establish peace, whether regional or global. The speaker said that his Government hoped that the resolution just adopted would be perceived by Iraq's leaders as a reflection of the international community's determination to ensure respect, by all necessary means, for the purposes and principles of the Charter. Further, it hoped that the ultimate goal of the resolution was, according to the well-known adage, to know how to show one's strength in order not to have to use it.<sup>165</sup>

The representative of the Union of Soviet Socialist Republics underlined the logic in the actions of the Council, which from the outset had acted with cohesion and consistency and, at the same time, in a responsible and prudent manner, in strict conformity with the letter and spirit of the Charter in its modern interpretation. There was justice and a large measure of magnanimity in the resolution just adopted. As the end of the fourth month of the crisis approached, the international community was showing genuine magnanimity and giving the side that had breached the peace time to think again. At the same time, it was giving the victim in the crisis a firm pledge that it would not have to wait much longer, that help was on the way and that its rights would be fully restored. The countdown of the "pause of goodwill" had started that day. The Soviet Union believed that it would usher in a transition to a political settlement. No member of the Council wanted or sought a tragic outcome. However, there should be no mistake about the collective will of the international community as expressed in the Council, or about its resolve and readiness to act. Those who had breached the peace should know that "all necessary means" would indeed inexorably be used against them. The speaker added that the Soviet Union, like some previous speakers, did not favour linkages in

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<sup>165</sup> Ibid., pp. 86-87.

politics, least of all those that seemed to require the creation of a new problem in order to solve an old one, or the enslavement of one nation in order to promote the freedom of another. However, nor did it see any logic in artificially holding back efforts to solve a long-standing problem just because of the emergence of a new one that had to be addressed first. The Soviet Union believed that the international community and the United Nations should continue what it had been doing for many years: seeking a path towards a comprehensive settlement of the whole complex of Middle East problems that had existed prior to 2 August 1992. For its part, it would continue to do so, while maintaining a clear and straightforward position on the Gulf crisis. The speaker stressed that the purpose of the resolution just adopted was to put an end to the aggression and make it clear to the world that aggression could not be rewarded. He added that the Soviet Union would be guided by the following precepts, to which some previous speakers had already referred. Assuming that there were no adverse changes in the circumstances, his Government did not intend to introduce or support any Council action to extend the scope or nature of the sanctions, or any new measures of the Council against Iraq during the period of the "pause of goodwill". However, the Soviet Union reserved its rights under the Charter, including its rights should the Government of Iraq allow any harm to come to foreign nationals whom it was holding against their will. Lastly, his Government recalled the terms of paragraph 13 of resolution 670 (1990), under which individuals were held personally responsible for grave breaches of the Fourth Geneva Convention, and stated that all those involved in violations of the laws of armed conflict, including the prohibition against initiating the use of chemical or biological weapons contrary to the Geneva Protocol of 1925, to which Iraq was a party, would similarly be held personally responsible. The speaker concluded by expressing the confidence that the international community would be able to overcome the crisis peacefully, in a political way.<sup>166</sup>

The representative of Romania said that his country continued to believe that every effort should be made to ease the existing tension politically and to solve the issues at stake by peaceful means, in accordance with the resolutions of the Security Council. He thought full use should be made of the

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<sup>166</sup> Ibid., pp. 88-96.

potential of the Charter and the resources offered by it — especially the capabilities of the Security Council and the good offices and other initiatives that might be undertaken by the Secretary-General. At the same time, noting that the current course of events challenged the credibility of the United Nations and of the Security Council, in particular, he stressed that the Council should prove its capacity to ensure the implementation of and respect for its own decisions. This had led his country to conclude that the Security Council should use all the means at its disposal, including those provided for in Chapter VII of the Charter with respect to threats to the peace, breaches of the peace and acts of aggression. Hence its support for the resolution just adopted. He stressed, however, that it was not too late for the Iraqi authorities to heed the voice of reason and choose a course of action leading to the restoration of peace in the area.<sup>167</sup>

The President, speaking in his capacity as the representative of the United States, stated that the Council's vote marked a watershed in the history of the United Nations. Faced with Iraq's aggression, the nations of the world had not stood idly by. They had taken political, economic and military measures to quarantine Iraq and contain its aggression. A coordinated international effort involving over 50 States had been worked out to provide assistance to those nations most in need as a consequence of the economic embargo against Iraq. The military forces of over 27 nations had been deployed to defend Iraq's neighbours from further aggression and to implement the resolutions of the Council. The 12 resolutions adopted by the Council had clearly established that there was a peaceful way out of the conflict — through the complete, immediate and unconditional Iraqi withdrawal from Kuwait, the restoration of Kuwait's legitimate Government and the release of all hostages. The speaker observed that all this could not have taken place unless most nations shared his own country's vision of what was at stake. Saddam Hussein's actions, the vast arms he possessed and the weapons of mass destruction he sought indicated clearly that Kuwait was not only not the first, but probably not the last target on his list. If he should win this struggle, there would be no peace in the Middle East. If he should come to dominate the resources of the Gulf, his ambitions would threaten all of them in the Council and the economic well-being of all nations. Finally, if Iraq

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<sup>167</sup> Ibid., pp. 97-100.

should emerge from this conflict with territory, treasure or political advantage, then the lesson would be clear: aggression paid. The speaker reiterated that the lesson of the 1930s must be remembered and that aggression must not be rewarded. Since 2 August, many nations had worked together to prove just that. Many unprecedented actions had been taken, resulting in a newly effective Security Council, free of the constraints of the cold war. However, Saddam Hussein had not recoiled from his aggression. He apparently did not believe that the international community would stand united until he withdrew. The Council was meeting that day, therefore, first and foremost, as other speakers had pointed out, to dispel his illusions. He must know from the Council that a refusal to comply peacefully with its resolutions risked disaster for him. The resolution just adopted was very clear. It authorized the use of force. The purpose, though, as many had said, was to bring about a peaceful resolution of the problem. The United States concurred with other Council members that the adoption of resolution 678 (1990) should lead to a pause in the Council's efforts — assuming no adverse change in circumstances. It did so while retaining its rights, as other nations had, to protect its nationals in Iraq, and mindful of the terms of the Fourth Geneva Convention and the Geneva Protocol of 1925, should Saddam Hussein use chemical or biological weapons. By adopting resolution 678 (1990), which was a pause for peace, the Council was presenting the Iraqi leader with a choice: he could choose peace by respecting the will of the international community; or risk all. The speaker concluded that if the Council failed to redress this aggression, more would be lost than just peace in the Gulf. As evidenced in Europe, the end of the Cold War presented a new opportunity to get beyond the whole pattern of settling conflicts by force. That opportunity could be seized, or the international community could slip back into ever more savage regional conflicts in which might alone made right. The speaker thought the Council had the courage and the fortitude to choose what was right.<sup>168</sup>

The Secretary-General of the United Nations remarked that the Security Council had taken a decision of immense portent. He stressed that the resolution just adopted envisaged at least 45 days of earnest efforts to achieve a peaceful solution of the crisis. Mindful of the responsibility inherent in his

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<sup>168</sup> Ibid., pp. 101-105.

office, he expressed the hope that the time would be used constructively. He emphasized that, in requiring compliance with the resolutions of the Security Council, the United Nations was not seeking surrender but the most honourable way of resolving a crisis in a manner that respected all legitimate interests and was conducive to the wider peace and the rule of law. The situation required that diplomatic efforts be made with renewed determination to resolve the crisis peacefully. He added that a collective engagement required a discipline all its own. Moreover, the actions of the United Nations to correct this international wrong must be perceived as part of the larger endeavour to establish peace through justice, wherever the one was imperilled and the other had been denied.<sup>169</sup>

The representative of Kuwait expressed gratitude to the members of the Council on behalf of the Kuwaiti people for the decision taken, which reinforced their hopes and strengthened their resolve. The Council's resolution sent a strong, unequivocal, message to the whole world that aggression would be reversed and that the era of the use of force had come to an end.<sup>170</sup>

**Decision of 13 February 1991 (2977th meeting,  
part I): to hold a meeting of the Security  
Council in private**

By a letter dated 23 January 1991 addressed to the President of the Security Council,<sup>171</sup> the representatives of Algeria, the Libyan Arab Jamahiriya, Mauritania, Morocco and Tunisia, as members of the Arab Maghreb Union, requested an urgent meeting of the Security Council to consider the grave situation in the Gulf region.

By a letter dated 24 January 1991 addressed to the President of the Security Council,<sup>172</sup> the representative of Yemen also requested an immediate meeting of the Security Council to examine the grave situation in the Gulf region.

By a letter dated 28 January 1991 addressed to the President of the Security Council,<sup>173</sup> the representative of Cuba requested a formal meeting of the Security Council as soon as possible to review the situation in the Gulf. He emphasized that the only

legitimate way for the Council to assume its responsibilities under the Charter of the United Nations for the maintenance of international peace and security was to hold a formal debate and to take appropriate steps to end the hostilities and bring the conflict towards a diplomatic and peaceful solution. Noting that requests for a meeting had been made by a number of delegations, including another member of the Security Council, he explicitly invoked rules 2 and 3 of the Council's provisional rules of procedure and Article 35 of the Charter and stated that the Council was compelled to take action when requested to do so by a Member State.

At the first part of its 2977th meeting, on 13 February 1991, the Council included the three above-mentioned letters in its agenda, under the item entitled "The situation between Iraq and Kuwait".

Following the adoption of the agenda, the representative of the United Kingdom moved, in accordance with rule 48 of the Council's provisional rules of procedure, that the Council should decide to meet in private to consider the item on the agenda. The rules of procedure provided for private meetings in exceptional circumstances and the current circumstances were, in his view, exceptional. In response to Iraq's invasion of Kuwait, the Council had adopted a series of resolutions on the basis of which military action had been undertaken and diplomacy was under way. The Council therefore had responsibilities to take into account when deciding how it should act in the context of the present requests for a meeting. It could not afford to send mixed signals, which might delay the realization that a peaceful solution to the crisis had to begin with an Iraqi withdrawal from Kuwait. If members or non-members of the Council had proposals to make, they should be heard, but the Council ought to explore carefully how those proposals would assist its objectives and, above all, how they had been received by Iraq. Such exploratory discussion was better handled in a private meeting, as had been done in the context of Western Sahara in 1975. His delegation had no intention of restricting participation by Member States or invoking rule 51 of the provisional rules of procedure: the normal verbatim record should be taken and circulated. It did believe, however, that the Council would carry out its functions better if the public aspect of the meeting — the presence of the media — did not

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<sup>169</sup> Ibid., p. 106.

<sup>170</sup> Ibid., pp. 107-108.

<sup>171</sup> S/22135.

<sup>172</sup> S/22144.

<sup>173</sup> S/22157.



influence or even distort the course and nature of the debate.<sup>174</sup>

There followed a procedural discussion on the proposal made by the United Kingdom that the meeting be continued in private.<sup>175</sup> The proposal was put to the vote and adopted by 9 votes in favour, 2 against (Cuba, Yemen) and 4 abstentions (China, Ecuador, India, Zimbabwe).

Following the vote, the President suspended the meeting and said that the agenda would be revised to reflect the private character of the meeting.<sup>176</sup>

Pursuant to the Council's decision, the second part of the 2977th meeting was held in private, with five suspensions and resumptions, from 13 February to 2 March 1991.<sup>177</sup>

At the second part of its 2977th meeting, on 14 February 1991, the Council invited the representatives of the following countries, at their request, to participate in the discussion without the right to vote: Argentina, Australia, Bangladesh, Brazil, Brunei Darussalam, Bulgaria, Canada, Chile, Colombia, the Comoros, Cyprus, Czechoslovakia, Denmark, Egypt, Finland, Germany, Greece, Honduras, Hungary, Iceland, Indonesia, the Islamic Republic of Iran, Iraq, Ireland, Israel, Italy, Japan, Kuwait, Liechtenstein, Luxembourg, Malaysia, Mexico, Myanmar, the Netherlands, New Zealand, Norway, Pakistan, Peru, the Philippines, Poland, Portugal, Qatar, Saudi Arabia, Senegal, Singapore, South Africa, Spain, the Sudan, Sweden, the Syrian Arab Republic, Thailand, Turkey, the Ukrainian Soviet Socialist Republic, the United Arab Emirates, Uruguay, Venezuela and Yugoslavia.

At the request of the representatives of Egypt and Belgium, respectively, the Council also extended

invitations under rule 39 of its provisional rules of procedure to Mr. A. Engin Ansay, Permanent Observer of the Organization of the Islamic Conference to the United Nations, and Mrs. Arlette Laurent, Chargé d'affaires of the delegation of the Commission of the European Economic Community.

The President (Zimbabwe) then drew the attention of the members of the Council to letters dated 23 and 24 January 1991, respectively, from the representatives of the Sudan and Jordan addressed to the President of the Security Council,<sup>178</sup> supporting the requests for the meeting. He also drew their attention to a number of other documents.<sup>179</sup>

The representative of Kuwait stated that in authorizing the multinational forces that were cooperating with his country to use force, the Council had resorted to the only means left to it by the intransigent Iraqi regime. Iraq had been the first to wage war. It was now escalating its inhuman practices, which had been condemned by an overwhelming majority in the General Assembly. Lamentably, some Arab countries had lagged behind the international consensus by not repudiating Iraq's policy. They were now requesting the convening of the Security Council to consider their allegation that current military operations aimed at destroying Iraq. The speaker stressed that, from the beginning, the Council had pursued the paths prescribed by the Charter. Hence the imposition of sanctions against Iraq, combined with diplomatic endeavours. Since Iraq had rebuffed those efforts, the Security Council, in its resolution 678 (1990), had given it a period of 47 days to withdraw its forces from Kuwait, failing which the international coalition had been authorized to use all possible means to liberate Kuwait. Numerous démarches had been made during that period, including by the United Nations Secretary-General, but they had yielded no noteworthy results. The Iraqi aggression's effects on international peace and security had necessitated a decisive move and military operations had begun. They had been conducted within the context of resolution

<sup>174</sup> S/PV.2977 (Part I), pp. 2-4.

<sup>175</sup> For the procedural discussion, see S/PV.2977 (Part I), pp. 4-65; see also chapter I, case 18.

<sup>176</sup> The agenda for the 2977th meeting was issued in two parts, to reflect the public character of the first part of the meeting and the private character of the second part; see, respectively, S/Agenda/2977 (Part I) and S/Agenda/2977 (Part II) and Rev.1.

<sup>177</sup> See S/PV.2977 (Part II) (closed), S/PV.2977 (Part II) (closed-resumption 1), S/PV.2977 (Part II) (closed-resumption 2), S/PV.2977 (Part II) (closed-resumption 3), S/PV.2977 (Part II) (closed-resumption 4) and S/PV.2977 (Part II) (closed-resumption 5).

<sup>178</sup> S/22138 and S/22147.

<sup>179</sup> S/22136, S/22137, S/22139-S/22146, S/22149-S/22156, S/22158, S/22159, S/22160/Rev.1, S/22162-S/22166, S/22168, S/22169, S/22172, S/22173, S/22174, S/22178-S/22183, S/22185-S/22192, S/22194, S/22195, S/22197, S/22199, S/22200, S/22201, S/22203, S/22204, S/22205, S/22206, S/22210, S/22211, S/22213-S/22219 and S/22222.

678 (1990). The fighting had not been expanded, nor had it aimed at the destruction of Iraq. The speaker stressed that Iraq did not deserve to be rewarded for its aggression, occupation and atrocities and that there should be no ceasefire before the complete liberation of Kuwait. The Iraqi leadership was yearning for disunity to plague the ranks of the Security Council, but the Council had remained united in the face of such flagrant violations of all the principles of the Charter. By their heroic action, the international forces were for the first time in the history of the United Nations reaffirming collective security and self-defence. A world order was dawning, fashioned by the United Nations. The speaker concluded by saying that he was at the President's disposal for any clarifications or questions.<sup>180</sup>

The representative of the United States addressed a few questions to the representative of Kuwait, in keeping with the Council's provisional rules of procedure and past practice, and its decision to do everything possible to make the private meeting fruitful and productive. He asked him to describe the status of the efforts of the Government of Kuwait to reach a negotiated settlement of the border and other disputes with Iraq before 2 August 1990. In addition, he enquired whether Kuwait was prepared, in the words of paragraph 3 of Security Council resolution 660 (1990), to begin negotiations with Iraq to resolve that dispute once Iraq had complied with the other elements in that resolution; whether the Government of Kuwait had received from Iraq at any time an indication of any sort that a negotiated settlement consistent with the resolutions of the Security Council was possible; and, finally, whether Kuwait believed or had any reason to believe that a ceasefire would help to resolve the problem and to promote the complete withdrawal of Iraqi forces.<sup>181</sup>

The representative of Saudi Arabia, the next speaker on the list, said that if the President wished to give the opportunity to the representative of Kuwait to answer the questions that had been addressed to him, he would wait until he had done so; otherwise, he would proceed with his statement.<sup>182</sup>

A procedural debate followed concerning the application of rule 27 of the Council's provisional rules

of procedure.<sup>183</sup> The President concluded that since the representative of Saudi Arabia had not intended to cede his place on the list of speakers to the representative of Kuwait, the former still had the floor; the representative of Kuwait could reply to the questions at a later stage.

The representative of Saudi Arabia recalled that, for the second time in its history, the United Nations had resorted to war, a war to implement Security Council resolutions and international legitimacy, a war for which the Iraqi regime bore full responsibility. For the apologists of the Iraqi aggression to call for peace at the United Nations instead of in Baghdad was hypocritical and deceptive. Only Iraq's withdrawal and implementation of the Council's resolutions would bring the military operations to a stop.<sup>184</sup>

The representative of Qatar, speaking also in his capacity as Chairman of the Gulf Cooperation Council, called on the Council to remain committed to the resolutions it had adopted and to resort to all means to secure their implementation. Any slackening on the part of the Council would constitute a setback to international legitimacy and undermine the ability of the United Nations to restore international peace and security and compel compliance by those who failed to respect its decisions.<sup>185</sup>

The representative of Iraq observed that the Council's inability to meet for more than three weeks, in contradiction of its rules of procedure, confirmed that the Council had become an American instrument for the covering up of the worst of international crimes. It had no credibility or legitimacy. Furthermore, the attempt to turn the public meeting, as required by the provisional rules of procedure, into a private meeting was aimed at denying some Member States the opportunity to unmask the crimes being perpetrated in the name of the Council. As a result, the majority of States that had requested the meeting were now boycotting it. Another attempt had just been made to prevent some Member States from speaking at an appropriate time. It had fortunately failed. The speaker claimed that, in resolution 678 (1990), the United States had found a fig leaf to cover up its aggression against Iraq, making the States members of the

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<sup>180</sup> S/PV.2977 (Part II) (closed), pp. 7-25.

<sup>181</sup> *Ibid.*, pp. 26-27.

<sup>182</sup> *Ibid.*, p. 27.

<sup>183</sup> For the procedural debate, see S/PV.2911 (Part II) (closed), pp. 27-36; see also chapter I, case 12.

<sup>184</sup> S/PV.2977 (Part II) (closed), pp. 36-45.

<sup>185</sup> *Ibid.*, pp. 46-56.

Council, which adopted it, co-perpetrators of the crime. He pointed out that the only State that had voted against the resolution adopted by the General Assembly on 4 December 1990 prohibiting attacks on nuclear facilities — the United States — was the one that had conducted attacks against the peaceful Iraqi nuclear facilities under international supervision. Such acts not only exceeded the framework of resolution 678 (1990); they represented an international crime to which the provisions of Chapter VII of the Charter should be applied against the United States and its collaborators in aggression. The aggressors had not stopped at violating the Charter and exceeding the objectives and limits of resolution 678 (1990). They had violated the Fourth Geneva Convention, the Treaty on the Non-Proliferation of Nuclear Weapons, the Universal Declaration of Human Rights, the General Assembly resolution prohibiting attacks on nuclear facilities, and all religious and moral values. In sum, they had perpetrated and continued to perpetrate international crimes. Iraq was now in a heroic war against old-time colonialism, whose victims saw the so-called new international order as a new era of terrorism and a threat against peoples striving for their freedom and independence, and to relations of equality among States. It would exercise its right to self-defence until the United States and its co-criminals withdrew.<sup>186</sup>

The representative of the United Kingdom deemed it appropriate, in addition to the submission of the regular reports called for in resolution 678 (1990) which States were already providing, to use the occasion of the first formal meeting since the deadline of 15 January 1991 to address a number of issues. Referring to suggestions that military action being taken by the allies was in some way excessive or disproportionate and thus exceeded the “all necessary means” authorized in resolution 678 (1990), he stated that the nature and scope of the military action was dictated by the military capacity of the aggressor. In global terms, Iraq had the fourth largest army in the world. It was that military machine which had to be removed from Kuwait by force. The fighting could not be confined to the territory of Kuwait since the logistical support and resources of the huge Iraqi war machine extended far beyond the confines of Kuwait. However, that did not mean that the allies had extended their objectives beyond those laid down in successive

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<sup>186</sup> Ibid., pp. 56-72.

Council resolutions. They were seeking the liberation of Kuwait, no more, no less. The military action would end as soon as that objective had been achieved. With respect to civilian casualties, the allied forces had been instructed to keep them to a minimum, in sharp contrast to Iraq’s performance. However, there was increasing evidence that military equipment and installations were being moved into civilian areas to protect them from allied attacks. As far as diplomatic efforts were concerned, they should not be discouraged so long as they were based on the Council’s resolutions, but, to be realistic, they must begin in Baghdad. In the current circumstances, the idea of an unconditional pause made no sense at all. The conflict was not a war of the weak against the strong, an Arab war, or a Muslim holy war. It was a confrontation between collective security, as provided for in the Charter, and the law of the jungle. In concluding, the speaker addressed a few questions to the representatives of Iraq and Saudi Arabia, and looked forward to hearing the answers to the questions put to the representative of Kuwait. He asked the representative of Iraq whether Iraq would withdraw immediately and unconditionally from Kuwait, whether it would give an undertaking to abide by the Geneva Convention regarding the treatment of prisoners of war, how it was treating prisoners of war from the countries of the allies, and whether Iraq would commit itself to abiding by its international obligations not to use chemical or biological weapons. He asked the representative of Saudi Arabia about the nature of the military threat which Iraq had represented since 2 August 1990 and continued to represent, and whether Saudi Arabia had received any indications of Iraq’s readiness to comply with Security Council resolutions and withdraw from Kuwait.<sup>187</sup>

The representative of China recalled his country’s position that the Gulf crisis should be settled through peaceful means. Expressing concern at the possibility of a protracted and expanded war, he called upon the belligerent parties to exercise the greatest restraint and seek a peaceful solution. Progress towards peace also required that Iraq should signify its immediate withdrawal from Kuwait, that the settlement of the Middle East question should be scheduled, that post-war arrangements should be made mainly by the

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<sup>187</sup> Ibid., pp. 72-79.

countries in the region and that foreign military forces should withdraw from the Gulf region.<sup>188</sup>

The representative of Romania informed the Council that, in accordance with paragraph 3 of resolution 678 (1990), in which all States were requested to provide appropriate support for the actions undertaken to liberate Kuwait and to restore international peace and security in the Gulf area, Romania had decided to send a surgical hospital and a decontamination unit to Saudi Arabia. Invoking Article 50 of the Charter, he pointed out that the sanctions against Iraq had meant considerable losses for his country; but Romania was nevertheless strictly implementing them. He strongly rejected any suggestion made during the debate of manipulation or malpractices by the Council. At the same time, he urged that, even at this critical stage in the conflict, the Council make maximum use of political and diplomatic means.<sup>189</sup>

The representative of Austria also believed that diplomatic efforts should be intensified. The way in which the Council dealt with, and finally resolved, the conflict would be of paradigmatic importance not only for the future of the region, but also for the concept of collective security and the role of the United Nations. The Council ought to uphold, and if necessary enforce, the rule of law in a just and fair manner and its decisions should, as much as possible, represent the collective will of the international community. Only in that way would it maintain its political and moral legitimacy.<sup>190</sup>

The representative of Ecuador pointed out that a substantive debate had begun the day before, which militated against continuing the meeting in private. Emphasizing that Iraq had violated the most important principles of the Charter, he urged that diplomatic efforts be redoubled and that flexibility be shown to find a solution based on strict compliance with the Council resolutions which embodied those principles. He added that it would be necessary in due course to consider the framework within which to seek implementation of all resolutions of the Council pertaining to the problems of the region, but that implementation of the 12 Council resolutions on the

Gulf problem was not conditional upon any considerations extraneous to that specific problem.<sup>191</sup>

The representative of Belgium recalled that similar violations of international law had led to the Second World War and that the United Nations had been founded precisely to put a rapid end to any such threat. On the proposals put forward by the countries that had requested the meeting, the position of his Government was that a truce would be interpreted by Iraq as a sign of weakness and would only prolong hostilities, but that the use of force should not put a halt to diplomacy. He added that States had all been urged to show solidarity with States cooperating in the liberation of Kuwait, the resolutions leaving it up to them freely to determine the level of their commitment. To that end, Belgium had contributed to the collective effort through military support and by means of considerable medical assistance. It would provide humanitarian assistance to the civilian population in Iraq and Kuwait and to the refugees, and was providing financial assistance to those countries most affected by the economic consequences of the conflict.<sup>192</sup>

The representative of the Union of Soviet Socialist Republics pointed out that, because of Iraq's rigid intransigence, the world had found itself faced with a most dangerous armed confrontation whose alarming reverberations went far beyond the boundaries of the Middle East. Further escalation of the conflict might create a danger exceeding the mandate of the Council's resolutions. Acts of provocation attempting to involve Israel and other States in the armed conflict, as well as the possible use of weapons of mass destruction, above all chemical and bacteriological weapons, were of concern to his country. Through its diplomatic initiatives, the Soviet Union wished not only to assist in ending the war, but also to begin preparations for a lasting system of security on an equal footing in the region. As to the present meeting of the Council, it was a clear signal to the Iraqi leadership that it had to comply with all the just and well-founded decisions of the Security Council and declare an immediate, full and unconditional withdrawal from Kuwait.<sup>193</sup>

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<sup>188</sup> Ibid., pp. 80-82.

<sup>189</sup> Ibid., pp. 82-88.

<sup>190</sup> Ibid., pp. 88-92.

<sup>191</sup> Ibid., pp. 93-102.

<sup>192</sup> Ibid., pp. 102-110.

<sup>193</sup> Ibid., pp. 111-114.

The President of the Council, with the concurrence of the members of the Council, then suspended the meeting until the following morning.

Upon the resumption of the 2977th meeting on 15 February 1991, the President of the Council drew the attention of the members of the Council to a letter dated 14 February 1991 from the representative of Iraq to the Secretary-General,<sup>194</sup> and a letter dated 13 February 1991 from the representative of Tunisia to the President of the Council.<sup>195</sup>

The representative of India drew the attention of the Council to a communiqué issued by the Revolutionary Command Council of Iraq that morning regarding Security Council resolution 660 (1990) with the aim of reaching an honourable and acceptable political solution, including withdrawal.<sup>196</sup> Underlining the Council's responsibility both to ensure implementation of resolution 660 (1990) and to save the Gulf region from further bloodshed and destruction, he said that the Council should not miss any opportunity for peace, however small it might seem. In taking note of the reported offer from Iraq, it should discuss what it could do to promote a peaceful resolution of the crisis. This would strengthen its prestige, credibility and functioning. Secondly, the Council's efforts should be underpinned by an immediate cessation, or at the least a suspension, of hostilities in the Gulf. Finally, the Council should request the Secretary-General urgently to examine what needed to be done to achieve a peaceful settlement of the crisis.<sup>197</sup>

The representative of France recalled his country's approach to the Gulf crisis and its attempts to make Iraq abide by the Security Council's resolutions, including a recent initiative, which provided for a final appeal by the United Nations to the Iraqi leaders before the end of the pause of good will set out in resolution 678 (1990). Those proposals were still valid. Turning to the declaration of the Iraqi Revolutionary Command Council, he remarked that, for the first time, the Iraqi authorities envisaged withdrawal from Kuwait. However, they added impossible conditions that did not fall under resolution 660 (1990), which provided for immediate and unconditional withdrawal from

Kuwait. Therefore, their proposal could not be accepted, rendering a Security Council initiative aimed at the suspension of hostilities pointless. France understood the emotion aroused by the military operation in Arab and Islamic public opinion as well as the solidarity felt by non-aligned countries. However, this was not an action pitting the West against the Arab world or the North against the South. It was the result of resolutions adopted by the Security Council on behalf of the entire international community. In due time, it would be for the Council to play its full role in helping to lay down the conditions for lasting peace in the region. In concluding, the speaker hoped that Iraq, whose existence as a sovereign State was not in question, would abide fully by the Council's resolutions.<sup>198</sup>

At the same meeting, the representative of Cuba introduced three draft resolutions.<sup>199</sup> Under the first draft resolution, which explicitly invoked Article 24 of the Charter in its preamble, the Council would have demanded that the bombing of the cities of Iraq be immediately halted and requested that negotiations be intensified without further resort to force. Under the second draft resolution, the Council would have requested the Secretary-General to renew his good offices and report to the Council as soon as possible. Under the third draft resolution, which contained in its preamble explicit references to Article 29 of the Charter and rule 28 of the provisional rules of procedure, the Council would have decided to establish an ad hoc committee, composed of all its members, to consider formulas for achieving a peaceful settlement of the conflict on the basis of its resolutions. The speaker believed that, as mentioned by the representative of India, the Council ought to try to create a framework in which démarches undertaken by others might enjoy the greatest possible success. It should also consider any idea presented by Member States in order to give peace a chance and save lives.<sup>200</sup> The draft resolutions submitted by Cuba were not put to the vote.

The representative of Canada noted that any constructive signal to be drawn from the Iraqi

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<sup>194</sup> S/22224.

<sup>195</sup> S/22225.

<sup>196</sup> S/22229.

<sup>197</sup> S/PV.2977 (Part II) (closed-resumption 1), pp. 115-121.

<sup>198</sup> *Ibid.*, pp. 122-125.

<sup>199</sup> For the texts of the draft resolutions, see (in the order in which they were introduced): S/22232/Rev.3 (as subsequently revised by Cuba); S/22233/Rev.2 (as subsequently revised by Cuba); and S/22231.

<sup>200</sup> S/PV.2977 (Part II) (closed-resumption 1), pp. 126-131.

declaration might well be entirely nullified by the series of conditions it contained. He urged those who had issued that statement to comply fully with the decisions of the Council. The disappointing and painful recourse to force had been the result of reaching the limits of diplomacy. Ultimately, after unprecedented sanctions had been applied and a pause for peace provided, force had been authorized by the Council, under its legal and moral authority. The international community should be gratified that the United Nations, which all too often in its history had not dealt decisively with aggression and conflict, had now proved itself capable of fulfilling the collective security function that its founders had intended. Canada was participating in the military operation precisely because it was authorized by, and in support of, the United Nations. Since the rationale of this conflict was not only the liberation of Kuwait but also the protection of United Nations values, its pursuit and aims had to meet the highest international standards. This meant minimizing the civilian casualties and otherwise adhering to the laws of war. Indeed, the coalition forces had taken great care to restrict their attacks to military targets. As to the aims of the war, they ought to be limited to those agreed to by the United Nations, which did not include the destruction of Iraq. Stressing the need for an early planning of peace, the speaker advocated a significant United Nations role in the field of security, peacekeeping, mediation, disarmament, humanitarian assistance and economic reconstruction and development.<sup>201</sup>

During the course of the debate, a number of representatives of the countries participating in, or contributing to, the multinational forces made similar remarks as to the justification, conduct and goals of the military operation and the efforts needed to restore peace in the whole region. They gave an account of the military, humanitarian and economic assistance they had provided and urged Iraq to fully comply with all Security Council resolutions.<sup>202</sup>

The representative of Malaysia appealed to the Council to weigh every aspect of the Iraqi statement, which, it was hoped, indicated a positive step in the right direction. He stressed that the military action against Iraq was not based on Article 51 nor was it a war between any of the allied countries and Iraq. It was

a United Nations enforcement action under Chapter VII of the Charter, which no country could conduct on the basis of its own imperatives and interests. He expressed alarm at the escalation of the military offensive, which might well go beyond the original objectives contained in the relevant resolutions, and concern at the lack of a clear monitoring role for the United Nations. It was high time that the Council took stock of the conduct of the war; the pursuit of international objectives must not dehumanize it as an institution. It should entrust the Secretary-General with reactivating and intensifying all diplomatic efforts. If the current operation were to constitute a new dimension of United Nations action in the post-cold-war era, Malaysia had to conclude that the initial attempt did not bode well for the future.<sup>203</sup>

The representative of Yugoslavia recalled that his country had fully supported the resolute stance of the Security Council and that, at its initiative, as current Chairman of the Movement of Non-Aligned Countries, the Movement had adopted a similar position. Yugoslavia, whose diplomatic efforts had been stepped up since the outbreak of the military operations, believed that the Iraqi announcement deserved to be studied further. As to the Foreign Ministers of the non-aligned countries, they had recently decided to continue individual and joint efforts directed both towards Iraq and towards the countries of the coalition. Yugoslavia stood ready to cooperate with the Security Council and the Secretary-General to contribute to peace in the Gulf. A stable peace could only be achieved on the basis of the principles of international law and the Charter of the United Nations, and a political solution to the conflict could only be based on the relevant Security Council resolutions.<sup>204</sup>

The representative of the United States indicated that Iraq's statement in the Council offered little hope and that reports coming from Baghdad were not much more encouraging. Iraq had put forward at least a dozen conditions that were unacceptable, in return for purported compliance with resolution 660 (1990). The Council would never accede to the demand that it should abolish 11 of its 12 resolutions on Iraqi aggression against Kuwait. Linkage with the Arab-Israeli issue in the demand for the withdrawal of foreign military forces and equipment from the region,

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<sup>201</sup> *Ibid.*, pp. 136-142.

<sup>202</sup> *Ibid.*, pp. 132-135 (Japan); pp. 143-146 (Italy); pp. 146-152 (Australia); and pp. 161-165 (Germany).

<sup>203</sup> *Ibid.*, pp. 167-176.

<sup>204</sup> *Ibid.*, pp. 176-182.

including Israel, had been unacceptable to the United States Government and to many other Governments. Meeting such demands would turn the purported withdrawal from Kuwait into a system of rewards for Iraq, which was inconceivable. Terming the Iraqi announcement “an obvious attempt to buy time”, the speaker reiterated that a ceasefire without concrete implementation of complete withdrawal was not acceptable. With respect to the three draft resolutions submitted by Cuba, he noted that two of them were unnecessary and one unacceptable. He believed that the Secretary-General needed no further encouragement to use his good offices, since his role under the Charter was clearly set out in paragraphs 12 and 13 of resolution 674 (1990). He did not, moreover, know what a committee of the whole might do that the Council was not able to do then and there, with the participation of all Member States. Finally, he argued that the last draft resolution, which called for a halt in all further use of force, was in effect a ceasefire and that it was not the time for the Council to reverse its course of action and permit the President of Iraq to regroup, repair and rebuild his military machine.<sup>205</sup>

The representative of the Islamic Republic of Iran charged that the Security Council was being misused again by certain permanent members. The United States and its allies had yet to convince the people of the region that domination and control of the political, economic and social life of the region were not among the objectives they were pursuing. The Security Council also had a clear responsibility in that regard — to give guarantees and assurances that all the foreign forces would leave the area immediately after the termination of the hostilities. The international community expected the Council not to be aloof on the diplomatic front. Iraq’s announcement provided the Council with a basis to redouble its efforts to convince Iraq to comply with its resolutions. Moreover, it was incumbent upon it to monitor the situation closely and to take positions of principle on the prevention of violations of international humanitarian law and of both the prolongation and the widening of the conflict, so as not to undermine the credibility of the United Nations as a whole.<sup>206</sup>

At the end of the meeting, the representatives of Cuba, the United States and the United Kingdom

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<sup>205</sup> *Ibid.*, pp. 182-187.

<sup>206</sup> *Ibid.*, pp. 188-195.

discussed the draft resolutions submitted by Cuba, in particular the merits of a committee of the whole as compared to official or unofficial meetings of the Council. The representative of Cuba remarked that the proposed committee would report to the Council, preferably in public. He also noted that unofficial meetings were so informal that no record was kept of what was discussed and agreed, which allowed for distortion of the proceedings.<sup>207</sup>

The President, with the concurrence of the members of the Council, then suspended the meeting until the next day.

Upon the resumption of the 2977th meeting on 16 February 1991, the President of the Council drew the attention of the Council members to the three draft resolutions submitted by Cuba, and to a number of other documents.<sup>208</sup>

The representative of Pakistan advocated united diplomatic efforts by the Muslim Ummah.<sup>209</sup> The representative of the Sudan also believed that the crisis could be handled within an Arab and Islamic context. He called for an immediate cessation of hostilities, as did the representative of Yemen.<sup>210</sup>

The representative of Mexico stressed the need for multilateral efforts and the fundamental role of the Secretary-General. He said that the Security Council should consider a broader debate on the conduct of the war and shoulder its responsibilities under the Charter.<sup>211</sup>

The President, in his capacity as the representative of Zimbabwe, said he believed that the Council should seize the opportunity for peace that the Iraqi announcement might offer.<sup>212</sup> The representative of Sweden also considered that no openings for a peaceful solution that could lead to the implementation of United Nations resolutions should be overlooked

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<sup>207</sup> *Ibid.*, pp. 196-202 and 204 (Cuba); p. 202 (United States); and pp. 202-204 (United Kingdom).

<sup>208</sup> S/22223, S/22227, S/22228, S/22229, S/22230, S/22235 and S/22237, letters dated 14 and 15 February from, respectively, the representatives of Algeria, the United States, Jordan, Iraq, Tunisia and Colombia, and collectively from Algeria, the Libyan Arab Jamahiriya, Mauritania, Morocco and Tunisia.

<sup>209</sup> S/PV.2977 (Part II) (closed-resumption 2), pp. 206-212.

<sup>210</sup> *Ibid.*, pp. 213-217 (Sudan); and pp. 282-287 (Yemen).

<sup>211</sup> *Ibid.*, pp. 217-222.

<sup>212</sup> *Ibid.*, pp. 287-290.

and emphasized the severe humanitarian consequences of the prolonged crisis.<sup>213</sup>

The representative of Turkey emphasized that peace initiatives could not succeed without Iraq's full compliance with the relevant Security Council resolutions.<sup>214</sup>

At the same meeting, the representative of Saudi Arabia replied to the questions addressed to him earlier by the representative of the United Kingdom. Regarding the nature of the military threat posed by Iraq against Saudi Arabia, he stated that Iraq had the same offensive designs towards his country as it had had towards Kuwait, and that Saudi Arabia had had no choice but to take defensive measures. With respect to Iraq's readiness to comply with the Security Council resolutions, he said that his country had not had any more indications than members of the Council had. The latest announcement by Iraq, in which Kuwait was not mentioned, did not augur well for a peaceful settlement. If the Iraqis really meant to stop the war, they would settle the matter that day in one letter from their President as had been done in the case of the question with the Islamic Republic of Iran.<sup>215</sup>

The representative of Kuwait read out the statement issued by his Government following the Iraqi communiqué and answered the questions put to him earlier by the representative of the United States. With respect to the first question, on Kuwait's efforts to negotiate a border demarcation with Iraq before 2 August 1990, he pointed out that since the signing of the border agreement of 1963, Kuwait's many attempts to start the demarcation process had been met with rejection and prevarication. On 15 July 1990, the Government of Iraq had sent to the League of Arab States a note containing four baseless accusations against Kuwait. It had later rejected the Kuwaiti proposal for the establishment of an Arab or international arbitration panel. A meeting had just been held at Jeddah and was to continue in Baghdad, when the Iraqi aggression occurred. As to the second question, whether Kuwait was prepared to begin negotiations with Iraq after it had complied with paragraph 3 of resolution 660 (1990), the speaker declared that, after the complete and unconditional withdrawal of Iraqi forces, Kuwait was ready to

consider with the Government of Iraq all pending matters and solve them by peaceful means. On the question of Iraq's readiness to accept a negotiated solution, he noted that the representative of Iraq found it difficult to say the word "Kuwait", which was not mentioned in the communiqué allegedly indicating Iraq's acceptance of resolution 660 (1990). Replying to the fourth question, he reiterated his country's position that a ceasefire, temporary or durable, partial or comprehensive, would be a wrong signal from the Council to Iraq, which could regroup and again carry out aggression — not only against Kuwait but also against other neighbouring Arab States.<sup>216</sup>

The representative of Iraq restated his reservations regarding the Council's meeting in private. He quoted a statement issued the previous day by Algeria, according to which the military intervention against Iraq was assuming the dimensions of a crime against humanity. He then replied to the questions addressed to him earlier by the representative of the United Kingdom. With regard to Iraq's readiness to withdraw from Kuwaiti territory, he reminded the representatives that resolution 660 (1990), which Iraq was ready to accept, referred not only to withdrawal from Kuwaiti territory, but also to immediate and intensive negotiations. Some countries turned a blind eye to that provision and concentrated on the former, which proved the correctness of the Iraqi position that all the resolutions of the Security Council should be implemented, and that international legitimacy was indivisible and should not be selectively applied. As to whether Iraq respected all the Geneva Conventions, he declared that it did. The prisoners of war were well treated and their safety, health and dignity were guaranteed. Finally, Iraq was committed not to use chemical weapons. However, even in the original Convention on the prohibition of chemical weapons, Iraq had reserved its right to use them in retaliation for their use. Iraq regarded chemical weapons as equivalent to nuclear and other weapons of mass destruction. If any such weapons were used, Iraq would use them too. Moreover, if the intensive high-altitude aerial bombardment continued, Iraq would consider it to be tantamount to the use of weapons of mass destruction. The speaker then put four questions to the representative of the United Kingdom. First, to what extent had the United Kingdom and its allies observed the Geneva Convention relative to the Protection of

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<sup>213</sup> *Ibid.*, pp. 226-230.

<sup>214</sup> *Ibid.*, pp. 223-226.

<sup>215</sup> *Ibid.*, pp. 231-235.

<sup>216</sup> *Ibid.*, pp. 236-251.



Civilian Persons in Time of War, particularly in the light of the indiscriminate nature of the bombing by the United States and the United Kingdom? Secondly, why had the United Kingdom prevented the shipment of medical supplies previously contracted for by Iraq with British companies even though those were not covered by Security Council resolutions? Thirdly, to what extent had the United Kingdom observed the resolution adopted by the General Assembly on 4 December 1990 prohibiting attacks on nuclear facilities? Fourthly, had the British Government taken the necessary measures to prevent the spread of radiation when it had participated in the attacks on those nuclear facilities?<sup>217</sup>

The representative of the United Kingdom observed that the reply given by the representative of Iraq about withdrawal was not the full answer required to get back on all fours with the Council's own resolutions. What was needed was a firm commitment to withdraw and the taking of concrete steps implementing it. Unconditional withdrawal from Kuwait was simply not negotiable. The speaker noted the categorical assertion by the representative of Iraq that his country applied the Geneva Conventions in respect of prisoners of war, and expressed the hope that the Government of Iraq would now fulfil all its obligations in that regard, and that it would, in particular, notify the names of the prisoners and give the International Committee of the Red Cross unconditional access to them. Commenting on the Iraqi communiqué, the speaker said that the offer of withdrawal was hedged about by conditions that contradicted any apparent willingness to accept resolution 660 (1990). As to the three draft resolutions circulated by Cuba, two of them — about the setting up of an ad hoc committee of the Council and the use of the Secretary-General's good offices — were unnecessary, and one, on the bombing of Iraq, was unacceptable.<sup>218</sup>

The representative of the United States stated that, given Iraq's intransigence, the best and only way to bring the conflict to the earliest possible conclusion was to press ahead on all fronts, military and diplomatic. There was no contradiction between the two. Pressure on the battlefield had to be complemented by efforts to convince Iraq that it had to

come to terms with reality. The future and credibility of the United Nations were at stake and the effort to stop aggression through international collective security could not and would not falter. A ceasefire without concrete implementation of withdrawal would not accomplish the objectives of resolution 660 (1990) and would not bring the aggression to a close. The speaker stressed that the coalition was acting under the authority given to it by the Security Council and that its goals, which were simple and straightforward, would be achieved by all its members, in cooperation with the other countries of the Middle East. In keeping with those goals, the coalition had done all it could to minimize civilian casualties, even though Iraq had deliberately placed military materiel and command-and-control centres in or near schools, medical facilities, places of worship and public buildings. This stood in stark contrast with the terror policy of Iraq, which had launched indiscriminate attacks on the civilian population of Saudi Arabia and of Israel, in an effort both to widen and change the nature of the conflict. Iraq had also committed atrocities against Kuwaiti civilians, threatened to use chemical weapons, unleashed an environmental disaster and flouted the Geneva Convention relative to the Treatment of Prisoners of War. The speaker added that, just as a collective effort was required to defeat the aggressor, a collective effort would be needed to work for justice and security in the future. He stressed that respect for the sovereignty of the peoples of the Gulf and the Middle East must lie at the heart of such an effort. The United States joined others in saying that the future of the Gulf region was in the hands of its own people and looked to the Gulf States to take the lead in developing new security arrangements after two major wars in 10 years. No regional State should be excluded and the United Nations and the rest of the international community had a role in encouraging such arrangements. The United States also believed that the time had come to deal with arms proliferation and arms control in the region and that a programme of economic recovery, in which Iraq should participate, had to accompany the effort to improve security. Its hope was that this tragedy would open new prospects for peace in the Gulf and for conciliation and solutions in the Middle East as a whole and that it would confirm the role of the Security Council as a force for collective security.<sup>219</sup>

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<sup>217</sup> *Ibid.*, pp. 251-257.

<sup>218</sup> *Ibid.*, pp. 257-262.

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<sup>219</sup> *Ibid.*, pp. 263-275.

With the concurrence of the members of the Council, the President then suspended the meeting until the following week.

Upon the resumption of the 2977th meeting on 23 February 1991, the President drew the attention of Council members to a number of documents.<sup>220</sup>

The representative of the Union of Soviet Socialist Republics informed the Council of the results of talks held in Moscow during the past few days with the special representative of Iraq. Iraq had agreed to comply with Security Council resolution 660 (1990), that is, immediately and unconditionally to withdraw all its troops from Kuwait to the positions occupied on 1 August 1990. The withdrawal of troops would begin the day after a ceasefire and a halt to all land, sea and air hostilities. The withdrawal of troops would be carried out over 21 days, and troops would be withdrawn from Kuwait City in the course of the first four days. Immediately after the completion of the withdrawal of troops from Kuwait, the reasons for the adoption of other Security Council resolutions would have lapsed, and those resolutions would thus cease to be in force. All military prisoners of war would be released and repatriated in the course of three days following a ceasefire and cessation of hostilities. Confirmation, monitoring and observance of the ceasefire and the withdrawal of troops would be carried out by observers and/or peacekeeping forces to be determined by the Security Council. This proposal raised real prospects for a peaceful settlement of the conflict. It could be further improved, but it represented the best that the Soviet Union had been able to achieve, and stemmed from the unanimity displayed by the international community and the Security Council throughout the conflict. Calling for continued efforts towards a peaceful resolution of the crisis, the speaker observed that all Security Council resolutions should be complied with and that all existing proposals should be integrated into the settlement.<sup>221</sup>

The representative of the United States said that, while the Soviet announcement represented a serious and useful effort, major obstacles remained. The world had to make sure that Iraq had in fact renounced its claim to Kuwait and accepted all relevant Security

Council resolutions. Only the Security Council could lift sanctions against Iraq, and the world needed to be assured in concrete terms of Iraq's peaceful intentions before such action could be taken. So, in a final effort to obtain Iraqi compliance with the will of the international community, his Government, after consulting with the Government of Kuwait and its other coalition partners, had declared that a ground campaign would not be initiated against Iraqi forces if, prior to noon, Saturday, 23 February, New York time, Iraq publicly accepted the following terms and authoritatively communicated that acceptance to the United Nations: Iraq had to begin large-scale withdrawal from Kuwait by noon, New York time, Saturday, 23 February, and complete it in one week; within the first 48 hours, Iraq had to remove all of its forces from Kuwait City and allow for the prompt return of the legitimate Government of Kuwait; in cooperation with the International Red Cross, Iraq had to release within 48 hours all prisoners of war and third-country civilians being held against their will and return the remains of killed and deceased servicemen; Iraq had to remove all explosives and booby traps, cease combat-aircraft flights over Iraq and Kuwait, except for transport aircraft carrying troops out of Kuwait, and allow coalition aircraft exclusive control over, and use of, all Kuwaiti airspace; and it must cease all destructive actions against Kuwaiti citizens and property and release all Kuwaiti detainees. The coalition forces would not attack retreating Iraqi forces and would exercise restraint so long as the withdrawal proceeded in accordance with the above-stated guidelines and there were no attacks on other countries. However, any breach of those terms would bring an instant and sharp response from them, in accordance with Security Council resolution 678 (1990). The speaker also pointed out that the idea of declaring that Security Council resolutions on Iraq-Kuwait somehow ceased to exist, were null and void or without effect, was unacceptable. Those resolutions called for actions that remained to be taken. Once Iraq had fully complied with them, the Council might examine whether to introduce the novel practice of declaring a resolution as ceasing to be in force, or null and void, or without further effect. It was not a practice, however, that should be taken on lightly.<sup>222</sup>

The representatives of China, India, Cuba, Ecuador and Yemen welcomed Iraq's positive response

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<sup>220</sup> See S/PV.2977 (Part II) (closed-resumption 3), pp. 291-295.

<sup>221</sup> S/PV.2977 (Part II) (closed-resumption 3), pp. 296-297.

<sup>222</sup> *Ibid.*, pp. 297-306.

to the peaceful initiative of the Soviet Union and underlined that the Security Council had to fulfil its responsibilities by considering and adopting an appropriate peace plan. The representatives of Cuba, Ecuador and Yemen supported India's suggestion that the Security Council should remain in continuous session, if necessary, to try to sort out a plan of action and that its non-permanent members had a special role to play in this respect. The representative of Zaire believed that all members of the Council should take part in its formal and informal work, with a view to finding the most appropriate way to take the Soviet-Iraqi proposals into account. The representative of Yemen noted that, in view of Iraq's acceptance of Security Council resolution 660 (1990), matters had to return to the Council. He wondered whether any party, including the members of the coalition, had the right to escalate military action without returning to the Council.<sup>223</sup>

The representative of the United Kingdom said that his Government stood firmly by the offer set out by the United States on behalf of a number of allies of Kuwait. Commenting on the six points worked out by the Soviet Government with the Iraqi Foreign Minister, he noted that some of them contradicted Iraq's purported acceptance of resolution 660 (1990). He concentrated on the fourth point, relating to the status of the Security Council's resolutions after an Iraqi withdrawal, which seemed to be fundamentally flawed. It was wrong to state that the resolutions would lose their force after an Iraqi withdrawal. Formally, only the Security Council could make that judgement. Furthermore, it was not the case that the reasons for adopting a number of those provisions would have been removed.<sup>224</sup>

On that point, the representative of Romania agreed that only the Security Council could lift the sanctions against Iraq. In his view, the question of declaring null and void a number of the resolutions on the situation needed careful consideration. Such a nullification should not be viewed as a precondition to Iraqi action.<sup>225</sup>

At the same meeting, the Secretary-General appealed to the Security Council to seize the opportunities that had been created to bring the destructive conflict to a speedy end in consonance with the Council's resolutions. Since the beginning of the crisis, there had been devastation on a vast scale, with incalculable consequences for a vital and strategically most important region of the world. The United Nations had the obligation both to uphold the principles which had prompted the Security Council's resolutions, and to respond to the supreme moral imperative of preventing further destruction of life. Those two objectives should not be irreconcilable.<sup>226</sup>

The representative of Kuwait stated that his country agreed with the plan and programme announced by the United States. He stressed that Iraq should inform the Secretary-General in writing of its acceptance of all the Security Council resolutions and that its legislative authorities must abrogate all legislation concerning the annexation of Kuwait. He called upon the Council to demand that Iraq cease its inhuman practices against the Kuwaiti people, its crimes against the Kuwaiti economy and environment, and the destruction of the Kuwaiti social and economic infrastructure.<sup>227</sup>

The representative of Egypt made similar points regarding the need for Iraq to rescind its annexation of Kuwait and the need for an official communication by Iraq to the Secretary-General in regard to its acceptance of all Security Council resolutions. He insisted on the necessity of an immediate withdrawal by Iraq, to be followed at once by negotiations between Iraq and Kuwait. He also stressed that the Council's resolutions could not be rescinded or regarded as null and void before being fully implemented. Finally, referring to India's proposal for discussions by the 10 non-permanent members, he warned against "formalistic attempts to procrastinate". Any effort had to focus on calling upon Iraq to withdraw its forces and accept the Security Council's resolutions unconditionally.<sup>228</sup>

The representative of the Union of Soviet Socialist Republics supported the proposal that the Council should urgently continue work on the plan of action to produce an integrated solution of the crisis on

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<sup>223</sup> *Ibid.*, p. 306 (China); pp. 307-311 (India); pp. 317-322 (Cuba); pp. 325-327 (Ecuador); pp. 327-332 (Yemen); and pp. 348-351 (Zaire).

<sup>224</sup> *Ibid.*, pp. 312-316.

<sup>225</sup> *Ibid.*, pp. 332-333.

<sup>226</sup> *Ibid.*, p. 336.

<sup>227</sup> *Ibid.*, pp. 337-342.

<sup>228</sup> *Ibid.*, pp. 342-347.

the basis of the provisions worked out in Moscow and the proposals of the United States and other members of the coalition.<sup>229</sup>

With the concurrence of the members of the Council, the President then suspended the meeting.

Upon the resumption of the 2977th meeting on 25 February 1991, the President of the Council drew the attention of the Council members to several documents.<sup>230</sup>

The representative of the Union of Soviet Socialist Republics reported to the Security Council that the President of his country had received a message a few hours before from the President of Iraq, informing him that the Iraqi leadership had decided, in accordance with resolution 660 (1990), immediately to withdraw all its troops from Kuwait, and that an order to that effect had already been issued. The message contained a request that the Soviet Union make urgent efforts for the adoption of a resolution of the Security Council calling for a ceasefire, adding that the time frame for the implementation of the troop withdrawal, which had already begun, would be very brief. The speaker stressed that since, as the Iraqis had declared, the troop withdrawal had actually begun, the Security Council could adopt the relevant decision.<sup>231</sup>

The representative of Yemen welcomed the announcement of the Iraqi withdrawal and proposed that the Council adopt a resolution that would affirm in its preamble all the relevant resolutions adopted by the Council. It would then demand a ceasefire, determine the period within which the withdrawal would take place — a short period of time — and organize supervision by the United Nations of the withdrawal process.<sup>232</sup>

The representative of the United States made it clear that, up to that point, the coalition forces continued to prosecute their efforts to remove Iraqi forces from Kuwait, using the military force authorized by the Council. At that stage, the United States saw no reason to change that approach since there was no evidence on the ground of an Iraqi withdrawal. The

speaker reaffirmed that retreating forces would not be attacked if they laid down their arms and left. Anxious to have a serious proposal put forward by Iraq, he hoped that its representative would attend the Council meeting and state the position of his Government. He also wished to hear from the President of Iraq personally and publicly. In view of the many duplicitous statements made by Iraq in the past, he asked Iraq to make clear that it was prepared to accept the Security Council's resolutions and the method of implementation contained in the statement of the coalition partners made on their behalf by the President of the United States on 22 February.<sup>233</sup>

The representative of Kuwait reiterated that Iraq had to rescind all resolutions and decisions regarding the annexation of Kuwait and send an official letter to the Security Council or the Secretary-General, which must include acceptance of all the Security Council resolutions. That was the only thing that could lead to the consideration of any other measures to be taken later.<sup>234</sup>

The representative of Iraq, whose arrival had been welcomed by the representative of India, recalled that several members at the Council table had protested at his not mentioning Kuwait in previous statements. He noted that Kuwait had always existed as a geographic fact, but that its constitutional status had been in question. With respect to the official position of his Government on resolution 660 (1990), he affirmed that his Government completely supported what the Soviet Ambassador had told the Council. While accepting resolution 660 (1990), which it sought to implement fully, it had already issued orders to Iraqi troops in Kuwait to withdraw to the positions they had held before 2 August 1990. His country was interested in completing its withdrawal as quickly as possible, in a manner that guaranteed the safety of its troops. He therefore reiterated his request that the Council should immediately adopt a resolution for a ceasefire, establishing the necessary machinery to guarantee respect for the ceasefire and the completion of the withdrawal of Iraqi troops as soon as possible. In concluding, he warned that certain parties, whose aims entailed the elimination of Iraq and its military capability, would, in response to Iraq's request to implement resolution 660 (1990), find pretexts to

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<sup>229</sup> *Ibid.*, pp. 347-350.

<sup>230</sup> S/22260, S/22264, S/22261, S/22262, and S/22265, containing letters from the representatives of the Libyan Arab Jamahiriya, Iraq and the Soviet Union, respectively, dated 23-25 February 1991.

<sup>231</sup> S/PV.2977 (Part II) (closed-resumption 4), p. 356.

<sup>232</sup> *Ibid.*, pp. 357-361.

<sup>233</sup> *Ibid.*, pp. 361-365.

<sup>234</sup> *Ibid.*, pp. 367-371.

violate it. They would set conditions and preconditions incompatible with the spirit and letter of the resolution.<sup>235</sup>

The representative of the United Kingdom expressed satisfaction at speaking after the representative of Iraq because it was essential that the Council conduct its business on the basis of the clearly defined and announced policy of the Government of Iraq, and it was useful to have had that now. It was worrying, however, that the representative of Iraq seemed to be stating that his country had no problem with describing Kuwait as a geographical area, but that he did not accept it as a constitutional entity. That was at the heart of all the problems. Secondly, he had mentioned only resolution 660 (1990), as if that resolution were somehow different in nature from all other Security Council resolutions on the subject. Such a division did not exist in the jurisprudence of the Council. All those resolutions were a single corpus of international law adopted under Chapter VII of the Charter of the United Nations, as exemplified by resolution 678 (1990), which demanded that Iraq comply fully with resolution 660 (1990) and all subsequent relevant resolutions. Finally, the representative of Iraq had not responded to the document issued on 22 February by the United Kingdom and other Governments cooperating with the Government of Kuwait, setting out the basis on which they would be prepared to consider the withdrawal from Kuwait by Iraqi forces and the military and political provisions that would accompany the withdrawal. The speaker hoped the representative of Iraq would be able to respond to that document so that they could move forward.<sup>236</sup>

The representative of China called on the parties concerned to exercise the utmost restraint. He believed that the Security Council should give serious consideration to the role it should play and help to promote Iraq's speedy and complete withdrawal and a comprehensive and peaceful solution of the Gulf crisis.<sup>237</sup>

The representative of Iraq reiterated that his Government was eager to see the Council adopt a resolution that would guarantee the complete and rapid implementation of resolution 660 (1990), after which

measures should be adopted to implement what could or should be implemented in other resolutions. In that respect, he pointed out that some of those resolutions had already been implemented.<sup>238</sup>

The representative of Kuwait emphasized that selectivity regarding the measures adopted by the Council against Iraq's aggression was unacceptable.<sup>239</sup>

The representative of Cuba said that he had heard neither the representative of the Soviet Union nor the representative of Iraq say that, in order to implement resolution 660 (1990) fully and thus withdraw Iraqi troops from Kuwait, anyone was demanding the nullification or modification of the Council's resolutions. It had been requested simply that the Council should take the basic measures that had always been a part of the process of the withdrawal of military forces in any conflict situation. He was worried that, at a time when the Council should be taking decisions that would permit it finally to achieve implementation of the principal resolution adopted with regard to the crisis, it would once again be paralysed. If it failed to act, his delegation would protest vehemently.<sup>240</sup>

With the concurrence of the members of the Council, the President then suspended the meeting.

#### **Decision of 2 March 1991 (2977th meeting, part II): adjournment of the private meeting**

Upon the resumption of the 2977th meeting on 2 March 1991, the President (Austria) drew the attention of the Council members to a number of documents.<sup>241</sup> These included letters dated 27 February 1991 from the Deputy Prime Minister and Minister for Foreign Affairs of Iraq addressed to the President of the Security Council and to the Secretary-General, respectively,<sup>242</sup> confirming Iraq's agreement to comply fully with resolution 660 (1990) and all subsequent resolutions; and his letter of the same date addressed to the President of the Security Council,<sup>243</sup> stating Iraq's intention to release prisoners of war immediately.

In accordance with the understanding reached in the course of the Council's prior consultations, the

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<sup>235</sup> Ibid., pp. 372-376.

<sup>236</sup> Ibid., pp. 376-378.

<sup>237</sup> Ibid., pp. 379-381.

<sup>238</sup> Ibid., pp. 381-382.

<sup>239</sup> Ibid., pp. 382-387.

<sup>240</sup> Ibid., pp. 390-397.

<sup>241</sup> S/22266, S/22267, S/22271-S/22278, S/22282, S/22283, S/22284, S/22288, S/22290, S/22293 and S/22299.

<sup>242</sup> S/22275 and S/22276.

<sup>243</sup> S/22273.

President then proposed to adjourn the private meeting. He drew attention to a draft communiqué<sup>244</sup> prepared by the Secretariat for the part of the Council's meeting that had been held in private, in accordance with rule 55 of the provisional rules of procedure of the Council. He also recalled that the verbatim record of that portion of the meeting would be circulated as an unrestricted document, in accordance with rule 49. The Council thereupon approved the draft communiqué.

**Decision of 2 March 1991 (2978th meeting):  
resolution 686 (1991)**

At its 2978th meeting, on 2 March 1991, the Council continued its consideration of the item entitled "The situation between Iraq and Kuwait". The Council invited the representatives of Iraq, Kuwait and Saudi Arabia, at their request, to participate in the discussion without the right to vote.

The President (Austria) drew the attention of the Council members to a draft resolution submitted by the United States,<sup>245</sup> and informed them that Belgium, France, Romania, the Union of Soviet Socialist Republics, the United Kingdom and Zaire had joined in sponsoring the draft resolution. He also drew their attention to 18 amendments to the resolution, submitted by Cuba.<sup>246</sup>

The representative of the United States presented a number of oral revisions to the draft resolution which he understood were generally agreeable to the members of the Council.<sup>247</sup>

The representative of Cuba said that his country's amendments were self-explanatory. They sought to ensure that the Council was able to establish a ceasefire and that it would fully assume its responsibility for the way in which the ceasefire was implemented and for the other steps to be taken to restore international peace and security in the region. Other amendments aimed at adjusting the language of the draft resolution to achieve a sense of balance and moderation.<sup>248</sup>

The Council then commenced the voting procedure on the draft resolution, as orally revised, and the proposed amendments. The President stated that he intended to put the amendments to the vote in the order envisaged by rule 36 of the Council's provisional rules of procedure.<sup>249</sup>

Speaking before the vote on the amendments, the representative of the United States observed that, in the opinion of the sponsors, the profusion of amendments submitted by Cuba was not helpful; their number and form did not improve the text of the draft resolution. Since the sponsors regarded the text in its current form as effective, balanced and appropriate, it was their intention not to support those amendments.<sup>250</sup>

The Council proceeded to vote on the amendments as follows:

(a) The amendment in document S/22300, seeking to delete the words "and reaffirming" from the first preambular paragraph, received 2 votes in favour, 1 against and 12 abstentions and was not adopted, having failed to obtain the necessary majority.

(b) The amendment in document S/22301, seeking to delete the words "Article 25 of" from the second preambular paragraph, received 1 vote in favour, none against, and 14 abstentions and was not adopted, having failed to obtain the necessary majority.

(c) The amendment in document S/22302, seeking to delete the words "pursuant to resolution 678 (1990)" from the fifth preambular paragraph, received 2 votes in favour, none against, and 13 abstentions and was not adopted, having failed to obtain the necessary majority.

(d) The amendment in document S/22304, seeking to delete the whole of preambular paragraph 8, received 1 vote in favour, none against, and 14 abstentions and was not adopted, having failed to obtain the necessary majority.

(e) The amendment in document S/22310, seeking to add the phrase "and in conformity with article 118 of the Third Geneva Convention of 1949" between the words "International Committee of the Red Cross" and "return the remains" in operative paragraph 3 (c), received 6 votes in favour, none

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<sup>244</sup> S/22319.

<sup>245</sup> S/22298.

<sup>246</sup> For the texts of the amendments, see documents S/22300-S/22317.

<sup>247</sup> S/PV.2978, pp. 5-6.

<sup>248</sup> *Ibid.*, p. 6.

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<sup>249</sup> *Ibid.*, p. 7.

<sup>250</sup> *Ibid.*, pp. 8-10.

against, and 9 abstentions and was not adopted, having failed to obtain the necessary majority.

(f) The amendment in document S/22311, seeking to delete the phrase starting with the words “in the areas of Iraq where ...” up to the end of operative paragraph 3 (d), received 2 votes in favour, none against, and 13 abstentions and was not adopted, having failed to obtain the necessary majority.

(g) The amendment in document S/22312, seeking to delete the whole of operative paragraph 4, received 3 votes in favour, none against, and 12 abstentions and was not adopted, having failed to obtain the necessary majority.

(h) The amendment in document S/22317, seeking to delete the whole of operative paragraph 7, received 2 votes in favour, none against and 13 abstentions and was not adopted, having failed to obtain the necessary majority.

(i) The amendment in document S/22305, seeking to replace operative paragraph 1 with the words “Welcomes the restoration of the independence, sovereignty and territorial integrity of Kuwait”, received 2 votes in favour, none against, and 13 abstentions and was not adopted, having failed to obtain the necessary majority.

(j) The amendment in document S/22315, seeking to insert a new operative paragraph by which the Council would have “Decid[ed] to declare null and void all provisions contained in the pertinent resolutions of the Security Council regarding trade in foodstuffs and in all other products essential for the health and well-being of the Iraqi people”, received 2 votes in favour, none against, and 13 abstentions and was not adopted, having failed to obtain the necessary majority.

(k) The amendment in document S/22306, seeking to insert a new operative paragraph by which the Council would have “Decid[ed] an immediate ceasefire”, received 2 votes in favour, none against, and 13 abstentions and was not adopted, having failed to obtain the necessary majority.

(l) The amendment in document S/22307, seeking to insert a new operative paragraph by which the Council would have “Request[ed] the Secretary-General to immediately dispatch a military observer mission to the area with the aim of monitoring and supervising compliance with the ceasefire decided

above” was not put to the vote. The representative of Yemen suggested that the representative of Cuba might wish to withdraw that amendment since the preceding amendment calling for a ceasefire had not been adopted.<sup>251</sup> The representative of Cuba stated that he was not withdrawing the amendment, but since it was connected with the amendment just rejected, the suggestion not to vote on it seemed logical.<sup>252</sup>

(m) The amendment in document S/22308, seeking to replace the chapeau in operative paragraph 2 with the words “Notes that Iraq has committed itself to”, received 2 votes in favour, none against, and 13 abstentions and was not adopted, having failed to obtain the necessary majority.

(n) The amendment in document S/22309, seeking to replace the introductory phrase in operative paragraph 3 with the words “Further notes that Iraq is fully willing to”, received 2 votes in favour, none against, and 13 abstentions and was not adopted, having failed to obtain the necessary majority.

(o) The amendment in document S/22314, seeking to insert a new operative paragraph by which the Council would have “Request[ed] the Secretary-General to urgently draw up plans for the deployment of a United Nations peacekeeping force in the area, in consultation with the countries where it would be deployed, and report back to the Security Council for consideration and approval”, received 5 votes in favour, none against, and 10 abstentions and was not adopted, having failed to obtain the necessary majority.

(p) The amendment in document S/22313, seeking to insert a new operative paragraph by which the Council would have “Affirm[ed] the obligation of all Member States to respect fully the independence, sovereignty and territorial integrity of Iraq and Kuwait” and noted “the commitment of the Member States cooperating with Kuwait under paragraph 2 of Security Council resolution 678 (1990) to bring their military presence in Iraq to an end as soon as possible”, received 2 votes in favour, none against, and 13 abstentions and was not adopted, having failed to obtain the necessary majority.

(q) The amendment in document S/22303, seeking to replace the phrase starting with the words “and the objective in resolution ...” in the sixth

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<sup>251</sup> Ibid., p. 16.

<sup>252</sup> Ibid., p. 17.

preambular paragraph by the words “and the role that the United Nations has to play in restoring and maintaining international peace and security in the region”, received 4 votes in favour, none against, and 11 abstentions and was not adopted, having failed to obtain the necessary majority.

(r) The amendment in document S/22316, seeking to insert a new operative paragraph by which the Council would have “Request[ed] all Member States, the United Nations, the specialized agencies, as well as other international organizations to provide, on an urgent basis, humanitarian assistance, including foodstuffs and medical supplies, to Iraq and Kuwait”, received 5 votes in favour, none against, and 10 abstentions and was not adopted, having failed to obtain the necessary majority.

The Council then began its voting procedure on the draft resolution, as orally revised by the representative of the United States on behalf of the sponsors.

Speaking before the vote, the representative of Yemen stated that, although the draft resolution had a number of positive aspects that could contribute to a peaceful diplomatic solution of the crisis, it was deficient in several respects: (1) it did not call for a ceasefire, although it contained arrangements relating to the release of prisoners of war and the removal of mines which usually accompanied a ceasefire; (2) it did not mention the end of the embargo against Iraq, particularly with regard to food; (3) it did not attribute a role to the United Nations or its Secretary-General, particularly at this early phase of the ending of the crisis; (4) it did not refer in any way to the withdrawal of the alliance troops now on Iraqi territory; and (5) paragraph 4 of the draft resolution related to the continued use of force, which seemed strange and excessive since Iraqi troops had been completely withdrawn from Kuwait and the purposes of resolution 660 (1990) had been implemented. The speaker added that the Council should start without delay to ensure the implementation of the other resolutions relating to other disputes in the region, particularly the Arab-Israeli conflict.<sup>253</sup>

The representative of Cuba remarked that the Council was now involved in the voting process on the draft resolution although 24 hours had not yet elapsed

since it was first officially presented to the non-permanent members of the Council. His delegation did not claim to abide by this rule of courtesy regarding the submission of draft resolutions, but wished that fact to be noted. He stated that his delegation would vote against the draft resolution since it was another step towards conduct that would constitute a violation of the Charter. The text reiterated that resolution 678 (1990) remained in effect, as did its provisions, by which the Council had relinquished its fundamental obligation to preserve international peace and security and authorized others to take this on without monitoring or supervision of any kind. By paragraph 4, the Council would once again relinquish its obligations in this regard and place them on the shoulders of some States, in language that could be used for any purpose upon which the generals decided. The draft resolution did not — as the Security Council was obliged to do — establish a ceasefire, but established conditions for one that might in fact increase tensions and complicate a situation that was already quite complex. Nor did it give any functions to the United Nations, the Security Council or the Secretary-General. Moreover, some parts of the text appeared to be designed to justify the military occupation of the territory of Iraq, which his delegation rejected.<sup>254</sup>

The representative of Zimbabwe regarded the draft resolution as an important step in the process of normalizing the situation in the Gulf and in the Middle East region as a whole. Although his country would have preferred the Council to formalize a ceasefire immediately, it understood that the draft resolution constituted a necessary first step towards such formalization. It welcomed the intention of the States cooperating with the Government of Kuwait to bring their military presence in Iraq to an early end, as expressed in the last preambular paragraph of the text, and the provisions that facilitated the rescission of the annexation of Kuwait. At the same time, it hoped that no situation would arise in which paragraph 4 would be invoked to resume military operations in the area. The speaker added that Zimbabwe would have preferred to have representatives of the Secretary-General present during the meeting of the military commanders to arrange the military aspects of the cessation of hostilities referred to in paragraph 3 (b). Touching upon the responsibilities of the Council with respect to

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<sup>253</sup> Ibid., pp. 16-30.

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<sup>254</sup> Ibid., pp. 31-36.



other political problems of the region, he said that the international community now expected the Council to maintain the same standards it had applied in dealing with the situation between Iraq and Kuwait — where it had acted with speed, resolve and single-mindedness to uphold its resolutions and international law — as it addressed the other issues in the Middle East, particularly the question of the Palestinian and other Arab territories occupied by Israel. He concluded that the credibility and integrity of the Council would be damaged and international law undermined if the Council continued to be perceived as inconsistent and as guilty of applying double standards.<sup>255</sup>

The draft resolution,<sup>256</sup> as orally revised, was then put to the vote. It received 11 votes in favour, 1 against (Cuba) and 3 abstentions (China, India, Yemen), and was adopted as resolution 686 (1991), which reads:

*The Security Council,*

*Recalling and reaffirming* its resolutions 660 (1990) of 2 August 1990, 661 (1990) of 6 August 1990, 662 (1990) of 9 August 1990, 664 (1990) of 18 August 1990, 665 (1990) of 25 August 1990, 666 (1990) of 13 September 1990, 667 (1990) of 16 September 1990, 669 (1990) of 24 September 1990, 670 (1990) of 25 September 1990, 674 (1990) of 29 October 1990, 677 (1990) of 28 November 1990 and 678 (1990) of 29 November 1990,

*Recalling* the obligations of Member States under Article 25 of the Charter of the United Nations,

*Recalling also* paragraph 9 of resolution 661 (1990) regarding assistance to the Government of Kuwait and paragraph 3 (c) of that resolution regarding supplies strictly for medical purposes and, in humanitarian circumstances, foodstuffs,

*Taking note* of the letters dated 27 February 1991 from the Deputy Prime Minister and Minister for Foreign Affairs of Iraq addressed to the President of the Security Council and to the Secretary-General, confirming Iraq's agreement to comply fully with all of the resolutions noted above, and of his letter of the same date addressed to the President of the Security Council stating Iraq's intention to release prisoners of war immediately,

*Noting* the suspension of offensive combat operations by the forces of Kuwait and the Member States cooperating with Kuwait pursuant to resolution 678 (1990),

*Bearing in mind* the need to be assured of Iraq's peaceful intentions, and the objective expressed in resolution 678 (1990) of restoring international peace and security in the region,

*Underlining* the importance of Iraq taking the necessary measures which would permit a definitive end to the hostilities,

*Affirming* the commitment of all Member States to the independence, sovereignty and territorial integrity of Iraq and Kuwait, and noting the intention expressed by the Member States cooperating with Kuwait under paragraph 2 of resolution 678 (1990) to bring their military presence in Iraq to an end as soon as possible consistent with achieving the objectives of that resolution,

*Acting* under Chapter VII of the Charter,

1. *Affirms* that all twelve resolutions noted above continue to have full force and effect;

2. *Demands* that Iraq implement its acceptance of all twelve resolutions noted above and in particular that Iraq:

(a) Rescind immediately its actions purporting to annex Kuwait;

(b) Accept in principle its liability under international law for any loss, damage or injury arising in regard to Kuwait and third States and their nationals and corporations, as a result of the invasion and illegal occupation of Kuwait by Iraq;

(c) Immediately release under the auspices of the International Committee of the Red Cross, Red Cross Societies or Red Crescent Societies all Kuwaiti and third-State nationals detained by Iraq and return the remains of any deceased Kuwaiti and third-State nationals so detained;

(d) Immediately begin to return all Kuwaiti property seized by Iraq, the return to be completed in the shortest possible period;

3. *Also demands* that Iraq:

(a) Cease hostile or provocative actions by its forces against all Member States, including missile attacks and flights of combat aircraft;

(b) Designate military commanders to meet with counterparts from the forces of Kuwait and the Member States cooperating with Kuwait pursuant to resolution 678 (1990) to arrange for the military aspects of a cessation of hostilities at the earliest possible time;

(c) Arrange for immediate access to and release of all prisoners of war under the auspices of the International Committee of the Red Cross and return the remains of any deceased personnel of the forces of Kuwait and the Member States cooperating with Kuwait pursuant to resolution 678 (1990);

(d) Provide all information and assistance in identifying Iraqi mines, booby traps and other explosives as well as any chemical and biological weapons and material in Kuwait, in areas of Iraq where forces of Member States cooperating with Kuwait pursuant to resolution 678 (1990) are present temporarily, and in the adjacent waters;

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<sup>255</sup> *Ibid.*, pp. 36-40.

<sup>256</sup> S/22298.

4. *Recognizes* that during the period required for Iraq to comply with paragraphs 2 and 3 above, the provisions of paragraph 2 of resolution 678 (1990) remain valid;

5. *Welcomes* the decision of Kuwait and the Member States cooperating with Kuwait pursuant to resolution 678 (1990) to provide access to and commence immediately the release of Iraqi prisoners of war under the auspices of the International Committee of the Red Cross, as required by the terms of the Geneva Convention relative to the Treatment of Prisoners of War, of 12 August 1949;

6. *Requests* all Member States, as well as the United Nations, the specialized agencies and other international organizations in the United Nations system, to take all appropriate action to cooperate with the Government and people of Kuwait in the reconstruction of their country;

7. *Decides* that Iraq shall notify the Secretary-General and the Security Council when it has taken the actions set out above;

8. *Also decides*, in order to secure the rapid establishment of a definitive end to the hostilities, to remain actively seized of the matter.

Speaking after the vote, the representative of China was gratified to see that all parties to the conflict had now suspended their military action. In his country's view, the Security Council should play a positive role in establishing a formal and stable ceasefire in the Gulf region and in seeking a practical formula for a political solution within the framework of the relevant Security Council resolutions. Although the resolution just adopted referred to securing the establishment of a definitive end to the hostilities, it fell short of stating that the Council should have an important role to play with regard to the arrangement and monitoring of the ceasefire. In fact, it extended the time limit during which resolution 678 (1990) remained effective. That went against the desire of the peoples of all countries for an early end to the war and for the achievement of peace. It was well known, moreover, that China had stood throughout for settling conflicts through negotiations and had abstained in the vote on resolution 678 (1990). In those circumstances, the Chinese delegation found it difficult to vote in favour of the draft resolution.<sup>257</sup>

The representative of India said that his delegation's approach to the problem before them was guided by two broad considerations: re-establishment of peace and security in the area as soon as possible, and the role of the United Nations and the Security

Council. With regard to the resolution just adopted, his delegation had a number of concerns. The important element of a permanent or formal ceasefire was missing. Moreover, the procedure to verify compliance by Iraq with whatever it was required to do for a ceasefire was vague. His delegation would have preferred to have the Secretary-General involved in that process. A further concern was that a provision kept open the possibility of the resumption of hostilities, which was unacceptable. Yet another point of concern was the continuation of sanctions, which were playing havoc not only with Iraq's economy but also with the economies of India and many other countries. It was for these reasons that India had abstained in the vote. The speaker added that his country believed that the United Nations had an important role in re-establishing the conditions of peace in the area by providing a tangible presence: even a token United Nations presence would provide renewed hope and assurance to the people in the area.<sup>258</sup>

The representative of the United States observed that, since the end of November 1990, the Council had focused on the implementation of resolution 678 (1990). Key goals it had adopted had now been achieved: aggression had been decisively beaten and Kuwait liberated. With the resolution just adopted, the Council turned its attention from the war to the challenge of building lasting peace and security. The first priority was to secure a definitive end to hostilities. The resolution set out the measures which Iraq must take and the arrangements which must be put in place to bring that about: Iraq must make clear that it no longer harboured aggressive intent, and must take the steps needed immediately to implement the 12 preceding Security Council resolutions. Until it was clear that Iraq had complied with those requirements, the provisions of resolution 678 (1990), authorizing Kuwait and those cooperating with Kuwait to use all necessary means to ensure Iraqi compliance with the Council resolutions, clearly would remain in effect. The United Nations and the Security Council had been and remained at the centre of the effort to fulfil the overarching tasks set by the previous 12 resolutions: to repel aggression and to build genuine peace and stability. In the resolution just adopted, the Council was providing a broad framework for dealing with the latter, new phase of its task. At the same time, the

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<sup>257</sup> S/PV.2978, pp. 50-52.

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<sup>258</sup> *Ibid.*, pp. 72-78.

United States, other members of the Council and other States in the region were beginning to consult on the future steps which would be required to ensure that the peace secured was a lasting one. The nations of the region would clearly take the lead in finding answers to those questions. In the long and difficult road ahead, the Council, too, had a most important role to play. Its task now, the one started upon in the resolution just adopted, was to point the way to building a peaceful and secure system which would deter the repetition of aggression and suffering seen over the past seven months.<sup>259</sup>

The representative of the Union of Soviet Socialist Republics noted that for the first time the international community had shown its united will in the face of the seizure of one State by another and had been able to bring the aggressor to heel. He hoped that this precedent would prevent the emergence in the future of similar situations. The Council now faced some priority tasks. First and foremost, it must exclude the resumption of any type of military activities. That was the purpose of the resolution just adopted. In the near future, the Council would have to become deeply involved in the final political settlement of the conflict and the elimination of the consequences of Iraqi aggression. The international community also faced the urgent task of beginning to work out post-crisis arrangements in the region, an important element of which had to be the establishment of a security system that not only marked the culmination of recent events, but was a safeguard against military conflicts in the future. Like the previous speaker, the Soviet Union considered that the security structure in the Gulf must be based primarily on the interests of the countries of the region, adding that Iraq must play a positive role in it. It was natural, moreover, that the establishment of that system should involve a role for the United Nations, including the Security Council and its permanent members. The speaker added that the conflict had put into sharp relief the fact that the international community must make the most determined efforts to convene an international conference on the Middle East; his country believed that such a conference would enable long-term peace and security for the entire region to be guaranteed.<sup>260</sup>

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<sup>259</sup> *Ibid.*, pp. 41-46.

<sup>260</sup> *Ibid.*, pp. 46-50.

The representative of France attributed the international community's success in restoring the sovereignty and independence of Kuwait to two essential factors: the unanimous and unequivocal condemnation by the States Members of the United Nations of the aggression against Kuwait; and action by the Security Council, working cohesively and with determination. He took note of Iraq's acceptance of all the resolutions adopted by the Security Council on behalf of the international community, which was a prerequisite for the re-establishment, on a sound and lasting basis, of stability in the region. The resolution just adopted was an indispensable step; it charted the course for a final cessation of hostilities, which France hoped could be announced soon. The United Nations was now faced with a prodigious undertaking. It must first consolidate effectively the cessation of hostilities and then, together with the countries of the region and all interested parties, define the conditions for the lasting restoration of peace and security in the region. The Security Council, in close coordination with the Secretary-General, would continue fully to shoulder its responsibilities. The speaker stressed that the determination the Council had shown for the past seven months, without which the liberation of Kuwait would not have been possible, must be sustained and utilized to settle other conflicts, starting with those of the Near and Middle East. France would strive to ensure that there was one law for all.<sup>261</sup>

The representative of Belgium, too, welcomed the suspension of military operations in the Gulf and Iraq's official announcement of its commitment to comply with the 12 relevant resolutions of the Council. It was now up to the Council to make the necessary arrangements to put an end to the conflict. That was the goal of the resolution just adopted, which in its military, political and humanitarian aspects met his country's concerns. The speaker added that, above and beyond those immediate steps, the Security Council must in due course focus its attention on more long-term arrangements aimed at restoring peace and security in the region, in which the countries of the region and the active members of the coalition would have a major role to play. Belgium was convinced that the Council's action in this regard should be based on four considerations: (1) Kuwait's security must be strengthened and guaranteed, by insisting on respect for international borders; (2) a situation in which Iraq

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<sup>261</sup> *Ibid.*, pp. 52-53.

might again gain an offensive military potential and possess weapons of mass destruction must be avoided, by, initially, maintaining a military embargo against Iraq; (3) the international community must renew its efforts to arrive at a speedy, comprehensive, just and lasting solution of the Israeli-Arab conflict and the Palestinian question; and (4) a comprehensive approach to the region should be developed, one which would deal with security questions, political problems and economic cooperation — akin to the approach adopted in the period after the Second World War. That could be done through a conference on security and cooperation in the Middle East, for which it would be useful to appoint a mediator. The speaker added that Belgium hoped that, in the near future, the Council would take a stand on the necessary renunciation by Iraq of any form of appeal for and support of terrorism, on the sending of a United Nations observer force and on the lifting of the food embargo.<sup>262</sup>

The representative of the United Kingdom was gratified that, in the liberation of Kuwait, the will of the international community and the Security Council had prevailed. It was a triumph for the rule of international law and collective security. The United Nations and the international community could now turn to the more difficult task, that of assisting in the establishment of a durable system of peace and security in the Gulf region, and in the Middle East more widely, and also to the reconstruction of Kuwait and the rehabilitation of its population. First, however, it was necessary to deal with the immediate aftermath of the hostilities. Though some of that task was properly work for the military commanders in the field, it was right that the Security Council should establish the basic framework within which the conditions could be created for a definitive end to the hostilities. That was what the resolution just adopted was designed to do. The requirements it placed on Iraq were not new: they flowed from the resolutions previously adopted by the Council and from the statements previously made on behalf of the Governments assisting and cooperating with the Government of Kuwait. It was essential that they be explicitly accepted by Iraq, to permit a definite end to the hostilities. The speaker concluded that Iraq should make its contribution to the climate of confidence and reconciliation by a rapid and formal compliance with the provisions of the resolution just adopted. That would enable the Council to meet

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<sup>262</sup> *Ibid.*, pp. 53-60.

again in the near future and to take the next steps towards the restoration of international peace and stability in the area. It would then be possible to move on to the broader problems of the Middle East which so urgently needed to be resolved.<sup>263</sup>

The representative of Ecuador stated that his country had voted in favour of the resolution just adopted, as it was a positive first step towards the establishment of peace in the area and security machinery for the region. He added, however, that Ecuador would have liked to see additional elements in the resolution: namely, greater clarity with regard to the declaration of a ceasefire and a definitive cessation of hostilities; recognition of the leading role of the United Nations and the Security Council with regard to international peace and security; a request to the Secretary-General for a report on the establishment and dispatch to the region as soon as possible of an observer mission to cooperate in the establishment of lasting peace; and measures to ensure that humanitarian aid was given to all those who were suffering, whatever their nationality. Ecuador had therefore favoured some of the amendments proposed by the delegation of Cuba. In connection with paragraph 4 of the resolution, the speaker reiterated his country's desire that there should be no need to use force again to ensure compliance with the Council's resolutions.<sup>264</sup>

The President, speaking in his capacity as the representative of Austria, stated that the Council's immediate task, as reflected in the resolution just adopted, was to consolidate the de facto cessation of hostilities. The next step would be the rapid establishment of a formal ceasefire. During that phase of the Council's work, serious consideration should be given, in consultation with countries of the region, to a United Nations role in monitoring such a ceasefire. At the same time, there should be a review of the resolutions adopted by the Council, including the question of sanctions, as part of the process of re-establishing peace and cooperation in the area. The speaker added that, in a third phase, the Council would have to take other important and far-reaching decisions. The Council was responsible not only for maintaining security but also for promoting peace. That should be done in cooperation with regional

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<sup>263</sup> *Ibid.*, pp. 68-72.

<sup>264</sup> *Ibid.*, pp. 78-85.

mechanisms. Lessons should be learned, moreover, from the Gulf crisis. One important lesson was the desirability of strengthening the preventive role of the United Nations and of the Council in particular. Another was that ultimately only political solutions would provide the necessary framework for a just and lasting settlement of this and other problems of the region. Confidence-building measures, disarmament and the strengthening of non-proliferation arrangements would have to be part of such comprehensive solutions. Noting with satisfaction the increased — almost universal — awareness that dealing with the Arab-Israeli conflict and the Palestinian problem would be especially important in the aftermath of the Gulf crisis, Austria was confident that the Security Council could make a substantial contribution to the achievement of a comprehensive settlement in the Middle East.<sup>265</sup>

Other members of the Council remarked on the unprecedented nature of the response to the Iraqi aggression, leading to the liberation of Kuwait, and considered its implications. The representative of Zaire noted that 28 nations had undertaken the task of ensuring the security of small States, thereby demonstrating the determination of the United Nations and the international community to institute a new era of peace based on respect for the rules of international law. He wondered whether it was not now imperative for the Security Council to take the steps that would build confidence and peace in the entire region, including the Middle East.<sup>266</sup> The representative of Romania similarly considered that these positive events marked a victory for the values of international law. In his view, they should have a positive impact on the further strengthening of the role of the United Nations and its institutions in the establishment of a system of collective security.<sup>267</sup> For the representative of Côte d'Ivoire, the liberation of Kuwait symbolized the triumph of justice over brutal force, marking the dawn of a new international era that he hoped would not stop at the gates of Kuwait. In his view, the action of the coalition forces, authorized by the Security Council, would find its true justification in the Council's ability to meet objectively and in a balanced way the many challenges to peace with which it would continue to be confronted. He joined other speakers in

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<sup>265</sup> Ibid., pp. 86-87.

<sup>266</sup> Ibid., pp. 59-63.

<sup>267</sup> Ibid., pp. 66-68.

expressing the hope that the forthcoming ceasefire would be monitored by the United Nations.<sup>268</sup>

The representative of Kuwait expressed his gratitude that Kuwait had been liberated, thanks to the resolutions of the Security Council and the leadership of those States that had cooperated with his country to implement them. He hoped that the Iraqi regime would implement resolution 686 (1990) promptly, and would remember that the international community, through the coalition forces, would not accept any stalling tactics and had the means to impose compliance by force, if necessary.<sup>269</sup>

The representative of Saudi Arabia, too, expressed his thanks and appreciation to the Council for the historic role it had played in formulating a strong international position that had given the United Nations and its Charter the place that the founders had intended them to have, and to the coalition forces that had cooperated with Kuwait and Saudi Arabia to help defeat the aggression. He also expressed his appreciation to the Secretary-General for his diplomatic efforts and constructive role.

**Decision of 3 March 1991 (2979th meeting):  
statement by the President**

At its 2979th meeting, on 3 March 1991, the Council continued its consideration of the item entitled "The situation between Iraq and Kuwait". In accordance with the decisions taken at the previous meeting, the President invited the representatives of Iraq and Kuwait to take seats at the Council table, and the representative of Saudi Arabia to take a seat at the side of the Council Chamber.

The President then stated that, following consultations among the members of the Council, he had been authorized to make the following statement on behalf of the Council:<sup>270</sup>

The Security Council welcomes the decisions taken to date relating to food and medical needs by the Security Council Committee established under resolution 661 (1990) concerning the situation between Iraq and Kuwait, including those just taken to facilitate the provision of humanitarian assistance including infant formula and water purification material.

It calls upon the Committee to continue to act promptly on requests submitted to it for humanitarian assistance.

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<sup>268</sup> Ibid., pp. 54-66.

<sup>269</sup> Ibid., pp. 88-98.

<sup>270</sup> S/22322.

It urges the Committee to pay particular attention to the findings and recommendations on critical medical/public health and nutritional conditions in Iraq which have been and will continue to be submitted to it by the World Health Organization, the United Nations Children's Fund, the International Committee of the Red Cross and other relevant organizations, consistent with the relevant resolutions, and urges these humanitarian agencies to play an active role in this process and cooperate closely with the Committee in its work.

The Council welcomes the Secretary-General's announcement that he plans to send urgently a mission led by Under-Secretary-General Martti Ahtisaari comprising representatives of the appropriate United Nations agencies to Iraq and Kuwait to assess the humanitarian needs arising in the immediate post-crisis environment. The Council invites the Secretary-General to keep it informed in the shortest possible time on the progress of his mission, on which it pledges to take immediate action.

**Decision of 3 April 1991 (2981st meeting):  
resolution 687 (1991)**

At its 2981st meeting, on 3 April 1991, the Council reserved its consideration of the item entitled "The situation between Iraq and Kuwait", and invited the representatives of Iraq and Kuwait, at their request, to participate in the discussion without the right to vote.

The President (Belgium) drew the attention of the Council members to a draft resolution submitted by France, Romania, the United Kingdom and the United States,<sup>271</sup> which was subsequently also sponsored by Belgium and Zaire, and informed them of a technical correction in the text of paragraph 19.

He also drew their attention to a number of other documents.<sup>272</sup> These included the following: (a) letters dated 3 March 1991 from the Deputy Prime Minister and Minister for Foreign Affairs of Iraq addressed to the President of the Council and the Secretary-General,<sup>273</sup> confirming Iraq's agreement to fulfil its obligations under Security Council resolution 686 (1991); (b) his identical letters dated 5 March addressed to the President of the Council and the Secretary-General,<sup>274</sup> concerning the return of property seized by Iraq after 2 August 1990; (c) a letter dated 19 March 1991 from the President of the Security

Council to the Secretary-General,<sup>275</sup> informing him that, with regard to resolution 686 (1991), which demanded, *inter alia*, that Iraq "immediately begin to return all Kuwaiti property seized by Iraq, the return to be completed in the shortest possible period", the members of the Security Council were of the view that the modalities for return of property from Iraq should be arranged through the Secretary-General's office in consultation with the parties, and that this procedure had the agreement of Iraq and Kuwait;<sup>276</sup> and (d) a note by the Secretary-General dated 22 March 1991,<sup>277</sup> circulating for the attention of all States a letter of the same date he had received from the President of the Security Council. The President had informed him that the members of the Council, in consultations of the whole held on 22 March 1991, had taken note of the decision of the Security Council Committee established by resolution 661 (1990) concerning the situation between Iraq and Kuwait, adopted at its 36th meeting on 22 March 1991, with regard to the determination of humanitarian needs in Iraq. Having considered the report of the Under-Secretary-General of 20 March 1991 on his recent visit to Iraq,<sup>278</sup> as well as the report of the International Committee of the Red Cross, the Security Council Committee had decided, *inter alia*, that there was an urgent humanitarian need to supply foodstuffs to Iraq in order to relieve human suffering, and that civilian and humanitarian imports to Iraq should also be allowed with immediate effect. Both were to be subjected to simplified procedures — simple notification for foodstuffs, and a no-objection procedure for civilian and humanitarian imports.

Speaking at the start of the discussion, the representative of Kuwait said that the draft resolution before the Council could be regarded as epitomizing all the resolutions on Kuwait that the Council had adopted earlier in implementing decisively the principles of international law and international legitimacy. That effective action revealed the Council's interest in the concept of collective security derived from the Charter of the United Nations. It also reflected the content and concepts of the new world order that the international community was determined to establish and, if need be,

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<sup>271</sup> S/22430 and Corr.1; subsequently adopted without change as resolution 687 (1991).

<sup>272</sup> See the list in S/PV.2981, pp. 3-6.

<sup>273</sup> S/22320 and S/22321.

<sup>274</sup> S/22330.

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<sup>275</sup> S/22361.

<sup>276</sup> On the return of property, see also paragraph 15 of resolution 687 (1991) and the case study in chapter V on the United Nations Coordinator for the return of property from Iraq to Kuwait under that resolution.

<sup>277</sup> S/22400.

<sup>278</sup> S/22366.

impose. It was no exaggeration to say that the Charter, with all its principles, had become law when the international community effectively dealt with the Iraqi aggression against Kuwait. That action proved that the Organization, with its Security Council, was an effective instrument for collective security and the maintenance of international peace and security, and that all States, large and small, could depend on the security guarantees afforded by the Charter; and it proved that the collective commitment of States to the Charter was the best guarantee for the stability, peace and security of nations. Noting that the Council was now turning to the next phase in facing up to Iraq's aggression, the speaker stressed that the completion of the political aspect of this effort was as important as the military aspect that had been carried out by the coalition forces. It was inconceivable that an aggressive regime, which had tried to eliminate a peaceful State, brutalized its population, polluted its marine environment and destroyed its oil wells, should be allowed to return to the former situation without being held fully responsible. Kuwait called upon the Council to take all necessary measures to guarantee for it and for all peoples of the region respect by the Iraqi regime for all its obligations and duties provided for in all agreements applicable to it. The speaker drew attention in this regard to the Iraqi regime's lack of credibility, noting, for instance, that although Baghdad had declared its acceptance of Security Council resolution 686 (1991), it had yet to return property looted from Kuwait and had not even issued a statement, as required under that resolution, in which it officially accepted the principle of reparations from a legal standpoint. The international community had to take a decisive and strict stand against this kind of aggressive regime to the very end. The historic draft resolution before the Council must be a shield to protect the region from the Iraqi regime in the future. It must also be a lesson for any other regime in any other part of the world that might be tempted to carry out such evils. The Council must thus deal decisively and effectively with all questions, including — in addition to reparations, guarantees and rights — the question of Iraq's armaments.<sup>279</sup>

The representative of Iraq recalled his country's objections to resolution 678 (1990), voiced at the time of its adoption: in authorizing the use of force by members of the alliance in the way it did, the

resolution had gone beyond the Security Council's mandate and contravened the Charter. He affirmed, nevertheless, that Iraq had accepted resolutions 660 (1990) and 678 (1990) and the other resolutions adopted by the Council under the item entitled "The situation between Iraq and Kuwait". However, he alleged that, in their violence and brutality, the actions of the alliance had gone beyond the objectives of resolution 678 (1990), which related only to the withdrawal of Iraqi forces from Kuwait and the restoration of the legitimate authorities. He pointed to the destruction they had wrecked upon Iraq — as evidenced by the report of the mission sent to Iraq by the Secretary-General in mid-March,<sup>280</sup> the bombing of civilian targets and the killing of civilian populations; and claimed that the United States and its allies should bear full responsibility for such excesses. With regard to the draft resolution before the Council, the speaker said that since Iraq had announced its commitment to all the resolutions adopted since 2 August 1990, one would have expected the draft resolution to be confined to lifting the economic blockade imposed on Iraq, freeing its frozen assets and property, and announcing a permanent ceasefire and the end of hostilities. However, the draft raised questions that previous resolutions had never tackled or had dealt with in a substantially different way.

The speaker summarized Iraq's position on the substantive paragraphs of the draft resolution as follows. On the question of boundaries, the Security Council had never before imposed disputed international boundaries on States Members of the United Nations. Iraq viewed that question and the manner in which it had been addressed in the draft resolution as an infringement upon its sovereignty and territorial integrity. The text contravened paragraph 3 of resolution 660 (1990), in which Iraq and Kuwait were called upon to begin negotiations for the resolution of their differences, among which was that of boundaries. Iraq reserved the right to demand its legitimate territorial rights in accordance with international law. As to the question of reparations, Iraq reserved its right to request reparations for all losses that it had incurred through any excess in the use of force as authorized by resolution 678 (1990). The imposition of reparations on Iraq alone and in the coercive manner of the draft resolution would only lead to the paralysis of Iraq's capacity to rebuild its

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<sup>279</sup> S/PV.2981, pp. 7-21.

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<sup>280</sup> S/22366.

economy. With regard to the question of destroying weapons, if the text aimed at restoring international peace and security in the region, Iraq's undertaking this alone would not secure that objective. The Council would have to follow it up with a similar and comprehensive integrated programme to disarm the entire region of all weapons of mass destruction. Finally, as to the economic blockade, the Government of Iraq believed that maintaining the land, sea and air blockade and the freeze of assets — in spite of all that was mentioned in the report of the United Nations mission to Iraq and in spite of the fact that Iraq had accepted the implementation of all 13 Security Council resolutions on the issue and thus removed the reasons for the sanctions — would be in contravention of the Charter of the United Nations. It could also be viewed as economic aggression and a clear violation of the Charter of Economic Rights and Duties of States and covenants on human rights, foremost among which were the rights to life, dignity and freedom.<sup>281</sup>

Speaking before the vote on the draft resolution, the representative of Yemen stated that the draft resolution before the Council included unjust and harsh conditions for Iraq and its people in order to achieve an official and formal ceasefire. He remarked on three salient features. First, the draft resolution tended to exceed the Charter and the Security Council mandate and resolutions. This was so in several respects. Echoing the views of the representative of Iraq, the speaker referred to the unprecedented and inappropriate role of the Council in the “imposition of the boundaries between Iraq and Kuwait”, a task which belonged to the parties or to the International Court of Justice. Furthermore, there was no precedent whatsoever for the Security Council to guarantee the boundaries of any country, as it was being asked to do in the draft resolution. Also objectionable was the specification of the way in which Iraq should pay reparations resulting from its responsibility for the war. While agreeing that, under international law, Iraq should pay reparations, the speaker questioned why the Secretary-General should be involved in a matter that fell within the purview of the International Court of Justice. As there would no doubt be many claims made from different quarters, he suggested that a neutral party should decide on them, in accordance with specified procedures. Secondly, the draft resolution was narrow in its outlook, both politically and

geographically. It did not address the real needs that must be met if long-term peace and security were to be established, not only in the Gulf area but in the region as a whole — including the Middle East. Once again there was the matter of the imposition of boundaries, instead of a call upon the two countries to negotiate; the fact that they were imposed and not agreed upon might expose them to future challenge. There was also the question of the destruction of weapons of mass destruction. Yemen supported any action aimed at eradicating weapons of mass destruction in the Middle East region. However the destruction of the Iraqi weapons alone would not help in eradicating similar weapons elsewhere in the region, and the resulting military imbalance would benefit only Israel. Thirdly, the draft resolution was characterized by the application of the same logic as that of resolution 678 (1990), in which the Council gave unlimited authority to an unlimited number of countries to do unspecified things under the banner of guaranteeing peace and security in the region. That was quite clear from the following: firstly, the draft resolution aimed only at the formal declaration of a ceasefire. Thus the state of war would continue between Iraq and the forces of the alliance until a definitive end was put to the hostilities. That would be determined by the forces of the alliance, but might take years because the cessation of hostilities was related to the guaranteeing of peace and security in the region, let alone the guaranteeing of the boundaries between Iraq and Kuwait. Second, the forces of the alliance, which occupied about 20 per cent of the territory of Iraq would, according to paragraph 6 of the draft resolution, withdraw only when certain conditions were met. Those conditions would be those accepted by the coalition forces; they were not specified in the draft resolution. Third, the United Nations would not be the party establishing security in the region, but the Security Council would have to accept or coexist with the security arrangements that would be applied because they would be made under the authority of the United Nations. Fourth, the draft resolution ignored the needs and requirements of the Iraqi people. The speaker acknowledged that the Council had approved the recommendation made by the United Nations mission that had assessed the humanitarian needs of Iraq in mid-March, and had eased the embargo on foodstuffs and humanitarian needs. However, he stressed that the insistence of the sponsors of the draft resolution that the embargo be continued with regard to the other needs of the Iraqi civilians would hurt only

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<sup>281</sup> S/PV.2981, pp. 21-35.



the Iraqi people. The speaker concluded that the delegation of Yemen would not support the draft resolution for those reasons.<sup>282</sup>

The representative of Cuba adduced similar reasons to explain why his delegation intended to vote against the draft resolution, adding that the economic sanctions should be lifted as the conditions on the basis of which they had been established had ceased to exist.<sup>283</sup>

The representative of Zaire, by contrast, indicated why his country had decided to become a sponsor of the draft resolution. It was true that the draft, the longest and most complex the Council had ever taken up, dealt with various areas which in some respects had never before been examined in the Council. The extraordinary nature of the Gulf crisis required that the Council find extraordinary solutions. His delegation believed that the areas covered by the draft resolution — boundaries, troop withdrawal, sanctions, the system of compensating for damages, the elimination of weapons of mass destruction, international terrorism — all of which were to lead to a genuine and permanent ceasefire, were essential elements for the establishment of a lasting peace. With regard to boundaries, Zaire noted that the crisis that had broken out on 2 August 1990 between Iraq and Kuwait had primarily been caused by border disputes between the two countries. As a member of the Organization of African Unity, which enshrined the principle of inviolability of borders in its Charter, Zaire believed that strict compliance with that principle would avoid potential conflicts and ensure stability among neighbouring States, both in Africa and elsewhere. The speaker pointed out, moreover, that the draft resolution acknowledged the importance of negotiations between the two countries regarding the demarcation of the boundary. It also added a key element designed to preserve the future: the Council was asked to safeguard the inviolability of that boundary. As to the withdrawal of troops, Zaire was pleased that the draft resolution advocated the deployment of a United Nations observer unit, which would enable those troops still in the region to withdraw. Regarding sanctions, Zaire had been concerned to ensure that the civilian population obtained adequate, regular supplies of foodstuffs and

medicines. As those concerns had been met in the decision of the Committee established under resolution 661 (1990), it agreed with the provisions in the draft resolution. As to compensation, it was only fair that Iraq, the aggressor, should bear responsibility for its acts and pay for them. The machinery set up would ensure that the system functioned harmoniously and impartially as it had been placed under the guidance of the Secretary-General. With regard to weapons of mass destruction, Zaire believed that the countries of the region should work together to set up a collective security system. However, in the light of the dangers posed by the accumulation of such weapons in Iraq, it was appropriate that steps be taken to eliminate them. Finally, as to the establishment of a formal ceasefire, Zaire hoped that Iraq would comply quickly with its obligations in order to bring that stage closer.<sup>284</sup>

The representative of Zimbabwe, too, considered that the several unprecedented decisions that the Council was about to take in adopting the draft resolution had to be interpreted in the light of the unique situation created by the invasion and illegal occupation of Kuwait by Iraq. It was Zimbabwe's understanding that measures contained in the draft resolution were intended to address some of the major issues that had led to the conflict between Iraq and Kuwait; and that some provisions, which ordinarily would have caused it great discomfort, were designed to ensure that there would be no recurrence of the tragedy inflicted upon Kuwait in August 1990. It had also noted that, in the implementation of some of the measures, the requirements of the people of Iraq, as well as the needs of the Iraqi economy, would be taken into account. Zimbabwe thought the draft had two shortcomings, however. While it believed that the objectives of a zone free from weapons of mass destruction in the Middle East and of a global ban on chemical weapons could contribute to durable stability and security in the region, it had misgivings regarding whether the approach suggested in the draft resolution constituted the best way to achieve those objectives. It would have preferred to have the measures specified in section C of the text applied within the framework of the whole region. On sanctions, Zimbabwe had expected that the Council would, in the draft resolution, proceed beyond the recent decision taken by the Committee established under resolution 661 (1990) and lift all remaining restrictions on the supply

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<sup>282</sup> *Ibid.*, pp. 36-50.

<sup>283</sup> *Ibid.*, pp. 58-71.

<sup>284</sup> *Ibid.*, pp. 51-55.

of foodstuffs and essential civilian needs to Iraq. He believed that to be the appropriate response to the report of the United Nations mission to Iraq in mid-March 1991. The speaker concluded by stating that his country's interpretation of operative paragraph 32 of the draft resolution, requiring Iraq to renounce international terrorism, was that nothing contained in that paragraph referred to or applied to the struggles of peoples under occupation who were struggling for self-determination.<sup>285</sup>

The representative of India, noting that the draft resolution dealt with issues that the Council had never before been called upon to consider, observed that its sponsors had assured Council members that they had put together the various elements of the text in the understanding that the international community was dealing with a unique situation in the history of the United Nations, and had urged members to look at the resolution in that light. He was pleased that some of his delegation's ideas had been incorporated in the final text. India welcomed the fact that a formal ceasefire would become effective upon official notification by Iraq to the Secretary-General and to the Security Council of its acceptance of the provisions of the draft resolution; that was a noteworthy improvement on resolution 686 (1990), on which India had abstained. With regard to the provisions relating to the international boundary, India insisted that it would never support any decision whereby the Council would impose arbitrarily a boundary line between two countries. Boundaries were an extremely sensitive issue that had to be settled by the countries concerned, freely in the exercise of their sovereignty. In this case, the boundary between Iraq and Kuwait had been agreed upon by the highest authorities of the respective countries as two fully independent and sovereign States, who had registered their agreement with the United Nations. Thus, the Council was not itself establishing any new boundary between Iraq and Kuwait, but was calling upon them to respect its inviolability. Concerning operative paragraph 4 of the draft resolution, by which the Council would guarantee the inviolability of the boundary, it was India's understanding that that provision did not confer authority on any country to take unilateral action under any of the previous resolutions of the Council. Rather, the sponsors had explained that, in case of any threat or actual violation of the boundary in future, the Council

would meet to take, as appropriate, all necessary measures in accordance with the Charter. Having long stressed that the United Nations and Secretary-General should have a role in the post-crisis situation in the region, India welcomed the fact that the United Nations was now being called upon to send an observer unit to monitor the border between Iraq and Kuwait. Although it would have preferred to have a United Nations contingent also deployed between the Iraqi troops and the forces of countries cooperating with the Government of Kuwait, it noted that it was the intention of those countries to withdraw their forces once the United Nations observer unit was deployed along the Iraq-Kuwait border. On sanctions, India was pleased that the Council had taken action in devising a much-simplified procedure to meet humanitarian needs. However, it thought that the Council should have gone further and lifted the sanctions against the supply of all the commodities listed in Mr. Ahtisaari's report to the Secretary-General of 20 March 1991. India believed, moreover, that all non-military sanctions against Iraq should be lifted as soon as Iraq conveyed acceptance of the draft resolution under consideration. With regard to military sanctions, it was glad that the sponsors had introduced an element of review. As for the framework and measures aimed at creating a durable peace and stability in the region, while India fully supported the objective, it was not convinced that the implementation of the provisions of the draft resolution would, by itself, create the necessary conditions or atmosphere for solving the basic conflicts there. It shared the view of others that the region would not enjoy lasting peace and stability until the complex of issues dividing the Arabs and the Israelis was resolved in a just and mutually satisfactory manner. In India's view, the consideration of those issues should not be delayed any longer. As to modalities, the speaker recalled that his country had consistently held that regional initiatives or arrangements for peace and stability deserved encouragement, provided they evolved through negotiations based on the exercise of the free and sovereign will of the countries of the region. Such arrangements could not be imposed by external pressure nor could they be lasting if they were of a discriminatory nature taken in the global context. Nor was it legitimate to make such arrangements under the mandatory provisions of Chapter VII of the Charter. The international community, acting under the Charter, could at best encourage, acknowledge and, if requested

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<sup>285</sup> Ibid., pp. 56-57.

by the countries concerned, take appropriate action to impart legitimacy to them.<sup>286</sup>

The draft resolution,<sup>287</sup> as orally revised, was then put to the vote, and adopted by 12 votes in favour, 1 against (Cuba) and 2 abstentions (Ecuador, Yemen), as resolution 687 (1991), which reads:

*The Security Council,*

*Recalling* its resolutions 660 (1990) of 2 August 1990, 661 (1990) of 6 August 1990, 662 (1990) of 9 August 1990, 664 (1990) of 18 August 1990, 665 (1990) of 25 August 1990, 666 (1990) of 13 September 1990, 667 (1990) of 16 September 1990, 669 (1990) of 24 September 1990, 670 (1990) of 25 September 1990, 674 (1990) of 29 October 1990, 677 (1990) of 28 November 1990, 678 (1990) of 29 November 1990 and 686 (1991) of 2 March 1991,

*Welcoming* the restoration to Kuwait of its sovereignty, independence and territorial integrity and the return of its legitimate Government,

*Affirming* the commitment of all Member States to the sovereignty, territorial integrity and political independence of Kuwait and Iraq, and noting the intention expressed by the Member States cooperating with Kuwait under paragraph 2 of resolution 678 (1990) to bring their military presence in Iraq to an end as soon as possible consistent with paragraph 8 of resolution 686 (1991),

*Reaffirming* the need to be assured of Iraq's peaceful intentions in the light of its unlawful invasion and occupation of Kuwait,

*Taking note* of the letter dated 27 February 1991 from the Deputy Prime Minister and Minister for Foreign Affairs of Iraq addressed to the President of the Security Council and of his letters of the same date addressed to the President of the Council and to the Secretary-General, and those letters dated 3 March and 5 March he addressed to them, pursuant to resolution 686 (1991),

*Noting* that Iraq and Kuwait, as independent sovereign States, signed at Baghdad on 4 October 1963 "Agreed Minutes between the State of Kuwait and the Republic of Iraq regarding the restoration of friendly relations, recognition and related matters", thereby formally recognizing the boundary between Iraq and Kuwait and the allocation of islands, which Agreed Minutes were registered with the United Nations in accordance with Article 102 of the Charter of the United Nations and in which Iraq recognized the independence and complete sovereignty of the State of Kuwait with its boundaries as specified in the letter of the Prime Minister of Iraq dated 21 July 1932 and as accepted by the ruler of Kuwait in his letter dated 10 August 1932,

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<sup>286</sup> Ibid., pp. 72-80.

<sup>287</sup> S/22430 and Corr.1.

*Conscious* of the need for demarcation of the said boundary,

*Conscious also* of the statements by Iraq threatening to use weapons in violation of its obligations under the Protocol for the Prohibition of the Use in War of Asphyxiating, Poisonous or Other Gases, and of Bacteriological Methods of Warfare, signed at Geneva on 17 June 1925, and of its prior use of chemical weapons, and affirming that grave consequences would follow any further use by Iraq of such weapons,

*Recalling* that Iraq has subscribed to the Final Declaration adopted by all States participating in the Conference of States Parties to the 1925 Geneva Protocol and Other Interested States, held in Paris from 7 to 11 January 1989, establishing the objective of universal elimination of chemical and biological weapons,

*Recalling also* that Iraq has signed the Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on Their Destruction, of 10 April 1972,

*Noting* the importance of Iraq ratifying the Convention,

*Noting also* the importance of all States adhering to the Convention and encouraging its forthcoming review conference to reinforce the authority, efficiency and universal scope of the Convention,

*Stressing the importance* of an early conclusion by the Conference on Disarmament of its work on a convention on the universal prohibition of chemical weapons and of universal adherence thereto,

*Aware* of the use by Iraq of ballistic missiles in unprovoked attacks and therefore of the need to take specific measures in regard to such missiles located in Iraq,

*Concerned* by the reports in the hands of Member States that Iraq has attempted to acquire materials for a nuclear-weapons programme contrary to its obligations under the Treaty on the Non-Proliferation of Nuclear Weapons of 1 July 1968,

*Recalling* the objective of the establishment of a nuclear-weapon-free zone in the region of the Middle East,

*Conscious* of the threat that all weapons of mass destruction pose to peace and security in the area and of the need to work towards the establishment in the Middle East of a zone free of such weapons,

*Conscious also* of the objective of achieving balanced and comprehensive control of armaments in the region,

*Conscious further* of the importance of achieving the objectives noted above using all available means, including a dialogue among the States of the region,

*Noting* that resolution 686 (1991) marked the lifting of the measures imposed by resolution 661 (1990) in so far as they applied to Kuwait,

*Noting also* that despite the progress being made in fulfilling the obligations of resolution 686 (1991), many Kuwaiti and third-State nationals are still not accounted for and property remains unreturned,

*Recalling* the International Convention against the Taking of Hostages, opened for signature in New York on 18 December 1979, which categorizes all acts of taking hostages as manifestations of international terrorism,

*Deploring* threats made by Iraq during the recent conflict to make use of terrorism against targets outside Iraq and the taking of hostages by Iraq,

*Taking note with grave concern* of the reports transmitted by the Secretary-General on 20 March and 28 March 1991, and conscious of the necessity to meet urgently the humanitarian needs in Kuwait and Iraq,

*Bearing in mind* its objective of restoring international peace and security in the area as set out in its recent resolutions,

*Conscious* of the need to take the following measures acting under Chapter VII of the Charter,

1. *Affirms* all thirteen resolutions noted above, except as expressly changed below to achieve the goals of the present resolution, including a formal ceasefire;

A

2. *Demands* that Iraq and Kuwait respect the inviolability of the international boundary and the allocation of islands set out in the "Agreed Minutes between the State of Kuwait and the Republic of Iraq regarding the restoration of friendly relations, recognition and related matters", signed by them in the exercise of their sovereignty at Baghdad on 4 October 1963 and registered with the United Nations;

3. *Calls upon* the Secretary-General to lend his assistance to make arrangements with Iraq and Kuwait to demarcate the boundary between Iraq and Kuwait, drawing on appropriate material including the maps transmitted with the letter dated 28 March 1991 addressed to him by the Permanent Representative of the United Kingdom of Great Britain and Northern Ireland to the United Nations, and to report back to the Council within one month;

4. *Decides* to guarantee the inviolability of the above-mentioned international boundary and to take, as appropriate, all necessary measures to that end in accordance with the Charter of the United Nations;

B

5. *Requests* the Secretary-General, after consulting with Iraq and Kuwait, to submit within three days to the Council for its approval a plan for the immediate deployment of a United Nations observer unit to monitor the Khawr 'Abd Allah and a demilitarized zone, which is hereby established, extending ten kilometres into Iraq and five kilometres into Kuwait from the boundary referred to in the "Agreed Minutes between the State of Kuwait and the Republic of Iraq regarding the restoration of

friendly relations, recognition and related matters"; to deter violations of the boundary through its presence in and surveillance of the demilitarized zone and to observe any hostile or potentially hostile action mounted from the territory of one State against the other; and also requests the Secretary-General to report regularly to the Council on the operations of the unit and to do so immediately if there are serious violations of the zone or potential threats to peace;

6. *Notes* that as soon as the Secretary-General notifies the Council of the completion of the deployment of the United Nations observer unit, the conditions will be established for the Member States cooperating with Kuwait in accordance with resolution 678 (1990) to bring their military presence in Iraq to an end consistent with resolution 686 (1991);

C

7. *Invites* Iraq to reaffirm unconditionally its obligations under the Protocol for the Prohibition of the Use in War of Asphyxiating, Poisonous or Other Gases, and of Bacteriological Methods of Warfare, signed at Geneva on 17 June 1925, and to ratify the Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on Their Destruction, of 10 April 1972;

8. *Decides* that Iraq shall unconditionally accept the destruction, removal, or rendering harmless, under international supervision, of:

(a) All chemical and biological weapons and all stocks of agents and all related subsystems and components and all research, development, support and manufacturing facilities related thereto;

(b) All ballistic missiles with a range greater than one hundred and fifty kilometres, and related major parts and repair and production facilities;

9. *Decides also*, for the implementation of paragraph 8, the following:

(a) Iraq shall submit to the Secretary-General, within fifteen days of the adoption of the present resolution, a declaration on the locations, amounts and types of all items specified in paragraph 8 and agree to urgent, on-site inspection as specified below;

(b) The Secretary-General, in consultation with the appropriate Governments and, where appropriate, with the Director-General of the World Health Organization, within forty-five days of the adoption of the present resolution shall develop and submit to the Council for approval a plan calling for the completion of the following acts within forty-five days of such approval:

(i) The forming of a special commission which shall carry out immediate on-site inspection of Iraq's biological, chemical and missile capabilities, based on Iraq's declarations and the designation of any additional locations by the special commission itself;

(ii) The yielding by Iraq of possession to the Special Commission for destruction, removal or rendering harmless, taking into account the requirements of public safety, of all items specified under paragraph 8 (a), including items at the additional locations designated by the Special Commission under paragraph (i) and the destruction by Iraq, under the supervision of the Special Commission, of all its missile capabilities, including launchers, as specified under paragraph 8 (b);

(iii) The provision by the Special Commission to the Director General of the International Atomic Energy Agency of the assistance and cooperation required in paragraphs 12 and 13;

10. *Decides further* that Iraq shall unconditionally undertake not to use, develop, construct or acquire any of the items specified in paragraphs 8 and 9, and requests the Secretary-General, in consultation with the Special Commission, to develop a plan for the future ongoing monitoring and verification of Iraq's compliance with the present paragraph, to be submitted to the Council for approval within one hundred and twenty days of the passage of the present resolution;

11. *Invites* Iraq to reaffirm unconditionally its obligations under the Treaty on the Non-Proliferation of Nuclear Weapons, of 1 July 1968;

12. *Decides* that Iraq shall unconditionally agree not to acquire or develop nuclear weapons or nuclear-weapon-usable material or any subsystems or components or any research, development, support or manufacturing facilities related to the above; to submit to the Secretary-General and the Director General of the International Atomic Energy Agency within fifteen days of the adoption of the present resolution a declaration of the locations, amounts and types of all items specified above; to place all of its nuclear-weapon-usable materials under the exclusive control, for custody and removal, of the Agency, with the assistance and cooperation of the Special Commission as provided for in the plan of the Secretary-General discussed in paragraph 9 (b); to accept, in accordance with the arrangements provided for in paragraph 13, urgent on-site inspection and the destruction, removal or rendering harmless as appropriate of all items specified above; and to accept the plan discussed in paragraph 13 for the future ongoing monitoring and verification of its compliance with these undertakings;

13. *Requests* the Director General of the International Atomic Energy Agency, through the Secretary-General and with the assistance and cooperation of the Special Commission as provided for in the plan of the Secretary-General referred to in paragraph 9 (b), to carry out immediate on-site inspection of Iraq's nuclear capabilities based on Iraq's declarations and the designation of any additional locations by the Special Commission; to develop a plan for submission to the Council within forty-five days calling for the destruction, removal or rendering harmless as appropriate of all items listed in paragraph 12; to carry out the plan within forty-five days following approval by the Council and to develop a plan, taking into account the rights and obligations of Iraq under the Treaty

on the Non-Proliferation of Nuclear Weapons, for the future ongoing monitoring and verification of Iraq's compliance with paragraph 12, including an inventory of all nuclear material in Iraq subject to the Agency's verification and inspections to confirm that Agency safeguards cover all relevant nuclear activities in Iraq, to be submitted to the Council for approval within one hundred and twenty days of the adoption of the present resolution;

14. *Notes* that the actions to be taken by Iraq in paragraphs 8 to 13 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;

D

15. *Requests* the Secretary-General to report to the Council on the steps taken to facilitate the return of all Kuwaiti property seized by Iraq, including a list of any property that Kuwait claims has not been returned or which has not been returned intact;

E

16. *Reaffirms* that Iraq, without prejudice to its debts and obligations arising prior to 2 August 1990, which will be addressed through the normal mechanisms, is liable under international law for any direct loss, damage — including environmental damage and the depletion of natural resources — or injury to foreign Governments, nationals and corporations as a result of its unlawful invasion and occupation of Kuwait;

17. *Decides* that all Iraqi statements made since 2 August 1990 repudiating its foreign debt are null and void, and demands that Iraq adhere scrupulously to all of its obligations concerning servicing and repayment of its foreign debt;

18. *Decides also* to create a fund to pay compensation for claims that fall within paragraph 16 and to establish a commission that will administer the fund;

19. *Directs* the Secretary-General to develop and present to the Council for decision, no later than thirty days following the adoption of the present resolution, recommendations for the Fund to be established in accordance with paragraph 18 and for a programme to implement the decisions in paragraphs 16 to 18, including the following: administration of the Fund; mechanisms for determining the appropriate level of Iraq's contribution to the Fund, based on a percentage of the value of its exports of petroleum and petroleum products, not to exceed a figure to be suggested to the Council by the Secretary-General, taking into account the requirements of the people of Iraq, Iraq's payment capacity as assessed in conjunction with the international financial institutions taking into consideration external debt service, and the needs of the Iraqi economy; arrangements for ensuring that payments are made to the Fund; the process by which funds will be allocated and claims paid; appropriate procedures for evaluating losses, listing claims and verifying their validity, and resolving disputed claims in respect of Iraq's liability as

specified in paragraph 16; and the composition of the Commission designated above;

F

20. *Decides*, effective immediately, that the prohibitions against the sale or supply to Iraq of commodities or products other than medicine and health supplies, and prohibitions against financial transactions related thereto contained in resolution 661 (1990), shall not apply to foodstuffs notified to the Security Council Committee established by resolution 661 (1990) concerning the situation between Iraq and Kuwait or, with the approval of that Committee, under the simplified and accelerated “no-objection” procedure, to materials and supplies for essential civilian needs as identified in the report to the Secretary-General dated 20 March 1991, and in any further findings of humanitarian need by the Committee;

21. *Decides* to review the provisions of paragraph 20 every sixty days in the light of the policies and practices of the Government of Iraq, including the implementation of all relevant resolutions of the Council, for the purpose of determining whether to reduce or lift the prohibitions referred to therein;

22. *Decides also* that upon the approval by the Council of the programme called for in paragraph 19 and upon Council agreement that Iraq has completed all actions contemplated in paragraphs 8 to 13, the prohibitions against the import of commodities and products originating in Iraq and the prohibitions against financial transactions related thereto contained in resolution 661 (1990) shall have no further force or effect;

23. *Decides further* that, pending action by the Council under paragraph 22, the Security Council Committee established by resolution 661 (1990) concerning the situation between Iraq and Kuwait shall be empowered to approve, when required to assure adequate financial resources on the part of Iraq to carry out the activities under paragraph 20, exceptions to the prohibition against the import of commodities and products originating in Iraq;

24. *Decides* that, in accordance with resolution 661 (1990) and subsequent related resolutions and until it takes a further decision, all States shall continue to prevent the sale or supply to Iraq, or the promotion or facilitation of such sale or supply, by their nationals or from their territories or using their flag vessels or aircraft, of:

(a) Arms and related materiel of all types, specifically including the sale or transfer through other means of all forms of conventional military equipment, including for paramilitary forces, and spare parts and components and their means of production for such equipment;

(b) Items specified and defined in paragraphs 8 and 12 not otherwise covered above;

(c) Technology under licensing or other transfer arrangements used in the production, utilization or stockpiling of items specified in paragraphs (a) and (b);

(d) Personnel or materials for training or technical support services relating to the design, development, manufacture, use, maintenance or support of items specified in paragraphs (a) and (b);

25. *Calls upon* all States and international organizations to act strictly in accordance with paragraph 24, notwithstanding the existence of any contracts, agreements, licences or any other arrangements;

26. *Requests* the Secretary-General, in consultation with appropriate Governments, to develop within sixty days, for the approval of the Council, guidelines to facilitate full international implementation of paragraphs 24, 25 and 27, and to make them available to all States and to establish a procedure for updating these guidelines periodically;

27. *Calls upon* all States to maintain such national controls and procedures and to take such other actions consistent with the guidelines to be established by the Council under paragraph 26 as may be necessary to ensure compliance with the terms of paragraph 24, and calls upon international organizations to take all appropriate steps to assist in ensuring such full compliance;

28. *Agrees* to review its decisions in paragraphs 22 to 25, except for the items specified and defined in paragraphs 8 and 12, on a regular basis and in any case one hundred and twenty days following the adoption of the present resolution, taking into account Iraq’s compliance with the resolution and general progress towards the control of armaments in the region;

29. *Decides* that all States, including Iraq, shall take the necessary measures to ensure that no claim shall lie at the instance of the Government of Iraq, or of any person or body in Iraq, or of any person claiming through or for the benefit of any such person or body, in connection with any contract or other transaction where its performance was affected by reason of the measures taken by the Council in resolution 661 (1990) and related resolutions;

G

30. *Decides* that, in furtherance of its commitment to facilitate the repatriation of all Kuwaiti and third-State nationals, Iraq shall extend all necessary cooperation to the International Committee of the Red Cross by providing lists of such persons, facilitating the access of the International Committee to all such persons wherever located or detained and facilitating the search by the International Committee for those Kuwaiti and third-State nationals still unaccounted for;

31. *Invites* the International Committee of the Red Cross to keep the Secretary-General apprised, as appropriate, of all activities undertaken in connection with facilitating the repatriation or return of all Kuwaiti and third-State nationals or their remains present in Iraq on or after 2 August 1990;

H

32. *Requires* Iraq to inform the Council that it will not commit or support any act of international terrorism or allow any organization directed towards commission of such acts to operate within its territory and to condemn unequivocally and renounce all acts, methods and practices of terrorism;

I

33. *Declares* that, upon official notification by Iraq to the Secretary-General and to the Security Council of its acceptance of the above provisions, a formal ceasefire is effective between Iraq and Kuwait and the Member States cooperating with Kuwait in accordance with resolution 678 (1990);

34. *Decides* to remain seized of the matter and to take such further steps as may be required for the implementation of the present resolution and to secure peace and security in the region.

Speaking after the vote, the representative of the United States heralded resolution 687 (1991) as unique and historic. It endeavoured to get at the core problems which had led to the Gulf crisis and laid the groundwork for the permanent ceasefire and for the withdrawal of coalition forces from Iraqi territory. It established clear incentives for rapid implementation. As soon as Iraq accepted the provisions of the resolution, a formal ceasefire would become effective, and as Iraq met the stipulations of the resolution, the sanctions regime would be modified, the role of the Secretary-General in overseeing the return to normal relations would be solidified, the coalition forces would be withdrawn, and the various mechanisms created by the resolution would come into being. The resolution relied heavily on the Secretary-General and the United Nations for its implementation, in an unprecedented elaboration of the role of the United Nations in peacekeeping and peacemaking. They were involved in the demarcation of the Iraq-Kuwait border, the deployment of observers, the activation of a special commission to oversee the elimination of weapons of mass destruction, the creation of a compensation regime, the return of Kuwaiti property and the control of arms sales to Iraq. The resolution was tough, but fair. It was fair because it set out the path by which Iraq could take its place again in the world community. It was desirable that that happen with an Iraq that was protected from dismemberment. The Council's task now, consistent with its responsibilities under Chapter VII, was to establish peace in such a way that Iraq never again threatened Kuwait's sovereignty and integrity. For that reason, the resolution demanded that

Iraq and Kuwait should respect their international boundary, agreed upon in 1963, asked the Secretary-General to lend his assistance to make arrangements with the two countries to demarcate the boundary and decided to guarantee its inviolability. Noting that the circumstances before the Council were unique in the history of the United Nations, and that the resolution was tailored exclusively to those circumstances, the speaker stressed that the United States did not seek, nor would it support, a new role for the Security Council as the body that determined international boundaries. Border disputes were issues to be negotiated directly between States or resolved through other pacific means of settlement. Next, the resolution created a demilitarized zone and called for the immediate deployment of an observer force; its purpose was to deter threats to peace through its very presence astride the Iraq-Kuwait border. It also dealt with the problem of weapons of mass destruction and the missiles with which to deliver them. Extraordinary care had been taken in those sections of the resolution to be precise and thorough, as required by the extraordinary circumstances of Iraq's past use of, and threats to use or develop, such weapons. Since the region could not be secure if those weapons remained at Iraq's disposal, the Council had decided that they must be eliminated under the supervision of a Special Commission and the International Atomic Energy Agency. The resolution broke further new ground in requiring Iraq to forswear future efforts to develop such weapons and in establishing a mechanism for international monitoring of Iraq's compliance. In order to facilitate the work of the Special Commission, the United States proposed to play an active role in that body where it and other permanent members of the Security Council had necessary expertise which they could make available. Finally, on the measures to rebuild the peace, the text made clear that this attempt by the international community to deal with the unique problem posed by Iraq took place in a regional context.

The speaker added that other major steps had been taken in the area of liability for damage and compensation. The resolution established a process of settlement by which all who had suffered direct damage or injury as a result of the illegal Iraqi aggression could claim and receive compensation. It created a fund, supported by Iraq's contribution of a certain percentage of its oil revenues, to pay compensation for future claims and a Commission to administer the fund. The Secretary-General would have

a key role in bringing that process into being and would make recommendations to the Council. On the question of sanctions, the resolution created a dynamic and flexible process, which linked the removal of sanctions to the implementation of the resolution. That was the incentive to implement fully the resolution as soon as possible. The Council also provided for the continuation of the return of Kuwaiti property. In addition, as a result of Iraq's unprecedented taking of hostages and its open threats to use terrorism in the recent conflict, the resolution required a commitment from Iraq that it would not in the future commit or support acts of terrorism or terrorist organizations. The speaker concluded by underlining the unprecedented nature of the resolution just adopted: troops had gone into battle before under the Charter of the United Nations, but the United Nations had never before taken measures to rebuild the peace such as those contained in this historic resolution. Iraq's active participation was essential for this approach to work. If stability were restored to the Gulf region and military tensions receded, the international community could turn to assisting with the reconstruction of Iraq as well as Kuwait. The United States, for its part, would exploit whatever opportunities there might be for unlocking progress on the resolution of other problems in the region, including Arab-Israeli issues.<sup>288</sup>

The representative of France remarked that the purpose of the resolution just adopted was to establish a proper ceasefire between Iraq and Kuwait as well as the Member States cooperating with Kuwait under resolution 678 (1990), noting that it also set forth conditions for the withdrawal from Iraqi territory of the forces of the States cooperating with Kuwait. Beyond that, however, it provided important elements that should contribute in the longer term to re-establishing regional security. A number of provisions were fundamental in that regard: the guarantee of the inviolability of the international boundary between Iraq and Kuwait; the deployment there of a United Nations observer unit; and the disarmament measures with regard to Iraq. The speaker noted that his country had been very insistent that the prohibition on Iraq's possessing biological or chemical weapons and all the arms restriction measures concerning Iraq should be seen in the context of regional measures approved by the international community. Nevertheless, France agreed that under the present circumstances their

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<sup>288</sup> S/PV.2981, pp. 82-91.

application should be confined in the immediate future to the case of Iraq. Their global and regional scope was, however, clearly brought out by the resolution, which reflected France's position on this essential point. The resolution also reaffirmed Iraq's responsibility under international law for the losses and damages of all kinds resulting from its aggression against Kuwait, and provided a mechanism for the payment of claims. The speaker pointed out that the Secretary-General and the United Nations bore heavy responsibility in each of these three areas — the border, disarmament and reparations — responding to his country's desire to see the Organization play an important role in re-establishing peace in the region. He added that France was gravely concerned about the plight of the civilian population in Iraq, which was not only suffering from serious material difficulties, but was the victim of unjustifiable violence in both the south and the north, where the inhabitants of Kurdish origin had once again, tragically, been attacked. France believed that the Security Council had a duty to say something about this situation. It recognized that the return to normal living conditions in Iraq was not dependent solely on the easing and lifting of sanctions, as had been provided for in the resolution just adopted. France appealed, therefore, to the Iraqi authorities to put an immediate end to repression in all its forms and to enter into dialogue about respect for rights, democratization of public life and the realization of the legitimate aspirations of all sections of the Iraqi people. It was essential, *inter alia*, that the just claim of the Kurdish community for respect for its identity within the Iraqi State be fully recognized. In conclusion, the speaker urged that the Council's momentum of the past eight months in response to the Gulf crisis should be maintained, as should its determination to defend the law, a determination that should be applied to settling other conflicts in the Near and Middle East.<sup>289</sup>

The representative of China said his delegation had voted in favour of the resolution just adopted since it would establish a formal ceasefire in the region. However, he pointed out that, although the resolution made it clear that the deployment of a United Nations observer unit would "establish conditions" for the withdrawal of foreign military forces, it failed to provide an explicit time frame for that withdrawal. Furthermore, the resolution included some unnecessary

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<sup>289</sup> *Ibid.*, pp. 92-95.



restrictions on the lifting of economic sanctions against Iraq. Stressing that the Iraqi people were innocent, the speaker stated that, in the light of the development of the situation, the Security Council should ease and lift economic sanctions as soon as possible, so as to bring the economy of all the countries in the region back to normalcy at an early date. China also believed that the Security Council should be responsible for handling questions concerning the implementation of the resolution; there should be no other interpretation. It was of the view, moreover, that the general goal of the post-war arrangements in the Gulf region should be to ensure a lasting peace in the region and peaceful coexistence of peoples of all countries there. The relevant arrangements should be made mainly by the countries in the Gulf region, in conformity with the interests of their peoples, and with respect for the principles of State sovereignty, territorial integrity, and non-interference in internal affairs.<sup>290</sup>

The representative of the Union of Soviet Socialist Republics remarked on the successful interaction between the permanent members and the members of the Security Council as a whole, which had enabled the Council to elaborate a sound international legal document in a relatively short time — in the form of the resolution just adopted —, thereby drawing a line under one of the most serious regional conflicts of recent times and promoting the establishment of lasting peace and stability in the Gulf region, and in the long run in the Middle East as a whole. The Kuwait crisis and the process of addressing it had been a serious test of the new system of international relations following the end of the cold war, which the international community, in the form of the United Nations and its Security Council, had passed. The Security Council had proved its ability to implement its obligation under the Charter of the United Nations to maintain and restore international peace and security. He stressed that resolution 687 (1991) aimed not only at restoring justice but at issuing a serious warning to all those who might be inclined to embark on the path of aggression, occupation and annexation. The crux of the resolution, as other speakers had observed, was the establishment of a permanent ceasefire between Iraq and Kuwait and those States cooperating with Kuwait, after official notification by Iraq of its acceptance of the resolution. He emphasized, in that regard, that the deployment on

the boundary between Kuwait and Iraq of United Nations observers would create conditions for the withdrawal of the multinational forces from the region. An important element in the process was the demarcation of the boundary between Iraq and Kuwait in accordance with the agreement to that effect deposited with the United Nations. It was of prime importance, in his view, to observe the provision that the task of ensuring the inviolability of the boundary between Iraq and Kuwait lay with the Security Council, which, to that end, could take all necessary steps in accordance with the Charter of the United Nations.

The speaker further observed that the resolution paved the way for a post-crisis settlement. The most acute issue in that regard was that of creating an effective barrier against the use of weapons of mass destruction in the region. Of great importance from that viewpoint were the provisions in the resolution regarding Iraq's destruction of chemical and biological weapons and longer-range missiles, which represented a direct threat to countries in the region, and the role of the International Atomic Energy Agency in supervising nuclear sites in Iraq. It was also important that all Middle Eastern countries accede to the Nuclear Non-Proliferation Treaty and to international agreements prohibiting chemical and biological weapons. He noted that an important function in ensuring the post-crisis settlement in the region belonged to the United Nations, which should play the role of a reliable guarantor of security. That derived logically from the role of the Security Council in organizing the collective efforts to repel the Iraqi aggression, and from Security Council resolution 598 (1987) on the situation between Iran and Iraq. Although the speaker considered that a key role in determining the parameters of such a settlement must belong to the States of the region, he cautioned that the creation of bloc groupings should not be allowed, as they would lead to perpetuating old and promoting new problems and disagreements. The post-crisis settlement should not be aimed against anyone, but should rather be intended to promote cooperation among all the States of the region concerned, as well as those States that were not directly involved but made an important contribution to the maintenance of peace and stability there. In that context, he emphasized that Iraq, as a sovereign State, must take its rightful place in the political and economic infrastructure of the region. He concluded by observing that, with the adoption of

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<sup>290</sup> Ibid., pp. 95-98.

resolution 687 (1991), detailed work should begin on its technical aspects and the financial implications of its implementation. Considerable work in preparing the necessary plans and recommendations would have to be done by the Secretary-General. The Council, for its part, should play a key role in keeping under constant supervision the entire process of implementing the resolution and take such additional steps as might be required as its provisions were implemented.<sup>291</sup>

The representative of Ecuador considered the resolution just adopted to be of vital importance for two reasons: it formally marked the end of hostilities in the Gulf conflict and sought to establish the foundations for a stable, permanent peace in the region; and its provisions reflected a genuine advance towards consolidating the rule of law in international relations. Many of its measures constituted a suitable response by the international community, and the Security Council in particular, to the crisis, which his country supported. Ecuador had misgivings, however, in respect of section A of the resolution, concerning the boundary between Iraq and Kuwait, impelling it to abstain in the vote. In taking a position on the boundary between the two countries and in requesting the Secretary-General to make arrangements with them to demarcate the boundary, acting under Chapter VII of the Charter, the Council had apparently decided that this was an exceptional case, falling outside Article 36, under which the Security Council "... should also take into consideration that legal disputes should as a general rule be referred by the parties to the International Court of Justice in accordance with the provisions of the Statute of the Court". Ecuador did not share that view. While Chapter VII of the Charter authorized the use of all necessary means to implement the resolutions of the Council, it could not confer on the Council more powers than those set forth in the Charter itself. A position of the Council in this matter, an extremely sensitive one, had to fall unequivocally within the bounds of international law and the Charter if it were not to become a fresh source of conflict. If it had been possible, therefore, to vote separately on the individual paragraphs of the draft resolution, Ecuador would have indicated its disagreement with those points dealing with the boundary. In the meantime, it had taken note with satisfaction of the statement by the representative of the United States to the effect that the present case of the boundary between Iraq and Kuwait

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<sup>291</sup> Ibid., pp. 98-105.

could not be considered as a precedent; its distinguishing feature was its uniqueness. The speaker added that his country also considered that the Council should approve the lifting of the sanctions, which were affecting the civilian population of Iraq. Further, it must move towards taking the necessary action, provided for by the resolution, so that the definitive withdrawal of the coalition forces could take place.<sup>292</sup>

The representative of the United Kingdom observed that resolution 687 (1991) marked an important milestone both in the Gulf crisis and in the overall development of the United Nations. The expulsion of Iraq from Kuwait and the latter's liberation marked a firm and effective determination of the world community not to allow the law of the jungle to prevail over the rule of law. They had shown that the Security Council — with not only the solidarity of its permanent members but with supporting votes from countries representing every region of the world — had been able to act to repel aggression in the way its founding fathers had intended it to do. Now the Council faced the far more difficult task of securing the peace. Just as the Security Council had the primary responsibility to reverse the aggression, so it also had the responsibility to lay sound foundations for the future and to ensure that the international community was not again confronted with such a ruthless and comprehensive challenge to international law. That was the object of resolution 687 (1991), and the yardstick by which it would be measured.

Noting that the resolution was a complex and detailed one, the speaker stressed that only such a comprehensive approach could achieve the balance between firmness and fairness which was essential if lasting peace and stability were to be achieved. He commented on three central issues. First was the question of the boundary between Iraq and Kuwait. He stressed that the resolution was not attempting to settle the boundary between the two countries; that had been done by the 1963 Agreement between them, which had been registered with the United Nations. Rapid demarcation of the boundary, the setting up of a United Nations unit to monitor a demilitarized zone along the frontier, and a guarantee by the Security Council to step in if it were ever violated, constituted a carefully integrated package designed to ensure that there was no repetition of the events of August 1990. A second

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<sup>292</sup> Ibid., pp. 105-110.

important issue was that of arms control and, in particular, the elimination of Iraqi weapons of mass destruction and of the missiles that could be used for their delivery. The tough provisions in that area were fully warranted, in his view, for Iraq alone in the region had not only developed many such weapons but actually used them, both against a neighbouring State and against its own population, and it had threatened their use as part of its diplomacy. He noted, however, that the resolution clearly situated the action against Iraq's weapons of mass destruction within the wider framework of work towards a region free of weapons of mass destruction. Thirdly, there was the question of compensation for the damage inflicted on Kuwait and many others by the Iraqi armed forces and their leadership. In this sphere, the speaker stated, the resolution sought to tread a path between the two extremes of either overlooking the need for compensation or imposing a crippling economic burden. It accordingly made financial provision for meeting claims out of a limited proportion of Iraq's future oil revenues.<sup>293</sup>

The representative of Austria observed that, by adopting such a comprehensive resolution, the Council had assumed grave and unprecedented responsibilities. His delegation was satisfied to see some of its ideas reflected in the text, particularly with regard to humanitarian aspects. The resolution contained important provisions that should help to alleviate the grave situation faced by the Iraqi civilian population. However, they could only form the beginning of a larger process: a comprehensive, internationally concerted system of relief operations would be necessary to bring the fundamental basics of civilian life back to normal. Austria was also gravely concerned about reports of heavy fighting and bloodshed in Iraq with disastrous consequences for the civilian population, in particular in the area inhabited by Kurds and others. With a view to safeguarding the human rights of the Kurds and other persons threatened by the armed repression of the Iraqi Government forces, the Government of Austria had endorsed both the request of Turkey that the Security Council should deal with that alarming situation and take effective measures, and the position of France that the Security Council should pronounce itself on these pressing issues. The speaker added that some elements of the Council's new resolution were particularly relevant to the task faced

now of maintaining the peace. One was the deployment of observers. Austria had already declared its readiness to participate in such an operation. It looked forward to the Secretary-General's plan, in particular to the proposed duration of the operation. Austria saw it as a provisional measure that should contribute to creating conditions conducive to negotiations. On the financing of the operation, the speaker wondered whether consideration might be given to an idea put forward previously by other members of the Council, namely, the provision of special contributions by those who benefited most by such an operation and were financially in a position to make them, be they States or private entities. In conclusion, he suggested that the Council should discuss possible lessons from the Gulf crisis — such as the need to strengthen the preventive capacity of the United Nations and to look more closely at the arrangements for United Nations enforcement action.<sup>294</sup>

The representative of Romania underlined the importance of paragraph 33 of the resolution just adopted, by which the Security Council declared that, upon official notification by Iraq to the Secretary-General and to the Security Council of its acceptance of the provisions of the resolution, a formal ceasefire would be effective between Iraq and Kuwait and the Member States cooperating with Kuwait in accordance with resolution 678 (1990). Romania expected that Iraq would soon make the required notification concerning its acceptance of the resolution. The speaker also noted with interest the provisions of the resolution concerning the creation of a fund to pay compensation for claims addressed to Iraq by foreign Governments, nationals and corporations. His delegation understood that the implementation of those provisions would not affect the implementation of recommendations of the Security Council Committee established by resolution 661 (1990). Requests for assistance by Member States under Article 50 of the Charter should be given the most serious attention by the Council. Romania also emphasized the practical importance of paragraph 17 of resolution 687 (1991), by which the Council decided that all Iraqi statements made since 2 August 1990 repudiating its foreign debt were null and void, and demanded that Iraq adhere scrupulously to all of its

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<sup>293</sup> Ibid., pp. 111-116.

<sup>294</sup> Ibid., pp. 116-122.

obligations concerning servicing and repayment of its foreign debt.<sup>295</sup>

The President, speaking in his capacity as the representative of Belgium, welcomed the fact that the official cessation of hostilities, as embodied in the resolution just adopted, was the culmination of a long process designed to restore the rule of law, in accordance with the means laid down in the Charter. While the resolution brought down the curtain on a painful episode, it opened a new chapter by defining for the Gulf region some of the principles that should henceforth govern relations between States. The Belgian delegation was pleased to note that a number of matters to which it attached great importance figured prominently in the resolution. Thus, for instance, it was important to make the United Nations responsible for implementing the resolution. The Organization had authorized the re-establishment of the rule of law by the legitimate use of force, and it should maintain the rule of law in peacetime. The resolution was also seriously concerned with mitigating the impact of the war on the Iraqi population: it had eased and foresaw the lifting of the food embargo; and, while insisting that Iraq pay fair compensation, the resolution in paragraph 19 made it clear that nothing was to prevent the creation of conditions for the reconstruction of the Iraqi economy. Finally, the text set out the essential measures that would allow Iraq to resume its place in the international community, including repudiating resort to and encouragement of terrorism and eliminating weapons of mass destruction, in the context of regional arms control. Turning to the human dimension, the speaker stressed the importance of respect for human rights, particularly those of ethnic and religious minorities. His delegation fully associated itself with the Secretary-General's appeal on 2 April on behalf of Kurdish and Shiite refugees. Belgium considered it essential that the Government of Iraq respect its commitment to ensure the equitable distribution of food and humanitarian aid to the Iraqi population as a whole; and that the Iraqi authorities grant humanitarian organizations unrestricted access to populations in distress.<sup>296</sup>

The representative of Kuwait, in a further statement, commented on some of the points raised by the representative of Iraq. He noted, *inter alia*, that the

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<sup>295</sup> *Ibid.*, pp. 122-127.

<sup>296</sup> *Ibid.*, pp. 127-131.

representative of Iraq had said that Iraq would "reserve its legitimate rights" regarding the boundary between the two countries. That put in question whether Iraq unconditionally accepted resolution 687 (1991). The speaker disputed, moreover, that there was any contradiction between the Security Council's request to demarcate the boundary, and paragraph 3 of resolution 660 (1990). The thrust of resolution 687 (1991) was demarcation of a previously agreed-upon boundary, which was not the subject of any controversy or quarrel.<sup>297</sup>

**Decision of 9 April 1991 (2983rd meeting):  
resolution 689 (1991)**

On 5 April 1991, the Secretary-General submitted to the Council a report on the implementation of paragraph 5 of resolution 687 (1991).<sup>298</sup> The report contained a plan for the creation and deployment of a United Nations observer unit, to be called the United Nations Iraq-Kuwait Observation Mission (UNIKOM). The Secretary-General proposed a threefold mandate for UNIKOM: (a) to monitor the Khor Abdullah and a demilitarized zone extending 10 kilometres into Iraq and 5 kilometres into Kuwait from the boundary referred to in the Agreed Minutes between the State of Kuwait and the Republic of Iraq regarding the restoration of friendly relations, recognition and related matters of 4 October 1963;<sup>299</sup> (b) to deter violations of the boundary through its presence in and surveillance of the demilitarized zone; and (c) to observe any hostile or potentially hostile action mounted from the territory of one State to the other. He indicated that, in accordance with the established principles, UNIKOM would be under the command of the United Nations, vested in the Secretary-General, under the authority of the Security Council. Stressing that UNIKOM would be able to function effectively only with the full cooperation of the parties, the Secretary-General stated that he had informed the representatives of Iraq and Kuwait of the proposed plan and requested confirmation that their respective Governments would cooperate with the United Nations on that basis.<sup>300</sup>

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<sup>297</sup> *Ibid.*, pp. 131-133.

<sup>298</sup> S/22454; see also S/22454/Add.1-3.

<sup>299</sup> United Nations, *Treaty Series*, vol. 485, No. 7063.

<sup>300</sup> In an addendum to his report (S/22454/Add.3), the Secretary-General reported that the representatives of Iraq and Kuwait had confirmed that their respective Governments accepted the plan contained in his report

At its 2983rd meeting, held on 9 April 1991 in accordance with the understanding reached in its prior consultations, the Council included the Secretary-General's report in its agenda, and invited the representatives of Iraq and Kuwait, at their request, to participate in the discussion without the right to vote.

The President (Belgium) drew the attention of Council members to a draft resolution that had been prepared in the course of the Council's prior consultations,<sup>301</sup> and to the addition of a second preambular paragraph to the text, reading: "Acting under Chapter VII of the Charter". He also drew their attention to the following documents: letters dated 5 and 4 April 1991 from the representative of Kuwait addressed to the Secretary-General;<sup>302</sup> and a letter dated 6 April 1991 from the representative of Iraq addressed to the Secretary-General and the President of the Security Council.<sup>303</sup> The latter communication enclosed a letter from the Minister for Foreign Affairs of Iraq, the penultimate paragraph of which contained official notification of the acceptance by Iraq of resolution 687 (1991).

The draft resolution was then put to the vote and adopted unanimously as resolution 689 (1991), which reads:

*The Security Council,*

*Recalling* its resolution 687 (1991) of 3 April 1991,

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

1. *Approves* the report of the Secretary-General of 5 and 9 April 1991 on the implementation of paragraph 5 of Security Council resolution 687 (1991);

2. *Notes* that the decision to set up an observer unit was taken in paragraph 5 of resolution 687 (1991) and that the unit can be terminated only by a further decision of the Council; the Council shall therefore review the question of its termination or continuation every six months;

3. *Decides* that the modalities for the initial six-month period of the United Nations Iraq-Kuwait Observation Mission shall be in accordance with the above-mentioned report and shall also be reviewed every six months.

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and would cooperate with the United Nations in its implementation.

<sup>301</sup> S/22470.

<sup>302</sup> S/22453 and S/22457.

<sup>303</sup> S/22456.

### **Decision of 19 April 1991: letter from the President of the Security Council to the Secretary-General**

On 18 April 1991, the Secretary-General submitted to the Council a report on the implementation of paragraph 9 (b) (i) of Security Council resolution 687 (1991).<sup>304</sup> By that resolution, the Council had, *inter alia*, requested the Secretary-General to submit to it, for approval, a plan calling for the formation of a special commission to carry out the tasks enumerated in paragraphs 9 (b) (i-iii), 10 and 13, which concerned supervising the elimination of Iraq's weapons of mass destruction and the missiles with which to deliver them. The Secretary-General's report contained his proposal for setting up the United Nations Special Commission<sup>305</sup> and for making the necessary arrangements for it to begin implementing its tasks.

By a letter dated 19 April 1991,<sup>306</sup> the President of the Council informed the Secretary-General as follows:

I have the honour to inform you that your report of 18 April 1991 on the implementation of paragraph 9 (b) (i) of Security Council resolution 687 (1991) has been brought to the attention of the members of the Council. They agree to the proposals contained in the report.

### **Decision of 29 April 1991 (2985th meeting): statement by the President**

At its 2985th meeting, held on 29 April 1991 in accordance with the agreement reached in the course of its prior consultations, the Council included in its agenda the item entitled: "The situation between Iraq and Kuwait: statement by the President of the Security Council concerning the States which have invoked Article 50 of the Charter of the United Nations".

The President (Belgium) stated that, following consultations among the members of the Security Council, he had been authorized to make the following statement on behalf of the Council:<sup>307</sup>

The members of the Security Council have considered the memorandum dated 22 March 1991 which was addressed to the President of the Security Council by the representatives of

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<sup>304</sup> S/22508.

<sup>305</sup> On the establishment of the Special Commission, see chapter V.

<sup>306</sup> S/22509.

<sup>307</sup> S/22548.

twenty-one States which have invoked Article 50 of the Charter of the United Nations owing to the special economic problems arising from the implementation of the sanctions imposed against Iraq and Kuwait under Council resolution 661 (1990).

The members of the Council have taken note of the Secretary-General's oral report to them on 11 April 1991, in which he supported the appeal launched by the twenty-one States that have invoked Article 50. The Secretary-General further informed the Council on 26 April 1991 of the conclusions reached by the Administrative Committee on Coordination at the session it has just held in Paris, where its members agreed to pursue vigorously their efforts to respond effectively to the needs of countries most affected by the implementation of resolution 661 (1990). The Secretary-General will coordinate through the Committee, within the framework of this assistance, the activities of organizations of the United Nations system.

The members of the Council have taken note of the replies from a number of States (Austria, Belgium, Denmark, France, Germany, Greece, Ireland, Italy, Japan, Liechtenstein, Luxembourg, Luxembourg on behalf of the European Community and its twelve member States, Netherlands, New Zealand, Norway, Portugal, Spain, Switzerland, United Kingdom of Great Britain and Northern Ireland, United States of America and the Union of Soviet Socialist Republics) which have furnished specific information on the assistance they have provided to various affected countries; they have also taken note of the replies from officials of international financial institutions, such as those received from the President of the World Bank and the Managing Director of the International Monetary Fund. They invite other Member States and international financial institutions and organizations to inform the Secretary-General as soon as possible of the measures that they have taken on behalf of the States which have invoked Article 50.

The members of the Council make a solemn appeal to States, international financial institutions and United Nations bodies to respond positively and speedily to the recommendations of the Security Council Committee established under resolution 661 (1990) concerning the situation between Iraq and Kuwait for assistance to countries which find themselves confronted with special economic problems arising from the carrying out of those measures imposed by resolution 661 (1990) and which have invoked Article 50.

The members of the Council note that the procedure established under Article 50 of the Charter of the United Nations remains in effect.

**Decision of 20 May 1991 (2987th meeting):  
resolution 692 (1991)**

On 2 May 1991, the Secretary-General submitted to the Council a report pursuant to paragraph 19 of

resolution 687 (1991),<sup>308</sup> setting out his recommendations for establishing a United Nations Compensation Fund to pay compensation for claims against Iraq and a United Nations Compensation Commission to administer the Fund. As he conceived it, the Commission would function under the authority of the Security Council and be a subsidiary organ thereof. Its principal organ would be a 15-member Governing Council composed of the representatives of the members of the Security Council at any given time. The commissioners would be experts in fields such as finance, law, accountancy, insurance and environmental assessment, who would act in their personal capacity.<sup>309</sup> The Secretary-General said he would undertake the appropriate consultations, as required by paragraph 19 of resolution 687 (1991), so as to be in a position to suggest the figure which Iraq's contribution to the Fund would not exceed.<sup>310</sup> He also made recommendations regarding the claims procedure.<sup>311</sup>

At its 2987th meeting, held on 20 May 1991 in accordance with the understanding reached in its prior consultations, the Council included the Secretary-General's report in its agenda, and invited the representatives of Iraq and Kuwait, at their request, to participate in the discussion without the right to vote.

The President (China) drew the attention of the Council members to a draft resolution submitted by the United Kingdom and the United States,<sup>312</sup> and informed them that Belgium, France, Romania, the Union of Soviet Socialist Republics and Zaire had joined in sponsoring it.

The draft resolution was then put to the vote and adopted by 14 votes in favour to none against, with 1 abstention (Cuba), as resolution 692 (1991), which reads:

*The Security Council,*

*Recalling* its resolutions 674 (1990) of 29 October 1990, 686 (1991) of 2 March 1991 and 687 (1991) of 3 April 1991 concerning the liability of Iraq, without prejudice to its debts and obligations arising prior to 2 August 1990, for any direct loss, damage, including environmental damage and the depletion of natural resources, or injury to foreign Governments, nationals

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<sup>308</sup> S/22559.

<sup>309</sup> *Ibid.*, sect. I.

<sup>310</sup> *Ibid.*, para. 13.

<sup>311</sup> *Ibid.*, sect. II.

<sup>312</sup> S/22613.

and corporations as a result of Iraq's unlawful invasion and occupation of Kuwait,

*Taking note* of the report submitted by the Secretary-General on 2 May 1991 pursuant to paragraph 19 of resolution 687 (1991),

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

1. *Expresses its appreciation* to the Secretary-General for his report of 2 May 1991;

2. *Welcomes* the fact that the Secretary-General will now undertake the appropriate consultations requested by paragraph 19 of resolution 687 (1991) so that he will be in a position to recommend to the Council for decision as soon as possible the figure which the level of Iraq's contribution to the United Nations Compensation Fund will not exceed;

3. *Decides* to establish the Fund and the United Nations Compensation Commission referred to in paragraph 18 of resolution 687 (1991) in accordance with section I of the Secretary-General's report, and decides also that the Governing Council of the Commission will be located at the United Nations Office at Geneva and that the Governing Council may decide whether some of the activities of the Commission should be carried out elsewhere;

4. *Requests* the Secretary-General to take the actions necessary to implement paragraphs 2 and 3 in consultation with the members of the Governing Council;

5. *Directs* the Governing Council to proceed in an expeditious manner to implement the provisions of section E of resolution 687 (1991), taking into account the recommendations in section II of the Secretary-General's report;

6. *Decides* that the requirement for Iraqi contributions will apply in the manner to be prescribed by the Governing Council with respect to all Iraqi petroleum and petroleum products exported from Iraq after 3 April 1991 as well as such petroleum and petroleum products exported earlier but not delivered or not paid for as a specific result of the prohibitions contained in resolution 661 (1990) of 6 August 1990;

7. *Requests* the Governing Council to report as soon as possible on the actions it has taken with regard to the mechanisms for determining the appropriate level of Iraq's contribution to the Fund and the arrangements for ensuring that payments are made to the Fund, so that the Security Council can give its approval in accordance with paragraph 22 of resolution 687 (1991);

8. *Requests also* that all States and international organizations cooperate with the decisions of the Governing Council taken pursuant to paragraph 5, and further requests that the Governing Council keep the Security Council informed on this matter;

9. *Decides* that, if the Governing Council notifies the Security Council that Iraq has failed to carry out decisions of the

Governing Council taken pursuant to paragraph 5, the Security Council intends to retain or to take action to reimpose the prohibition against the import of petroleum and petroleum products originating in Iraq and financial transactions related thereto;

10. *Decides also* to remain seized of this matter, and requests the Governing Council to submit periodic reports to the Secretary-General and the Security Council.

**Decisions of 17 June 1991 (2994th meeting):  
resolutions 699 (1991) and 700 (1991)**

On 17 May 1991, the Secretary-General submitted to the Security Council a report entitled "Plan for the implementation of relevant parts of section C of Security Council resolution 687 (1991)",<sup>313</sup> concerning Iraq's demilitarization. In paragraph 9 (b) of that resolution, the Council requested the Secretary-General to develop and submit for approval a plan calling for the completion of the tasks enumerated in paragraphs 9 (b) (i to iii) and 10. The tasks concerned the immediate on-site inspection of Iraq's biological, chemical and missile capabilities, and its nuclear capabilities; the destruction, removal or rendering harmless of all items specified under paragraph 8 of the resolution; and the monitoring and verification of Iraq's compliance in the future. The Secretary-General reported that the plan had been developed in consultation with appropriate Governments, with the Directors General of the International Atomic Energy Agency (IAEA) and the World Health Organization, and with the newly established Special Commission. It envisaged a three-stage implementation procedure: (1) the gathering and assessment of information on the locations, amounts and types of all items specified in paragraphs 8 and 12 of resolution 687 (1991), which were to be destroyed, removed or rendered harmless; (2) the actual disposal of weapons, facilities and all other items specified in paragraphs 8 and 12; and (3) the monitoring and verification of Iraq's compliance in the future. The Secretary-General observed that the third stage of the plan represented a long-term operation. A detailed plan, as called for in paragraph 10 of resolution 687 (1991), would be submitted to the Security Council for its approval, subsequent to the establishment of a complete database.

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<sup>313</sup> S/22614.

On the same day, the Secretary-General submitted to the members of the Security Council a note,<sup>314</sup> transmitting a letter addressed to him under paragraph 13 of resolution 687 (1991) by the Director General of IAEA, and its enclosure containing a plan for the destruction, removal and rendering harmless of items specified in paragraph 12 of that resolution, namely, “nuclear weapons or nuclear-weapon-usable material or any subsystems or components or any research, development, support or manufacturing facilities” related thereto.

On 2 June 1991, the Secretary-General submitted to the Council a report<sup>315</sup> pursuant to paragraph 26 of resolution 687 (1991), by which he was requested to develop guidelines to facilitate full international implementation of the arms and related sanctions against Iraq, and to establish a procedure for updating those guidelines periodically. In an annex to the report, he put forward draft guidelines that had been prepared, as requested, in consultation with appropriate Governments. The draft guidelines listed the categories of prohibited items and activities; defined the role of the Committee established by resolution 661 (1990) concerning the situation between Iraq and Kuwait, as the organ of the Security Council responsible for monitoring the prohibitions against the sale or supply of arms to Iraq and related sanctions, as well as the Committee’s relationship with any new bodies responsible for the monitoring and verification of Iraq’s compliance with the obligations set out in paragraphs 10 and 12 of resolution 687 (1991); and set out the principles governing implementation of the arms and related sanctions against Iraq, which were to be effected at three levels: by all States, by international organizations and through intergovernmental cooperation. Those principles made it clear, *inter alia*, that States and international organizations were “called upon to act strictly in accordance with the arms and related sanctions, notwithstanding the existence of any contracts, agreements, licences or any other arrangements”. With regard to review of the guidelines, the Secretary-General suggested that the Council might wish to carry out such a review at the same time as its regular reviews of the economic, arms and related sanctions against Iraq, provided for in paragraph 28 of resolution 687 (1991).

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<sup>314</sup> S/22615.

<sup>315</sup> S/22660.

At its 2994th meeting, held on 17 June 1991 in accordance with the understanding reached in its prior consultations, the Council included in its agenda the two reports of the Secretary-General and his note of 17 May. The Council invited the representative of Iraq, at his request, to participate in the discussion without the right to vote.

The President (Côte d’Ivoire) drew the attention of the Council members to a draft resolution submitted by France, the Union of Soviet Socialist Republics, the United Kingdom and the United States,<sup>316</sup> and to a draft resolution submitted by Belgium, France, the Union of Soviet Socialist Republics, the United Kingdom and the United States.<sup>317</sup> He also drew their attention to two letters from the representative of Iraq: a letter dated 9 June 1991 addressed to the Secretary-General,<sup>318</sup> affirming his Government’s readiness to cooperate with respect to the implementation of section C of resolution 687 (1991); and identical letters dated 11 June 1991 addressed to the Secretary-General and the President of the Security Council,<sup>319</sup> asserting that the Government of Iraq had complied with resolution 687 (1991) and reviewing the measures taken by it in that connection.

At the same meeting, the representative of Iraq stated that his Government had both accepted resolution 687 (1991) and dealt with it positively. He reviewed in some detail the measures it had taken to implement its obligations thereunder. The speaker added that his Government wished to affirm its absolute readiness to cooperate with respect to the implementation of section C of resolution 687 (1991), and its desire not to raise any obstacle to implementation of the resolution. Unfortunately, however, his Government noted that paragraph 4 of the first draft resolution under consideration,<sup>320</sup> concerning adoption of the Secretary-General’s plan for the implementation of section C, made the Government of Iraq liable for all the costs of carrying out the tasks entrusted to the Secretary-General. His Government rejected liability for the cost of destroying the chemical weapons. On the other hand, it affirmed its willingness

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<sup>316</sup> S/22686; subsequently adopted without change as resolution 699 (1991).

<sup>317</sup> S/22698; subsequently adopted without change as resolution 700 (1991).

<sup>318</sup> S/22682.

<sup>319</sup> S/22689.

<sup>320</sup> S/22286.



to cooperate and by its own efforts voluntarily to destroy or render harmless such weapons, under the supervision and to the satisfaction of United Nations experts. The Government's participation in that way would reduce the cost of destruction and the time required for the implementation of the destruction plan, as well as the dangers arising from the destruction process.<sup>321</sup>

The President then put the two draft resolutions to the vote, in the order of their submission. The first draft resolution was adopted unanimously as resolution 699 (1991), which reads:

*The Security Council,*

*Recalling* its resolution 687 (1991) of 3 April 1991,

*Taking note* of the report submitted by the Secretary-General on 17 May 1991 pursuant to paragraph 9 (b) of resolution 687 (1991),

*Also taking note* of the Secretary-General's note of 17 May 1991 transmitting to the Council the text of the letter addressed to him by the Director General of the International Atomic Energy Agency under paragraph 13 of the above-mentioned resolution,

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

1. *Approves* the plan contained in the report of the Secretary-General of 17 May 1991;

2. *Confirms* that the Special Commission and the International Atomic Energy Agency have the authority to conduct activities under section C of resolution 687 (1991) for the purpose of the destruction, removal or rendering harmless of the items specified in paragraphs 8 and 12 of that resolution, after the forty-five-day period following the approval of this plan until such activities have been completed;

3. *Requests* the Secretary-General to submit to the Council progress reports on the implementation of the plan referred to in paragraph 1 every six months after the adoption of the present resolution;

4. *Decides* to encourage the maximum assistance, in cash and in kind, from all Member States to ensure that activities under section C of resolution 687 (1991) are undertaken effectively and expeditiously; decides also, however, that the Government of Iraq shall be liable for the full costs of carrying out the tasks authorized by section C; and requests the Secretary-General to submit to the Council within thirty days for approval recommendations as to the most effective means by which Iraq's obligations in this respect may be fulfilled.

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<sup>321</sup> S/PV.2994, pp. 3-12.

The second draft resolution was also adopted unanimously, as resolution 700 (1991), which reads:

*The Security Council,*

*Recalling* its resolutions 661 (1990) of 6 August 1990, 665 (1990) of 25 August 1990, 670 (1990) of 25 September 1990 and 687 (1991) of 3 April 1991,

*Taking note* of the report submitted by the Secretary-General on 2 June 1991 pursuant to paragraph 26 of resolution 687 (1991),

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

1. *Expresses its appreciation* to the Secretary-General for his report of 2 June 1991;

2. *Approves* the guidelines to facilitate full international implementation of paragraphs 24, 25 and 27 of Security Council resolution 687 (1991);

3. *Reiterates* its call upon all States and international organizations to act in a manner consistent with the guidelines;

4. *Requests* all States, in accordance with paragraph 8 of the guidelines, to report to the Secretary-General within forty-five days on the measures they have instituted for meeting the obligations set out in paragraph 24 of resolution 687 (1991);

5. *Entrusts* the Security Council Committee established under resolution 661 (1990) concerning the situation between Iraq and Kuwait with the responsibility, under the guidelines, for monitoring the prohibitions against the sale or supply of arms to Iraq and related sanctions established in paragraph 24 of resolution 687 (1991);

6. *Decides* to remain seized of the matter and to review the guidelines at the same time as it reviews paragraphs 22 to 25 of resolution 687 (1991) as set out in paragraph 28 thereof.

Speaking after the vote, the representative of Yemen stated that, although his delegation had voted in favour of resolution 699 (1991), it wished to note two points. As Yemen had previously made clear, it had wanted the question of disarmament to be considered in a broader perspective. To deal with this problem by addressing one country exclusively would lead to a military imbalance in the region, thus jeopardizing peace and security there. It hoped, therefore, that the resolution was just the beginning and that similar measures would be taken regarding weapons of mass destruction in the Middle East. Secondly, with regard to paragraph 4 of the resolution, Yemen believed that it was unjust to call upon Iraq to defray the costs of destroying those weapons, because the process of destruction itself had been imposed on Iraq and that country was experiencing a critical economic situation

as a result of the embargo and the sanctions imposed on it.<sup>322</sup>

The representative of Cuba also expressed concern with some elements of resolution 699 (1991). First, the Secretary-General's plan did not include a timetable for the destruction or removal of the weapons and materials in Iraq referred to in resolution 687 (1991). Moreover, while as a matter of general principle Cuba believed that each country should bear all the costs of destroying its own weapons, it urged that Iraq's capacity to pay be borne in mind, given the sanctions regime still in place and the fact that once it was lifted Iraq would have to contribute to the compensation fund. Commenting on resolution 700 (1991), the representative of Cuba said that the task of supervising compliance with the arms embargo against Iraq should have been entrusted to an organ set up for that purpose, not to the Committee established to supervise economic sanctions. His country was convinced that the economic sanctions should speedily be lifted whereas the military sanctions embodied in the arms embargo could last for quite a long time. It believed that during the period in which the two types of sanctions were dealt with by the same body, there would be various technical difficulties, which would bring excessive pressure to bear on the so-called Committee on sanctions.<sup>323</sup>

**Decision of 26 June 1991 (2995th meeting):  
adjournment of the meeting**

By a letter dated 26 June 1991 addressed to the President of the Security Council,<sup>324</sup> the Secretary-General transmitted a letter of the same date from Mr. Rolf Ekeus, Executive Chairman of the United Nations Special Commission. The latter reported that, on 23 and 25 June 1991, Iraqi authorities had denied an IAEA/Special Commission nuclear inspection team access to facilities within the Abu Gharaib army barracks, designated for urgent inspection by the Special Commission. When finally allowed access on 26 June, the team had found no trace of either the activities involving cranes, forklifts and trucks, or the objects it had observed from a distance while awaiting entry.

At its 2995th meeting, held on 26 June 1991 in accordance with the understanding reached in its prior consultations, the Council included the letter of the Secretary-General in its agenda. The representative of Iraq was invited, at his request, to participate in the discussion, without the right to vote.

The representative of the United States stated that the Government of Iraq had obstructed the work of the inspection team in carrying out the mandate to implement the destruction, removal or rendering useless of Iraq's weapons of mass destruction. It was clear that Iraq was engaged in nuclear deception. The United States was deeply dismayed by Iraq's unmistakable flouting of its obligations under Security Council resolution 687 (1991). There was ample evidence from multiple sources that Iraq had been conducting a covert nuclear programme that had indicated activities related to the production of nuclear-weapon-usable material. The United States knew that Iraq had been carrying out its nuclear programme at a series of sites. Prior to the IAEA/Special Commission inspections, Iraq had begun to dismantle its nuclear infrastructure. Some of the equipment had been moved to the Abu Gharaib site. The Special Commission and IAEA had been fully briefed on that information and on the fact that the Abu Gharaib facility was being used as a temporary storage site for equipment from Iraq's undeclared uranium-enrichment programme. Iraq was required under resolution 687 (1991) to declare and make such equipment available for inspection. Instead, that equipment had been removed.

The speaker added that his country had indisputable evidence, drawn from many sources, that Iraq had been seeking to produce unsafeguarded nuclear material and to acquire nuclear weapons, contrary to its obligations under the Non-Proliferation Treaty and its full-scope safeguards agreement with IAEA. If resolution 687 (1991) was to have any meaning, the Council had to ensure that Iraq granted the joint IAEA/Special Commission inspection team full and immediate access to designated sites. The Council had also to ensure that Iraq provided a complete declaration of all of its nuclear-weapon-related items. There was strong evidence that the Iraqis had attempted to hide substantial portions of their missile and chemical munition infrastructure from access by the Special Commission. He further noted that the Council had recently completed a review of Iraq's policies and practices and in particular its

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<sup>322</sup> *Ibid.*, pp. 13-16.

<sup>323</sup> *Ibid.*, pp. 17-23.

<sup>324</sup> S/22739.

performance record regarding implementation of resolution 687 (1991). Wisely, the Security Council had made no decision to lift the economic sanctions that remained in place against Iraq. So long as Iraq failed to comply fully and unequivocally with the requirements of resolution 687 (1991), the Council should not consider altering those sanctions.<sup>325</sup>

Several other Council members expressed grave concern at Iraq's obstruction of the inspection team and its evident attempts to conceal equipment and other objects that it was required to open to inspection.<sup>326</sup> They demanded Iraq's full compliance with the provisions of resolution 687 (1991).

The representative of Iraq maintained that his country had accepted resolution 687 (1991) and had done its best to implement all its requirements and obligations. Iraq had extended full cooperation to the IAEA mission. The mission had visited a number of sites and only the last one could not be made available for practical reasons — the inspection requested fell on an official holiday, and the team was asked to postpone its visit. It was a well-known practice of all countries that military sites could not be visited without approval through normal procedures. Obtaining the necessary permission was unavoidably delayed because of the destruction of Iraq's entire communications system.<sup>327</sup>

The meeting was then adjourned, with the President of the Council inviting the members of the Security Council to attend informal consultations immediately afterwards.

**Decision of 28 June 1991 (2996th meeting):  
statement by the President**

By a letter dated 28 June 1991 addressed to the President of the Security Council,<sup>328</sup> the Secretary-General transmitted a letter of the same date from Mr. Ekeus, Executive Chairman of the Special Commission, who informed the Council that on 28 June 1991 the Iraqi military authorities had denied an IAEA/Special Commission team immediate access to a transportation facility east of Fallujah. While awaiting permission to enter, the team had observed

vehicles within the compound, loaded with objects that it had specifically wanted to inspect, leaving through an exit to the south. When the team had attempted to photograph the vehicle movement, the Iraqi military had fired small arms into the air.

At its 2996th meeting, on 28 June 1991, the Security Council resumed its discussion of the situation between Iraq and Kuwait, and included in its agenda the letters from the Secretary-General dated 26 and 28 June 1991.

The President stated that, following consultations among the members of the Security Council, he had been authorized to make the following statement on behalf of the Council:<sup>329</sup>

The members of the Security Council have learned with grave concern of an incident which occurred today when Iraqi military authorities denied a joint International Atomic Energy Agency/Special Commission nuclear inspection team immediate and unimpeded access to a site designated for inspection by the Special Commission under paragraphs 9 and 13 of Security Council resolution 687 (1991) of 3 April 1991. In the course of this incident, the Iraqi military did not comply with a request by the Acting Chief Inspector that there should be no movement or transport of equipment pending inspection. The Iraqi military fired small arms into the air when members of the team were endeavouring to photograph loaded vehicles leaving the site. This incident followed earlier incidents on 23 and 25 June 1991 when the Iraqi military authorities denied the nuclear inspection team access to certain facilities at another designated site.

On 26 June 1991, the Council held a meeting to consider the incidents of 23 and 25 June, at which time the Permanent Representative of Iraq confirmed that Iraq had accepted resolution 687 (1991) and was doing its best to implement all the requirements and obligations imposed on it by the resolution. He further asserted that Iraq was cooperating with all United Nations missions, including the Special Commission. The President subsequently conveyed the Council's serious concern regarding the incidents to the Government of Iraq.

The members of the Council strongly deplore the incidents of 23, 25 and 28 June, and in this connection condemn the conduct of the Iraqi authorities. All these incidents constitute flagrant violations of resolution 687 (1991) and of the undertakings contained in the exchange of letters between the Secretary-General and the Minister for Foreign Affairs of Iraq governing the status, privileges and immunities of the Special Commission and of the inspection teams mandated under the Security Council resolution. Furthermore, these incidents demonstrate Iraq's failure to abide by its solemn undertakings to comply with all the provisions of resolution 678 (1991).

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<sup>325</sup> S/PV.2995, pp. 6-11.

<sup>326</sup> *Ibid.*, pp. 11-12 (France); pp. 13-15 (Belgium); pp. 14-15 (Austria); p. 16 (United Kingdom); pp. 17-18 (Ecuador); and pp. 18-21 (Romania).

<sup>327</sup> *Ibid.*, pp. 21-27.

<sup>328</sup> S/22743.

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<sup>329</sup> S/22746.

The members of the Council have decided to ask the Secretary-General to send a high-level mission to Baghdad immediately to meet with the highest levels of the Iraqi Government to convey the Council's urgent demand for unequivocal assurances that the Government will take all necessary measures to ensure that no hindrances are placed in the way of the discharge of the Special Commission's mandate and that it will accord full cooperation, including immediate and unimpeded access, to the inspection teams in compliance with Iraq's obligations and commitments vis-à-vis the United Nations and the International Atomic Energy Agency. The members of the Council have also stressed that the Government must furnish the high-level mission with unconditional guarantees for the safety and security of all personnel engaged in the performance of functions in connection with resolution 687 (1991). The mission, composed of the Director General of the International Atomic Energy Agency, the Executive Chairman of the Special Commission and the Under-Secretary-General for Disarmament Affairs, will depart New York this evening, 28 June 1991.

At this time, the members of the Council call upon Iraq to grant the International Atomic Energy Agency/Special Commission nuclear inspection team currently in Iraq immediate and unimpeded access to the objects which the team had endeavoured to inspect on 28 June 1991 and any other site deemed necessary.

The members of the Council request the high-level mission to report to it at the earliest opportunity, through the Secretary-General, on the results of its meetings with the highest levels of the Iraqi Government and, in particular, on such further undertakings by the Government to ensure compliance at all levels, including local military and civilian authorities, with Iraq's obligations under resolution 687 (1991).

The members of the Council wish to make it clear that the Security Council remains seized of this matter and that any recurrence of non-compliance would have serious consequences.

The members of the Council reiterate their views expressed in resolution 687 (1991) of the threat that all weapons of mass destruction pose to peace and security in the Middle East and of the need to work towards the establishment in the Middle East of a zone free of such weapons.

**Decision of 5 August 1991: statement by  
the President**

Following informal consultations held on 5 August 1991, the President of the Security Council made the following statement to the press, which was subsequently circulated in a letter dated 6 August 1991 from the President of the Council addressed to the Secretary-General:<sup>330</sup>

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<sup>330</sup> S/22904; recorded as a Security Council decision in *Resolutions and Decisions of the Security Council, 1991*, p. 20.

The members of the Security Council held informal consultations on 5 August pursuant to paragraph 28 of resolution 687 (1991) of 3 April 1991, paragraph 6 of resolution 700 (1991) of 17 June 1991 and paragraph 21 of resolution 687 (1991).

After hearing all the opinions expressed in the course of the consultations, the President of the Council concluded that there was no agreement that the necessary conditions existed for a modification of the regimes established in paragraphs 22 to 25, as referred to in paragraph 28 of resolution 687 (1991); in paragraph 6 of resolution 700 (1991); and in paragraph 20, as referred to in paragraph 21 of resolution 687 (1991).

**Decisions of 15 August 1991 (3004th meeting):  
resolutions 705 (1991), 706 (1991) and  
707 (1991)**

At its 3004th meeting, held on 15 August 1991 in accordance with the understanding reached in its prior consultations, the Council resumed its consideration of the situation between Iraq and Kuwait. Following the adoption of the agenda, the representatives of Iraq and Kuwait were invited, at their request, to participate in the discussion without the right to vote.

The President of the Council (Ecuador) drew the attention of the Council members to three draft resolutions, the first prepared in the course of prior consultations;<sup>331</sup> the second submitted by Belgium, France, the Union of Soviet Socialist Republics, the United Kingdom and the United States;<sup>332</sup> and the third submitted by France, the Union of Soviet Socialist Republics, the United Kingdom and the United States.<sup>333</sup>

The representative of Kuwait stated that Iraq's aggression against Kuwait had not been undertaken in order to settle any political, economic or border dispute, as Iraq had claimed at the beginning, but the aggression was an expansionist act. The Security Council had responded effectively to the crisis and fulfilled its responsibility, adopting resolutions to halt the aggression and mitigate the consequences of the crisis, to restore usurped rights and to ensure respect for existing conventions and boundaries. The international community had called upon Iraq to assume its responsibilities in order to put a complete and total end to its aggression and to safeguard the rights of the countries subjected to its aggression. The

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<sup>331</sup> S/22940; subsequently adopted as resolution 705 (1991).

<sup>332</sup> S/22941; subsequently adopted as resolution 706 (1991).

<sup>333</sup> S/22942; subsequently adopted as resolution 707 (1991).

Council had called for a restoration of law based on justice and the tenets of the Charter. The claims of Kuwait, of the Security Council and of the international community were the basis for lifting the sanctions against Iraq. Those claims were: (1) the immediate and total return of all prisoners, Kuwaitis and Kuwait residents; (2) elimination of all weapons of mass destruction; (3) determination of the boundary between Iraq and Kuwait in accordance with the 1932 Convention; (4) return of all assets stolen by Iraq from Kuwait; (5) compensation for damages incurred by Kuwait and its residents. He added that Iraq had agreed to those claims by accepting the relevant Security Council resolutions. However, Iraq seemed not to have learned from the lesson it had been given. It had refused to assume its obligations using unacceptable pretexts and illegal grounds for its actions. That might create a dangerous precedent in international relations by allowing an aggressor, after his defeat, to enjoy the fruits of his aggression, or allowing that aggressor to get away without assuming responsibility for the aggression. Iraq should be aware that there was a link between the fulfilment of its obligations and the lifting of sanctions. But despite the humanitarian and material disasters that had befallen Iraq, the policies of the Government of Iraq that had led to the crisis were continuing. They were still at the basis of the tragedy of the Iraqi people, which was now, as the speaker put it, the object of aggression “by the Iraqi regime, a regime that killed Iraqis both in the north and in the south”.

The speaker went on to say that Iraq’s crimes came within the terms of the Convention on the Non-Applicability of Statutory Limitations to War Crimes and Crimes against Humanity, adopted by the General Assembly on 26 November 1968. That Convention specifically stipulated that the effective punishment of such crimes was an important element in preventing their repetition, in the protection of human rights and fundamental freedoms, the furtherance of cooperation among peoples and the promotion of international peace and security. He expressed the hope that the Security Council or an organ of its creation would undertake an inquiry regarding those crimes by Iraq during its occupation of Kuwait, when it oppressed the Kuwaiti people and wreaked destruction on the environment of the region. Those war crimes against mankind were detrimental to peace and were among the worst crimes in international law. The sanctions imposed by the Security Council under its resolutions

did not constitute war against Iraq nor did they arise out of a vacuum. They represented a legitimate collective action in keeping with the Charter. It had been implemented against a member of the international community whose regime was violating Security Council resolutions. Iraq had exposed international peace and security in the Gulf and throughout the world to danger; that danger would continue, and the region would not recover its stability until the Iraqi regime was placed under effective international control. The sanctions did not have to be lifted until Iraq ceased to deceive the international community and violate its resolutions. He hoped that the resolutions to be adopted by the Security Council would lead to positive action by consolidating the activities of the Secretary-General and the International Committee of the Red Cross, especially since under modern standards the detention of innocent victims in unsafe conditions constituted a crime against humanity.<sup>334</sup>

The representative of Iraq presented the position of his Government on the three draft resolutions before the Council. Regarding draft resolution S/22940, he explained that Iraq’s foreign-currency revenue was almost totally dependent on its oil exports. On the basis of the production capacity of Iraqi oil fields, those exports over the next five years would not reach the level defined in July 1990 by the Organization of the Petroleum Exporting Countries, because of the destruction inflicted by aerial bombardment on Iraqi oil production and exporting facilities. With its current and expected financial resources during 1991 and thereafter, Iraq could not on its own restore the social and economic life that had prevailed before the events of January 1991. It would take intensive world efforts to compensate Iraq for the unjust damages inflicted by the aerial bombing of its civilian facilities and economic structure. Iraq therefore requested a grace period to face the major problems stifling its economy which were threatening to weaken the Iraqi people and its future generations. Iraq had also requested a decrease in the ceiling of the deduction so as not to exceed 10 per cent of its total oil revenues.

He added that the second draft resolution, contained in document S/22941, was supposed to meet the humanitarian requirements of the Iraqi people but actually aimed at exploiting them and imposing on

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<sup>334</sup> S/PV.3004, pp. 6-21.

Iraq's economy new financial sanctions and restrictions which had not been mentioned before. The provisions of the draft impinged on Iraqi national sovereignty and imposed a foreign guardianship on its people, thus depriving the legitimate Government of its powers and responsibilities with respect to its citizens. It gave foreign Powers the right to control Iraq's natural resources and subordinated the humanitarian objective of the inter-agency mission to suspect political motives. It undermined the provisions of resolution 687 (1991) and converted the partial lifting of the sanctions into colonialist restrictions that would rob Iraq of its rights to full sovereignty, interfere in its internal affairs, plunder its oil wealth and usurp its right to dispose of its own funds. He pointed out that the text should have sought to accommodate the proposal for the sale of oil to finance urgent humanitarian relief; instead, it allowed other States, through a slow and complicated mechanism, to purchase limited amounts of Iraqi oil. It laid stress not on humanitarian relief, but on the payment of sums for the expenses of the Special Commission dealing with the destruction of weapons, the Iraq-Kuwait Border Demarcation Commission and the United Nations Compensation Fund and for expenses incurred by the restitution of Kuwaiti property. The concept of the draft ran counter to the concept of sovereignty assigned by the Charter. Moreover, it constituted a grave precedent with regard to the humanitarian role of the United Nations.

Touching briefly on draft resolution S/22942, the speaker stated that he had expected the expression of satisfaction on the part of the Security Council for the cooperation enjoyed by the international teams in Iraq, but not a new resolution condemning Iraq for an isolated incident connected with the visit of the second inspection team.<sup>335</sup>

The President indicated that the Council was ready to proceed to vote on the draft resolutions before it, and said he would put them to the vote in the following order: S/22940, S/22941 and S/22942.

Speaking before the vote, the representative of Yemen commented on draft resolution S/22941. He emphasized that a full year after the imposition of comprehensive sanctions against Iraq, the Security Council was facing a humanitarian problem of tragic dimensions. On 15 July 1991, Prince Sadruddin Aga

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<sup>335</sup> Ibid., pp. 22-50.

Khan, who headed the inter-agency mission, submitted a comprehensive report on the sad human situation in Iraq. It was regrettable that the sanctions Committee, which had heard an oral report from Prince Sadruddin and other members of his mission, had been unable to take a decision on that matter. A full month after the submission of the report, the Council was seized of a draft resolution, which authorized the exemption of the sale of some Iraqi oil for a limited period of six months. Although the draft resolution would have ultimately allowed needed medicine and food to reach Iraq, it raised many questions of principle. First, there was no justification for submitting a special draft resolution on the humanitarian aspects of the situation in Iraq when the sanctions Committee possessed a mandate under paragraph 23 of resolution 687 (1991) to take decisions on that subject and to permit Iraq to export oil exclusively to meet humanitarian needs. Second, the complicated conditions in the draft resolution would lead to the creation of bureaucratic mechanisms which would delay the timely arrival of foodstuffs and medicines to Iraq. There was no reason why the Secretariat should be involved in technical and commercial operations adding to the burdens of the Organization. Third, there was no reason why that humanitarian draft resolution should be based on Chapter VII of the Charter. That question acquired a special significance in view of what might happen in the future and the position that the Council might take should Iraq reject the export of oil in accordance with the stipulated conditions. Fourth, there was no reason why the draft resolution should confuse the special humanitarian situation of millions of innocent Iraqis with financial matters related to the recovery of the cost of the Special Commission and IAEA and the Iraq-Kuwait Boundary Demarcation Commission. The Council should allow the sale of some shipments of Iraqi oil to meet the costs of international organizations. With its mandate to serve peace and security, the Council should not allow the spread of famine, which might lead to mass migrations across international borders, in addition to the possibility of instability in Iraq. That would ultimately result in jeopardizing peace and security in the area. The Council should not be used to achieve ends other than those based on, and conforming to, the Charter.<sup>336</sup>

The representative of Cuba noted that draft resolution S/22941, which claimed to be humanitarian

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<sup>336</sup> Ibid., pp. 51-60.

in connection with the economic sanctions regime, in fact consolidated the sanctions. The Council was invited to add medicine, medical supplies and foodstuffs to the sanctions regime, supposedly through an authorization subject to certain controls for the export of Iraqi oil and the acquisition of some of those supplies, but actually under what Cuba regarded as an unjustifiable and strict control system. The Council was faced with a situation which clearly suggested the need for the international community to show sensitivity with respect to the various and repeated reports emphasizing the gravity of the humanitarian situation in Iraq. It was quite unacceptable to try to use health-related supplies as instruments to attain certain political objectives. Cuba did not believe that Chapter VII of the Charter, or indeed any other Chapter of the Charter, authorized the Council to take upon itself, or to entrust to the Secretary-General, certain functions and responsibilities, which were clearly a breach of the principle of non-intervention in the internal affairs of States and the principle of the sovereign equality of States. The establishment of the proposed mechanism would really mean appropriating elements of Iraqi sovereignty and would seek to apply to Iraq a type of trusteeship system, which was entirely contrary to the letter and spirit of the Charter.<sup>337</sup>

At the same meeting the draft resolution contained in document S/22940 was put to the vote and adopted unanimously as resolution 705 (1991), which reads:

*The Security Council,*

*Having considered* the note of 30 May 1991 which the Secretary-General submitted pursuant to paragraph 13 of his report of 2 May 1991 and which was also annexed to his letter of 30 May 1991 addressed to the President of the Security Council,

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

1. *Expresses its appreciation* to the Secretary-General for his note of 30 May 1991;

2. *Decides* that, in accordance with the suggestion made by the Secretary-General in paragraph 7 of his note, compensation to be paid by Iraq, as arising from section E of resolution 687 (1991) of 3 April 1991, shall not exceed 30 per cent of the annual value of its exports of petroleum and petroleum products;

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<sup>337</sup> *Ibid.*, pp. 63-71.

3. *Decides also*, in accordance with paragraph 8 of the Secretary-General's note, to review the figure established in paragraph 2 above from time to time in light of data and assumptions contained in the Secretary-General's letter of 30 May 1991 and other relevant developments.

The draft resolution contained in document S/22941 was then put to the vote. It received 13 votes in favour, 1 against (Cuba) and 1 abstention (Yemen) and was adopted as resolution 706 (1991), which reads:

*The Security Council,*

*Recalling* its previous relevant resolutions and in particular resolutions 661 (1990) of 6 August 1990, 686 (1991) of 2 March 1991, 687 (1991) of 3 April 1991, 688 (1991) of 5 April 1991, 692 (1991) of 20 May 1991, 699 (1991) of 17 June 1991 and 705 (1991) of 15 August 1991,

*Taking note* of the report dated 15 July 1991 of the inter-agency mission headed by the Executive Delegate of the Secretary-General for the United Nations Inter-Agency Humanitarian Programme for Iraq, Kuwait and the Iraq/Turkey and Iraq/Iran border areas,

*Concerned* by the serious nutritional and health situation of the Iraqi civilian population as described in the report and by the risk of a further deterioration of this situation,

*Concerned also* that the repatriation or return of all Kuwaitis and third-State nationals or their remains present in Iraq on or after 2 August 1990, pursuant to paragraph 2 (c) of resolution 686 (1991) and paragraphs 30 and 31 of resolution 687 (1991), has not yet been fully carried out,

*Taking note* of the conclusions of the above-mentioned report, and in particular of the proposal for oil sales by Iraq to finance the purchase of foodstuffs, medicines and materials and supplies for essential civilian needs for the purpose of providing humanitarian relief,

*Taking note also* of the letters dated 14 April, 31 May, 6 June, 9 July and 22 July 1991 from the Minister for Foreign Affairs of Iraq and the Permanent Representative of Iraq to the United Nations to the Chairman of the Committee established by resolution 661 (1990) concerning the situation between Iraq and Kuwait, in regard to the export by Iraq of petroleum and petroleum products,

*Convinced* of the need to ensure equitable distribution of humanitarian relief assistance to all segments of the Iraqi civilian population through effective monitoring and transparency of the process,

*Recalling and reaffirming* in this regard its resolution 688 (1991), and in particular the importance which the Council attaches to Iraq's allowing unhindered access by international humanitarian organizations to all those in need of assistance in all parts of Iraq and making available all necessary facilities for their operation, and in this connection stressing the important and continuing importance of the Memorandum of

Understanding between the United Nations and the Government of Iraq signed on 18 April 1991,

*Recalling* that, pursuant to resolutions 687 (1991), 692 (1991) and 699 (1991), Iraq is required to pay the full costs of the Special Commission and International Atomic Energy Agency in carrying out the tasks authorized by section C of resolution 687 (1991), and that the Secretary-General, in the report of 15 July 1991 that he submitted to the Council pursuant to paragraph 4 of resolution 699 (1991), expressed the view that the most obvious way of obtaining financial resources from Iraq to meet those costs would be to authorize the sale of some Iraqi petroleum and petroleum products; recalling also that Iraq is required to pay its contributions to the United Nations Compensation Fund and half the costs of the Iraq-Kuwait Boundary Demarcation Commission; and recalling further that, in its resolution 686 (1991) and 687 (1991), the Council demanded that Iraq return in the shortest possible time all Kuwaiti property seized by it and requested the Secretary-General to take steps to facilitate this demand,

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

1. *Authorizes* all States, subject to the decision to be taken by the Security Council pursuant to paragraph 5 and notwithstanding the provisions of paragraphs 3 (a), 3 (b) and 4 of resolution 661 (1990), to permit, for the purposes specified in the present resolution, the import, during a period of six months from the date of adoption of the resolution pursuant to paragraph 5, of a quantity of petroleum and petroleum products originating in Iraq sufficient to produce a sum to be determined by the Council following receipt of the report of the Secretary-General requested in paragraph 5, a sum, however, not to exceed 1.6 billion United States dollars, subject to the following conditions:

(a) Approval of each purchase of Iraqi petroleum and petroleum products by the Security Council Committee established by resolution 661 (1990) concerning the situation between Iraq and Kuwait, following notification to the Committee by the State concerned;

(b) Direct payment of the full amount of each purchase of Iraqi petroleum and petroleum products by the purchaser in the State concerned into an escrow account to be established by the United Nations and administered by the Secretary-General exclusively to meet the purposes of this resolution;

(c) Approval by the Council, following the report of the Secretary-General requested in paragraph 5, of a scheme for the purchase of foodstuffs, medicines and materials and supplies for essential civilian needs as referred to in paragraph 20 of resolution 687 (1991), in particular health-related materials, all of which to be labelled to the extent possible as being supplied under this scheme, and for all feasible and appropriate United Nations monitoring and supervision for the purpose of assuring their equitable distribution to meet humanitarian needs in all regions of Iraq and to all categories of the Iraqi civilian population, as well as all feasible and appropriate management

relevant to this purpose, such a United Nations role to be available if desired for humanitarian assistance from other sources;

(d) The total sum of purchases authorized in the present paragraph is to be released by successive decisions of the Committee in three equal portions after the Council has taken the decision provided for in paragraph 5 on the implementation of the present resolution; notwithstanding any other provision of the present paragraph, the Council may review the maximum total sum of purchases on the basis of an ongoing assessment of the needs and requirements;

2. *Decides* that a part of the sum in the account administered by the Secretary-General shall be made available by him to finance the purchase of foodstuffs, medicines and materials and supplies for essential civilian needs, as referred to in paragraph 20 of resolution 687 (1991), and to cover the cost to the United Nations of its activities under the present resolution and of other necessary humanitarian activities in Iraq;

3. *Decides also* that a part of the sum deposited in the account administered by the Secretary-General shall be used by him for appropriate payments to the United Nations Compensation Fund and to cover the full costs of carrying out the tasks authorized by section C of resolution 687 (1991), the full costs incurred by the United Nations in facilitating the return of all Kuwaiti property seized by Iraq, and half the costs of the Iraq-Kuwait Boundary Demarcation Commission;

4. *Decides further* that the percentage of the value of exports of petroleum and petroleum products from Iraq authorized under the present resolution to be paid to the Compensation Fund, as called for in paragraph 19 of resolution 687 (1991) and as defined in paragraph 6 of resolution 692 (1991), shall be the same as the percentage decided by the Council in paragraph 2 of resolution 705 (1991) for payments to the Fund, until such time as the Governing Council of the Fund decides otherwise;

5. *Requests* the Secretary-General to submit to the Council, within twenty days of the date of adoption of the present resolution, a report suggesting decisions to be taken on measures to implement paragraphs 1 (a), (b) and (c), on estimates of the humanitarian requirements of Iraq set out in paragraph 2 and on the amount of Iraq's financial obligations set out in paragraph 3 up to the end of the period of the authorization in paragraph 1, as well as on the method for taking the necessary legal measures to ensure that the purposes of the present resolution are carried out and the method for taking account of the costs of transportation of Iraqi petroleum and petroleum products;

6. *Also requests* the Secretary-General, in consultation with the International Committee of the Red Cross, to submit to the Council within twenty days of the date of adoption of the present resolution a report on activities undertaken in accordance with paragraph 31 of resolution 687 (1991) in connection with facilitating the repatriation or return of all



Kuwaiti and third-State nationals or their remains present in Iraq on or after 2 August 1990;

7. *Calls upon* the Government of Iraq to provide to the Secretary-General and appropriate international organizations on the first day of the month immediately following the adoption of the present resolution and the first day of each month thereafter until further notice, a detailed statement of the gold and foreign currency reserves it holds, whether in Iraq or elsewhere;

8. *Calls upon* all States to cooperate fully in the implementation of the present resolution;

9. *Decides* to remain seized of the matter.

The draft resolution contained in document S/22942 was put to the vote and adopted unanimously as resolution 707 (1991), which reads:

*The Security Council,*

*Recalling* its resolution 687 (1991) of 3 April 1991 and its other resolutions on the matter,

*Recalling also* the letter of 11 April 1991 from the President of the Security Council to the Permanent Representative of Iraq to the United Nations, in which he noted that on the basis of Iraq's written agreement to implement fully resolution 687 (1991), the preconditions for a ceasefire established in paragraph 33 of that resolution had been met,

*Taking note with grave concern* of the letters dated 26 and 28 June and 4 July 1991 from the Secretary-General to the President of the Security Council, conveying information received from the Executive Chairman of the Special Commission and from the high-level mission to Iraq which establishes Iraq's failure to comply with its obligations under resolution 687 (1991),

*Recalling further* the statement issued by the President of the Security Council on 28 June 1991 requesting that a high-level mission consisting of the Executive Chairman of the Special Commission, the Director General of the International Atomic Energy Agency and the Under-Secretary-General for Disarmament Affairs be dispatched to meet with officials at the highest levels of the Government of Iraq at the earliest opportunity to obtain written assurance that Iraq will fully and immediately cooperate in the inspection of the locations identified by the Special Commission and present for immediate inspection any of those items that may have been transported from those locations,

*Having taken note with dismay* of the report of the high-level mission to the Secretary-General on the results of its meetings with the highest levels of the Iraqi Government,

*Gravely concerned* by the information provided to the Council by the International Atomic Energy Agency on 15 and 25 July 1991 regarding the actions of the Government of Iraq in flagrant violation of resolution 687 (1991),

*Gravely concerned also* by the letter of 7 July 1991 from the Minister for Foreign Affairs of Iraq to the Secretary-General and subsequent statements and findings that Iraq's notifications of 18 and 28 April were incomplete and that certain related activities had been concealed, facts both of which constitute material breaches of its obligations under resolution 687 (1991),

*Noting*, having been informed by the letters dated 26 and 28 June and 4 July 1991 from the Secretary-General, that Iraq has not fully complied with all of its undertakings relating to the privileges, immunities and facilities to be accorded to the Special Commission and the Agency inspection teams mandated under resolution 687 (1991),

*Affirming* that in order for the Special Commission to carry out its mandate under paragraph 9 (b) (i-iii) of resolution 687 (1991) to inspect Iraq's chemical and biological weapons and ballistic missile capabilities and to take possession of the elements referred to in that resolution for destruction, removal or rendering harmless, full disclosure on the part of Iraq as required in paragraph 9 (a) of resolution 687 (1991) is essential,

*Affirming also* that in order for the International Atomic Energy Agency, with the assistance and cooperation of the Special Commission, to determine what nuclear-weapon-usable material or any subsystems or components or any research, development, support or manufacturing facilities related to them need, in accordance with paragraph 13 of resolution 687 (1991), to be destroyed, removed or rendered harmless, Iraq is required to make a declaration of all its nuclear programmes, including any which it claims are for purposes not related to nuclear-weapon-usable material,

*Affirming further* that the aforementioned failures of Iraq to act in strict conformity with its obligations under resolution 687 (1991) constitute a material breach of its acceptance of the relevant provisions of that resolution which established a ceasefire and provided the conditions essential to the restoration of peace and security in the region,

*Affirming, moreover*, that Iraq's failure to comply with the safeguards agreement it concluded with the International Atomic Energy Agency pursuant to the Treaty on the Non-Proliferation of Nuclear Weapons of 1 July 1968, as established by the Board of Governors of the Agency in its resolution of 18 July 1991, constitutes a breach of its international obligations,

*Determined* to ensure full compliance with resolution 687 (1991), and in particular its section C,

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

1. *Condemns* Iraq's serious violation of a number of its obligations under section C of resolution 687 (1991) and of its undertakings to cooperate with the Special Commission and the International Atomic Energy Agency, which constitutes a material breach of the relevant provisions of that resolution which established a ceasefire and provided the conditions essential to the restoration of peace and security in the region;

2. *Also condemns* non-compliance by the Government of Iraq with its obligations under its safeguards agreement with the International Atomic Energy Agency, as established by the Board of Governors of the Agency in its resolution of 18 July 1991, which constitutes a violation of its commitments as a party to the Treaty on the Non-Proliferation of Nuclear Weapons of 1 July 1968;

3. *Demands* that Iraq:

(a) Provide without further delay full, final and complete disclosure, as required by resolution 687 (1991), of all aspects of its programme to develop weapons of mass destruction and ballistic missiles with a range greater than one hundred and fifty kilometres and of all holdings of such weapons, their components and production facilities and locations, as well as all other nuclear programmes, including any which it claims are for purposes not related to nuclear-weapon-usable material;

(b) Allow the Special Commission, the International Atomic Energy Agency and their inspection teams immediate, unconditional and unrestricted access to any and all areas, facilities, equipment, records and means of transportation which they wish to inspect;

(c) Cease immediately any attempt to conceal, move or destroy any material or equipment relating to its nuclear, chemical or biological weapons or ballistic missile programmes, or material or equipment relating to its other nuclear activities, without notification to and prior consent of the Special Commission;

(d) Make available immediately to the Special Commission, the Agency and their inspection teams any items to which they were previously denied access;

(e) Allow the Special Commission, the Agency and their inspection teams to conduct both fixed-wing and helicopter flights throughout Iraq for all relevant purposes, including inspection, surveillance, aerial surveys, transportation and logistics, without interference of any kind and upon such terms and conditions as may be determined by the Special Commission, and to make full use of their own aircraft and such airfields in Iraq as they may determine are most appropriate for the work of the Commission;

(f) Halt all nuclear activities of any kind, except for the use of isotopes for medical, agricultural or industrial purposes, until the Council determines that Iraq is in full compliance with the present resolution and with paragraphs 12 and 13 of resolution 687 (1991) and the Agency determines that Iraq is in full compliance with its safeguards agreement with the Agency;

(g) Ensure the complete enjoyment, in accordance with its previous undertakings, of the privileges, immunities and facilities accorded to the representatives of the Special Commission and the Agency and guarantee their complete safety and freedom of movement;

(h) Immediately provide or facilitate the provision of any transportation and medical or logistical support requested by the Special Commission, the Agency and their inspection teams;

(i) Respond fully, completely and promptly to any questions or requests from the Special Commission, the Agency and their inspection teams;

4. *Determines* that Iraq retains no ownership interest in items to be destroyed, removed or rendered harmless pursuant to paragraph 12 of resolution 687 (1991);

5. *Requires* that the Government of Iraq forthwith comply fully and without delay with all its international obligations, including those set out in the present resolution, in resolution 687 (1991), in the Treaty on the Non-Proliferation of Nuclear Weapons and in its safeguards agreement with the International Atomic Energy Agency;

6. *Decides* to remain seized of this matter.

Speaking after the vote, the representative of France stressed that the Government of Iraq could not be trusted because it attempted to get around Security Council resolutions, practised deception, prohibited access to certain parts of its territory to United Nations representatives, detained by force Kuwaiti nationals and nationals of other countries and persisted in refusing to allow Prince Sadruddin Aga Khan and the United Nations High Commissioner for Refugees to open humanitarian centres in those places where they were needed. On several occasions, the Council expressed its concern over Iraq's repeated violations of its obligations, either those imposed upon it by resolution 687 (1991) or those deriving from its commitments to IAEA. Non-compliance with those commitments had been established by the Board of Governors of that Agency. It had also indicated its deep concern over Iraq's attempts at deception. The information made available by the Chairman of the Special Commission for the elimination of weapons of mass destruction and by the Director General of IAEA following on-site inspections went overwhelmingly against the Government of Iraq. It appeared that Iraq had been involved in a clandestine research programme intended to get nuclear weapons for Iraq, in flagrant violation of its international obligations.<sup>338</sup>

The representative of the United States observed that the resolution which the Council had adopted on compliance with section C of resolution 687 (1991), on inspection and destruction of weapons of mass destruction in Iraq, drew the attention of the world to

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<sup>338</sup> *Ibid.*, pp. 72-78.

Iraq's failure to comply with resolution 687 (1991) and its repeated material breaches of its obligations under the Non-Proliferation Treaty. The primary purpose behind the resolution was to strengthen the role of IAEA and the Special Commission in performing their important task of eliminating Iraq's weapons of mass destruction capability and of ensuring that such weapons were not reacquired. The humanitarian resolution intended primarily to get humanitarian assistance to those in Iraq who needed it most. It was not a resolution lifting sanctions; in fact, it would strengthen the sanctions by preventing the Government of Iraq from seeking political and military gains through the misery of the Iraqi people, which it had itself caused. In adopting that resolution, the Council had put the Secretary-General and the Secretariat at the centre of the process of providing humanitarian assistance to Iraq.<sup>339</sup>

The representatives of Zimbabwe,<sup>340</sup> China<sup>341</sup> and India<sup>342</sup> expressed concern over the humanitarian situation in Iraq, welcomed the steps taken by the Security Council to address the needs of the victims of the Gulf war and emphasized their views that the sovereignty of Iraq had to be respected in the implementation of the decisions of the Council. Concern was expressed by the representatives of the United Kingdom<sup>343</sup> and the Union of Soviet Socialist Republics<sup>344</sup> about Iraq's persistent attempts to deceive the international community about its military programmes, in particular with regard to its activities in the nuclear sphere.

**Decision of 19 September 1991  
(3008th meeting): resolution 712 (1991)**

On 4 September 1991, the Secretary-General submitted to the Security Council a report pursuant to paragraph 5 of Council resolution 706 (1991).<sup>345</sup> The report contained his recommendations for implementing that resolution, which provided for a mechanism whereby Iraqi petroleum and petroleum products could be sold over a six-month period,

primarily to finance Iraqi imports of food, medical supplies and other essential needs.

He recommended, *inter alia*, the following specific measures:<sup>346</sup> (a) Iraq would market and sell the petroleum through its oil authority, the State Organization for the Marketing of Oil; (b) contracts would enter into force only on approval by the Committee established by resolution 661 (1990) (sanctions Committee), and the proceeds from the sale of petroleum would be deposited by the purchaser into an escrow account established by the United Nations and administered by the Secretary-General; (c) the sanctions Committee would have ultimate responsibility for monitoring the sale of Iraqi oil, with the assistance of independent inspection agents appointed by the United Nations; and (d) purchases of the supplies to meet humanitarian needs in Iraq would be undertaken by Iraq. Monitoring of the purchases and deliveries would be undertaken by the United Nations with the assistance of inspection agents.

At its 3008th meeting, held on 19 September 1991 in accordance with the understanding reached in its prior consultations, the Security Council included the report of the Secretary-General in its agenda. The representative of Iraq was invited, at his request, to participate in the discussion without the right to vote.

The President (France) drew the attention of the Council members to a draft resolution submitted by Belgium, France, Romania, the Union of Soviet Socialist Republics, the United Kingdom and the United States.<sup>347</sup>

The representative of Iraq observed that since the Council was considering a draft resolution calling for the implementation of resolution 706 (1991), the shortcomings and contradictions of that resolution automatically applied to the draft resolution. As he saw it, resolution 706 (1991) and the draft resolution under consideration effectively gave Iraq two choices. The first choice involved the maintenance of the state of siege with all the concomitant suffering and starvation of the Iraqi people; the second involved a limited exception to the siege, for which Iraq would in return concede its sovereignty over its oil resources, acceptance of the hegemony of some Security Council members, through United Nations bodies, over Iraq's

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<sup>339</sup> *Ibid.*, pp. 78-81.

<sup>340</sup> *Ibid.*, pp. 61-62.

<sup>341</sup> *Ibid.*, pp. 81-82.

<sup>342</sup> *Ibid.*, pp. 93-98.

<sup>343</sup> *Ibid.*, pp. 82-86.

<sup>344</sup> *Ibid.*, pp. 88-91.

<sup>345</sup> S/23006 and Corr.2.

<sup>346</sup> *Ibid.*, para. 58.

<sup>347</sup> S/23045.

oil reserves, and prevention of Iraq from developing and manufacturing those resources. The second choice, in practice, implied maintaining the economic boycott merely allowing the Iraqi people to obtain the minimum essential commodities necessary to avoid starvation. He believed that some members of the Council fully realized the difficulty of any practical implementation of the draft resolution. He went on to point out what he saw as technical problems in the draft resolution.<sup>348</sup>

Speaking before the vote, the representative of Yemen stated that, as the draft resolution was an extension of resolution 706 (1991), adopted the month before, the position of his country was similar to that put forward on that occasion. He stated that the draft resolution should not be politicized, as it related to humanitarian questions which transcended the differences that existed in the region. He would accordingly abstain in the vote.<sup>349</sup>

The representative of Cuba said that his delegation would not be able to vote in favour of the draft resolution for the same reasons as put forward at the time of the adoption of resolution 706 (1991). In his opinion, the Council's approach involved a manipulation of humanitarian issues. It would mean a prolongation and strengthening of the sanctions imposed on Iraq in circumstances which had long been unjustified. The Council was also, in his view, disregarding the principle of sovereign equality of States, and acting in a way that went beyond the attributes conferred upon it by the Charter.<sup>350</sup>

The draft resolution was then put to the vote. It was adopted by 13 votes in favour, 1 against (Cuba), with 1 abstention (Yemen), as resolution 712 (1991), which reads:

*The Security Council,*

*Recalling* its previous relevant resolutions, and in particular resolutions 661 (1990) of 6 August 1990, 686 (1991) of 2 March 1991, 687 (1991) of 3 March 1991, 688 (1991) of 5 April 1991, 692 (1991) of 20 May 1991, 699 (1991) of 17 June 1991, and 705 (1991) and 706 (1991) of 15 August 1991,

*Expressing its appreciation* for the report submitted by the Secretary-General on 4 September 1991 pursuant to paragraph 5 of resolution 706 (1991),

*Reaffirming its concern* about the nutritional and health situation of the Iraqi civilian population and the risk of a further deterioration of this situation, and underlining the need in this context for fully up-to-date assessments of the situation in all parts of Iraq as a basis for the equitable distribution of humanitarian relief to all segments of the Iraqi civilian population,

*Recalling* that the activities to be carried out by or on behalf of the Secretary-General to meet the purposes referred to in resolution 706 (1991) and the present resolution enjoy the privileges and immunities of the United Nations,

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

1. *Confirms* the figure mentioned in paragraph 1 of resolution 706 (1991) as the sum authorized for the purpose of that paragraph, and reaffirms its intention to review this sum on the basis of its ongoing assessment of the needs and requirements, in accordance with paragraph 1 (d) of that resolution;

2. *Invites* the Security Council Committee established by resolution 661 (1990) concerning the situation between Iraq and Kuwait to authorize immediately, pursuant to paragraph 1 (d) of resolution 706 (1991), the release by the Secretary-General from the escrow account of the first one-third portion of the sum referred to in paragraph 1 above, such release to take place as required subject to the availability of funds in the account and, in the case of payments to finance the purchase of foodstuffs, medicines and materials and supplies for essential civilian needs that have been notified or approved in accordance with existing procedures, subject to compliance with the procedures laid down in the report of the Secretary-General as approved in paragraph 3 below;

3. *Approves* the recommendations contained in paragraphs 57 (d) and 58 of the Secretary-General's report;

4. *Encourages* the Secretary-General and the Committee to cooperate, in close consultation with the Government of Iraq, on a continuing basis to ensure the most effective implementation of the scheme approved in the present resolution;

5. *Decides* that petroleum and petroleum products subject to resolution 706 (1991) shall, while under Iraqi title, be immune from legal proceedings and not be subject to any form of attachment, garnishment or execution, and that all States shall take any steps that may be necessary under their respective domestic legal systems to assure this protection and to ensure that the proceeds of sale are not diverted from the purposes laid down in resolution 706 (1991);

6. *Reaffirms* that the escrow account to be established by the United Nations and administered by the Secretary-General to meet the purposes of resolution 706 (1991) and the present resolution, like the United Nations Compensation Fund established by resolution 692 (1991), enjoys the privileges and immunities of the United Nations;

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<sup>348</sup> S/PV.3008, pp. 3-11.

<sup>349</sup> *Ibid.*, pp. 11-12.

<sup>350</sup> *Ibid.*, pp. 12-13.

7. *Reaffirms also* that the inspectors and other experts on mission for the United Nations, appointed for the purpose of the present resolution, enjoy privileges and immunities in accordance with the Convention on the Privileges and Immunities of the United Nations, and demands that Iraq allow them full freedom of movement and all necessary facilities;

8. *Confirms* that funds contributed from other sources may, if desired, in accordance with paragraph 1 (c) of resolution 706 (1991), be deposited into the escrow account as a sub-account and be immediately available to meet Iraq's humanitarian needs as referred to in paragraph 20 of resolution 687 (1991) without any of the obligatory deductions and administrative costs specified in paragraphs 2 and 3 of resolution 706 (1991);

9. *Urges* that any provision to Iraq of foodstuffs, medicines or other items of a humanitarian character, in addition to those purchased with the funds referred to in paragraph 1 above, be undertaken through arrangements that assure their equitable distribution to meet humanitarian needs;

10. *Requests* the Secretary-General to take the actions necessary to implement the above decisions, and authorizes him to enter into any arrangements or agreements necessary to accomplish this;

11. *Calls upon* States to cooperate fully in the implementation of resolution 706 (1991) and the present resolution, in particular with respect to any measures regarding the import of petroleum and petroleum products and the export of foodstuffs, medicines and materials and supplies for essential civilian needs as referred to in paragraph 20 of resolution 687 (1991), and also with respect to the privileges and immunities of the United Nations and its personnel implementing the present resolution, and to ensure that there are no diversions from the purposes laid down in these resolutions;

12. *Decides* to remain seized of the matter.

Following the adoption of the resolution, the representative of the United States emphasized that the limited authorization of the sale of Iraqi oil was being made within the existing sanctions regime, which remained firmly in place. The implementing resolution was a key step towards bringing the Gulf crisis to a close and towards having Iraq meet its responsibilities. He stated that it responded closely to the Secretary-General's report. It set up mechanisms to implement resolution 706 (1991), supported the Secretary-General in his implementation role, and provided for ongoing review and assessment of the needs and requirements in Iraq.<sup>351</sup>

The representative of the Union of Soviet Socialist Republics said he believed that the adoption

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<sup>351</sup> Ibid., pp. 14-18.

of resolution 712 (1991) opened the way to the early implementation of the plan proposed by the Secretary-General for the implementation of resolution 701 (1991). He considered that, in the light of the existing humanitarian situation in Iraq, the resolution responded to the vital interests of the Iraqi people, and expected the Government of Iraq to comply with it scrupulously.<sup>352</sup>

The representative of the United Kingdom observed that the report of the Secretary-General, which formed the basis of the resolution just adopted, achieved the necessary balance between a rigorous scheme which would carry out the sense of the Council, as contained in resolution 706 (1991), to ensure that the oil exports went to finance humanitarian supplies and other objectives of the United Nations, and a scheme which would at the same time take account of a number of the concerns expressed by members of the Council and by the Government of Iraq. He was pleased to have been able to be a sponsor of the resolution, because he was convinced that it contained the potential to provide genuine relief to those in Iraq who needed it. Whether it did so or not lay as much in the hands of the Government of Iraq as in anyone else's.<sup>353</sup>

The President, speaking in his capacity as the representative of France, welcomed the adoption of resolution 712 (1991), which completed the establishment of the mechanisms that would make it possible to meet the essential needs of the Iraqi population. He hoped that those mechanisms would begin to operate as rapidly as possible in order to achieve the humanitarian objectives that his country had been pursuing.<sup>354</sup>

#### **Decision of 2 October 1991: statement by the President**

Following informal consultations on 2 October 1991, the President of the Security Council made the following statement to the media on behalf of the Council:<sup>355</sup>

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<sup>352</sup> Ibid., pp. 18-19.

<sup>353</sup> Ibid., pp. 20-23.

<sup>354</sup> Ibid., pp. 22-23.

<sup>355</sup> S/23107; recorded as a Security Council decision in *Resolutions and Decisions of the Security Council, 1991*, p. 25.

The members of the Security Council held informal consultations on 2 October 1991 pursuant to paragraph 21 of resolution 687 (1991) of 3 April 1991.

After hearing all the opinions expressed in the course of the consultations, the President of the Council concluded that there was no agreement that the necessary conditions existed for a modification of the regime established in paragraph 20 of resolution 687 (1991), as referred to in paragraph 21 of that resolution.

**Decision of 11 October 1991 (3012th meeting):  
resolution 715 (1991)**

On 2 October 1991, the Secretary-General submitted to the Security Council a report pursuant to resolution 687 (1991), entitled "Plan for future ongoing monitoring and verification of Iraq's compliance with relevant parts of section C of Security Council resolution 687 (1991)".<sup>356</sup> He recalled that, as outlined in his report of 17 May 1991, the provisions of section C of resolution 687 lent themselves to a three-stage implementation procedure: gathering and assessment of information; disposal of weapons and facilities and all other items specified in paragraphs 8 and 12 of the resolution; and ongoing monitoring and verification of Iraq's compliance. He added that the first stages were being implemented and would continue until their objectives had been achieved.

The Secretary-General stated that the plan submitted in the current report addressed the third stage, ongoing monitoring and verification of Iraq's compliance with its unconditional obligation not to use, retain, possess, develop, construct or otherwise acquire any weapons or related items prohibited under paragraphs 8 and 9 of resolution 687 (1991). Thus, monitoring and verification would need to cover not only military but also civilian sites, facilities, material and other items that could be used or activities that could be involved in contravention of Iraq's obligation under resolution 687 (1991). The plan also incorporated the additional obligations of Iraq under resolution 707 (1991) and the corresponding monitoring and verification activities. He recommended that the plan should enter into force directly upon its approval by the Security Council, which meant that the early stages of its implementation and the later stages of the disposal of existing prohibited weapons, facilities and related items would be conducted simultaneously. With regard to

institutional arrangements, he assumed that, bearing in mind that resolutions 687 (1991) and 707 (1991) had been adopted by the Security Council acting under Chapter VII of the Charter of the United Nations, the monitoring and verification tasks provided for under the plan should be entrusted to an executive body under the authority of the Security Council. That was particularly important, in his view, should any situation arise of non-compliance by Iraq with its obligations under section C of resolution 687 (1991) or under resolution 707 (1991). He accordingly recommended that a compliance unit be organized under the Special Commission to carry out the monitoring and verification tasks provided for under the plan.

By a note dated 20 September 1991,<sup>357</sup> the Secretary-General also transmitted to the Security Council a revised plan for future ongoing monitoring and verification of Iraq's compliance with paragraph 12 of section C of resolution 687 (1991) and with the requirements of paragraphs 3 and 5 of resolution 707 (1991) submitted by the Director General of the International Atomic Energy Agency.

At its 3012th meeting, on 11 October 1991, the Council included in its agenda the report of the Secretary-General and his note. The representative of Iraq was invited, at his request, to participate in the discussion without the right to vote.

The President (India) drew the attention of the Council members to a draft resolution submitted by Belgium, France, Romania, the Union of Soviet Socialist Republics, the United Kingdom and the United States.<sup>358</sup>

The representative of Iraq stated that, although the draft resolution seemed at first sight to be a detailed procedural text regarding the implementation of paragraph 10 of resolution 687 (1991), that was not the case. The draft went far beyond the objectives of that resolution and, contrary to the provisions of the Charter, aimed to put Iraq under the permanent trusteeship of the Special Commission on armaments and to maintain the trade sanctions system indefinitely, contrary to the provisions of that resolution. He added that the draft resolution also sought to establish permanent international mechanisms to tighten control on Iraq's future and prevent it from carrying out

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<sup>356</sup> S/22871/Rev.1.

<sup>357</sup> S/22872/Rev.1 and Corr.1.

<sup>358</sup> S/23134; subsequently adopted without change as resolution 715 (1991).

economic and scientific development. The greatest danger, however, was in the plan prepared by the Special Commission contained in the Secretary-General's report, which omitted no detail affecting civilian or military life. All those aspects, together with all Iraqi scientific and educational institutions, would be placed under tight control and severe restrictions. The speaker maintained that Iraq had accepted resolution 687 (1991) and previous resolutions and implemented their provisions in good faith. It had done so in the erroneous belief that the Council, in return, would look at the economic sanctions adopted against it. It was regrettable that, while Iraq had played its part, the Council had not only failed to fulfil its mandate but had tightened its sanctions against Iraq.<sup>359</sup>

The representative of the United States welcomed the excellent monitoring plans drawn up by the Special Commission and the Director General of IAEA for dealing with a very serious and difficult situation. He recalled that, over the past months, Iraq had continued to hide parts of its nuclear-weapons programme, its chemical-warfare programme, its biological programme and its missile programme. It had continued to block the cooperation that it was committed to give to the Special Commission and IAEA. There was evidence, moreover, that Iraq had been seeking to build nuclear weapons and that it had misused its peaceful nuclear facilities. Several times the Council had found Iraq in violation of its obligations under Council resolutions. He stated that that was why the monitoring and verification plan was required and why it had been so carefully prepared. He trusted that Iraq would abide by the resolution which he hoped would soon be adopted by the Council.<sup>360</sup>

The representative of the United Kingdom emphasized that the object of the draft resolution was simply to prevent Iraq from breaking in the future the international obligations on weapons of mass destruction which it had so liberally broken in the past.<sup>361</sup>

The draft resolution was then put to the vote and adopted unanimously as resolution 715 (1991), which reads:

*The Security Council,*

*Recalling* its resolutions 687 (1991) of 3 April 1991 and 707 (1991) of 15 August 1991 and its other resolutions on this matter,

*Recalling in particular* that under resolution 687 (1991) the Secretary-General and the Director General of the International Atomic Energy Agency were requested to develop plans for future ongoing monitoring and verification and to submit them to the Security Council for approval,

*Taking note* of the report and note of the Secretary-General, transmitting the plans submitted by the Secretary-General and the Director General of the Agency,

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

1. *Approves*, in accordance with the provisions of resolutions 687 (1991), 707 (1991) and the present resolution, the plans submitted by the Secretary-General and the Director General of the International Atomic Energy Agency;

2. *Decides* that the Special Commission shall carry out the plan submitted by the Secretary-General, as well as continuing to discharge its other responsibilities under resolutions 687 (1991), 699 (1991) of 17 June 1991 and 707 (1991) and performing such other functions as are conferred upon it under the present resolution;

3. *Requests* the Director General of the Agency to carry out, with the assistance and cooperation of the Special Commission, the plan submitted by him and to continue to discharge his other responsibilities under resolutions 687 (1991), 699 (1991) and 707 (1991);

4. *Decides* that the Special Commission, in the exercise of its responsibilities as a subsidiary organ of the Security Council, shall:

(a) Continue to have the responsibility for designating additional locations for inspections and overflights;

(b) Continue to render assistance and cooperation to the Director General of the Agency, by providing him, by mutual agreement, with the necessary special expertise and logistical, informational and other operational support for the carrying out of the plan submitted by him;

(c) Perform such other functions, in cooperation in the nuclear field with the Director General of the Agency, as may be necessary to coordinate activities under the plans approved by the present resolution, including making use of commonly available services and information to the fullest extent possible, in order to achieve maximum efficiency and optimum use of resources;

5. *Demands* that Iraq meet unconditionally all its obligations under the plans approved by the present resolution and cooperate fully with the Special Commission and the Director General of the Agency in carrying out the plans;

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<sup>359</sup> S/PV.3012, pp. 2-13.

<sup>360</sup> *Ibid.*, pp. 13-14.

<sup>361</sup> *Ibid.*, pp. 15-17.

6. *Decides* to encourage the maximum assistance, in cash and in kind, from all Member States to support the Special Commission and the Director General of the Agency in carrying out their activities under the plans approved by the present resolution, without prejudice to Iraq's liability for the full costs of such activities;

7. *Requests* the Security Council Committee established under resolution 661 (1990) concerning the situation between Iraq and Kuwait, the Special Commission and the Director General of the Agency to develop in cooperation a mechanism for monitoring any future sales or supplies by other countries to Iraq of items relevant to the implementation of section C of resolution 687 (1991) and other relevant resolutions, including the present resolution and the plans approved hereunder;

8. *Requests* the Secretary-General and the Director General of the Agency to submit to the Security Council reports on the implementation of the plans approved by the present resolution, when requested by the Security Council and in any event at least every six months after the adoption of this resolution;

9. *Decides* to remain seized of the matter.

Speaking after the vote, the representative of France stressed the importance of the resolution just adopted. The Council had thereby approved the plan for future ongoing monitoring and verification, which was the only way to ensure that Iraq would no longer be able to pursue its plans, especially those to acquire nuclear weapons. The missions of the Special Commission and IAEA had furnished ample proof of those plans and the international community was duty bound to put an end to them. He observed that the matter lay at the heart of the Security Council's responsibilities. He welcomed the unanimity that had prevailed among the Council members in that regard. He hoped, moreover, that, faced with that determination on the part of the international community, Iraq would understand that it was in its interests to comply without reservation with the obligations incumbent upon it under the plan and the resolution and cooperate with the Council and the various bodies under its authority and responsibility.<sup>362</sup>

#### **Decision of 20 December 1991: statement by the President**

Following informal consultations on 20 December 1991, the President of the Security

Council made the following statement to the media on behalf of the Council:<sup>363</sup>

The members of the Security Council held informal consultations on 6 December 1991 pursuant to paragraph 28 of resolution 687 (1991) of 3 April 1991, paragraph 6 of resolution 700 (1991) of 17 June 1991 and paragraph 21 of resolution 687 (1991). After hearing all the opinions expressed in the course of the consultations, the President of the Council concluded that there was no agreement that the necessary conditions existed for a modification of the regimes established in paragraphs 22 to 25, as referred to in paragraph 28 of resolution 687 (1991), in paragraph 6 of resolution 700 (1991), and in paragraph 20, as referred to in paragraph 21 of resolution 687 (1991).

However, with a view to alleviating the humanitarian conditions for the civilian population in Iraq and in order to facilitate the utilization of paragraph 20 of resolution 687 (1991), the Security Council Committee established under resolution 661 (1990) concerning the situation between Iraq and Kuwait is requested to study immediately those materials and supplies for essential civilian and humanitarian needs as identified in the Ahtisaari report with the purpose of drawing up a list of items which may, with the Council's approval, be transferred from the "no objection" procedure to a simple notification procedure. Members of the Council may submit proposals of items for this purpose.

With regard to imports of items subject to prior approval under the "no objection" procedure by the Committee (i.e. items other than food and medicine), any member of the Committee putting forward an objection to such an import will offer a specific explanation at a meeting of the Committee.

The members of the Council are aware of reports received concerning the approximately 2,000 Kuwaitis believed to be still detained in Iraq, access by the International Committee of the Red Cross to all detainees and places of detention, the return of Kuwaiti property, and particularly the return of Kuwaiti military equipment and their bearing upon the present state of Iraqi compliance with resolution 687 (1991).

In light of the above, the Council will request the Secretary-General to prepare a factual report on Iraq's compliance with all the obligations placed upon it by resolution 687 (1991) and subsequent relevant resolutions. This report will be made available to the Council in good time before it undertakes its next review under paragraph 21 of resolution 687 (1991).

In the course of consultations it was noted that resolutions 706 (1991) of 15 August 1991 and 712 (1991) of 19 September 1991 gave to Iraq the possibility for oil sales to finance the purchase of foodstuffs, medicines and materials and supplies for essential civilian needs for the purpose of providing

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<sup>362</sup> Ibid., pp. 17-18.

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<sup>363</sup> S/23305; recorded as a Security Council decision in *Resolutions and Decisions of the Security Council, 1991*, p. 27.



humanitarian relief. However, this possibility has not yet been used.

**Decision of 5 February 1992: statement by the President**

Following informal consultations on 5 February 1992, the President of the Security Council made the following statement to the media on behalf of the Council:<sup>364</sup>

The members of the Council held informal consultations on 28 January and 5 February 1992 pursuant to paragraph 21 of resolution 687 (1991) of 3 April 1991. The members of the Council express their thanks to the Secretary-General for his report of 25 January 1992 on Iraq's compliance with all the obligations placed upon it by resolution 687 (1991) and subsequent relevant resolutions.

After taking note of the Secretary-General's report and hearing all the opinions expressed in the course of the consultations, the President concluded that there was no agreement that the necessary conditions existed for a modification of the regime established in paragraph 20 of resolution 687 (1991), as referred to in paragraph 21 of that resolution.

In the context of compliance, the Council members note with concern the recent incident at Baghdad, which demonstrates a lack of Iraqi cooperation in complying with the resolutions of the Council.

In connection with the Secretary-General's report on Iraq's compliance with all the obligations placed upon it by resolution 687 (1991) and subsequent relevant resolutions concerning the situation between Iraq and Kuwait, the members of the Council note that while much progress has been made, much remains to be done. There is serious evidence of Iraqi non-compliance over its programmes for weapons of mass destruction and the repatriation of Kuwaitis and other third-State nationals detained in Iraq. There is still much Kuwaiti property to be returned. The members of the Council are disturbed by the lack of Iraqi cooperation. Iraq must implement fully resolution 687 (1991) and subsequent relevant resolutions as was stated in the statement read out by the President on behalf of its members at the 3046th meeting, held on 31 January 1992, with the participation of the heads of State and Government.

The members of the Council note that with a view to alleviating the humanitarian conditions of the civilian population of Iraq and facilitating the utilization of paragraph 20 of resolution 687 (1991) the Security Council Committee established by resolution 661 (1990) concerning the situation between Iraq and Kuwait has been requested to prepare a study of those materials and supplies for essential civilian and

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<sup>364</sup> S/23517; recorded as a Security Council decision in *Resolutions and Decisions of the Security Council, 1992*, pp. 67-68.

humanitarian needs, other than medicines which have not been subject to sanctions and food shipments which have been permitted to move freely, that might be transferred from the "no objection" procedure to a simple notification procedure. The members of the Council also note the report of the Chairman of the Committee in this regard. They express their appreciation for the efforts the Chairman has made to reach a conclusion and encourage him to continue his consultations with the members of the Committee on the study and to report to the Council at an early date.

The members of the Council strongly deplore that the Iraqi authorities have decided and communicated that decision to the Secretariat to discontinue contacts with the Secretariat regarding implementation of resolutions 706 (1991) of 15 August 1991 and 712 (1991) of 19 September 1991, in which the Council gives to Iraq the possibility of oil sales to finance the purchase of foodstuffs, medicines and materials and supplies for essential civilian needs for the purpose of providing humanitarian relief. They underscore that the Government of Iraq, by acting in this way, is forgoing the possibility of meeting the essential needs of its civilian population and therefore bears the full responsibility for their humanitarian problems. They hope that a resumption of these contacts may lead to the early implementation of the scheme set out in those resolutions to enable humanitarian supplies to reach the Iraqi people.

**Decision of 19 February 1992: statement by the President**

Following informal consultations on 19 February 1992, the President of the Security Council made the following statement on behalf of the Council:<sup>365</sup>

The members of the Security Council express their gratitude to the Secretary-General for the special report of the Executive Chairman of the Special Commission established by the Secretary-General pursuant to paragraph 9 (b) (i) of Security Council resolution 687 (1991), submitted to the Council on 18 February 1992.

The members of the Council note that while progress has been made, much still remains to be done to implement the relevant resolutions of the Council. The members of the Council are gravely concerned by Iraq's continued failure to acknowledge all its obligations under Council resolutions 707 (1991) of 15 August 1991 and 715 (1991) of 11 October 1991, and its continued rejection of the plans of the Secretary-General and of the Director General of the International Atomic Energy Agency as approved by the latter resolution for ongoing monitoring and verification of Iraq's compliance with its obligations under paragraphs 10, 12 and 13 of resolution 687 (1991) of 3 April 1991.

Ongoing monitoring and verification of Iraq's obligations is an integral part of resolution 687 (1991), which established a ceasefire and provided the conditions essential to the restoration

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<sup>365</sup> S/23609.

of peace and security in the region. Such ongoing monitoring and verification is a step of the utmost importance towards the goal set out in paragraph 14 of that resolution.

Iraq's failure to acknowledge its obligations under resolutions 707 (1991) and 715 (1991), its rejection up until now of the two plans for ongoing monitoring and verification and its failure to provide the full, final and complete disclosure of its weapons capabilities constitute a continuing material breach of the relevant provisions of resolution 687 (1991). Unconditional agreement by Iraq to implement these obligations is one of the essential preconditions to any reconsideration by the Council under paragraphs 21 and 22 of resolution 687 (1991) of the prohibitions referred to in those paragraphs.

The members of the Council support the decision of the Secretary-General to dispatch a special mission headed by the Executive Chairman of the Special Commission to visit Iraq immediately to meet and discuss with the highest levels of the Iraqi Government for the purpose of securing the unconditional agreement by Iraq to implement all its relevant obligations under resolutions 687 (1991), 707 (1991) and 715 (1991). The mission should stress the serious consequences if such agreement to implement is not forthcoming. The Secretary-General is requested to report on the results of the special mission to the Security Council upon its return.

**Decision of 28 February 1992 (3058th meeting):  
statement by the President**

On 26 February 1992 the Secretary-General submitted to the Security Council a note,<sup>366</sup> in which he referred to the statement made by the President of the Council on 19 February 1992, concerning the dispatch to Iraq of a special mission headed by the Executive Chairman of the Special Commission established under Security Council resolution 687 (1991), "to meet and discuss with the highest levels of the Iraqi Government for the purpose of securing the unconditional agreement by Iraq to implement all its relevant obligations under resolutions 687 (1991), 707 (1991) and 715 (1991)".<sup>367</sup> By his note, the Secretary-General transmitted a letter dated 25 February 1992 addressed to him by Mr. Rolf Ekeus, Executive Chairman of the Special Commission, enclosing the report of the Executive Chairman on the proceedings and outcome of the special mission's visit to Baghdad.

The Executive Chairman reported, *inter alia*, that, at a meeting with the Deputy Prime Minister of Iraq on 22 February 1992, it had been agreed that, in order to clarify their respective positions, both sides would

prepare and exchange written statements. The texts of the two statements appeared in appendices I and II of the report. He reported in his conclusions that, after a careful review of the written statement by the Government of Iraq, and taking account of the discussions which had been held, the Executive Chairman had regretfully concluded that at that stage he was not able to report to the Council that he had secured from the highest levels of the Government of Iraq unconditional agreement by Iraq to implement all its relevant obligations under Council resolutions 687 (1991), 707 (1991) and 715 (1991).

At its 3058th meeting, held on 28 February 1992 in accordance with the understanding reached in its prior consultations, the Council included the note by the Secretary-General in its agenda.

The President (United States) stated that, following consultations among the members of the Council, he had been authorized to make the following statement on behalf of the Council:<sup>368</sup>

The members of the Security Council express their gratitude to the Secretary-General for the report submitted pursuant to paragraph 9 (b) (i) of resolution 687 (1991) to the Council on 25 February 1992, transmitting the results of the special mission dispatched to Iraq by the Secretary-General pursuant to the statement of the President of the Council of 19 February 1992. The members of the Council approve in full the conclusions of the special mission as contained in the report and in particular its finding that Iraq is not prepared to give its unconditional agreement to implement all of its obligations under resolutions 687 (1991) of 3 April 1991, 707 (1991) of 15 August 1991 and 715 (1991) of 11 October 1991.

The members of the Council deplore and condemn the failure of the Government of Iraq to provide the special mission with full, final and complete disclosure, as required by resolution 707 (1991), of all aspects of its programmes to develop weapons of mass destruction and ballistic missiles with a range greater than 150 kilometres, including launchers, and of all holdings of such weapons, their components and production facilities and locations, as well as all other nuclear programmes; and the failure of Iraq to comply with the plans for ongoing monitoring and verification presented by the Secretary-General and by the Director General of the International Atomic Energy Agency and approved by resolution 715 (1991). In the statement made by the President on 19 February 1992 prior to the dispatch of the special mission to Iraq, the Council noted that Iraq's behaviour constituted a material breach of resolution 687 (1991). Regrettably this continues to be the case.

Furthermore, the members of the Council equally deplore and condemn Iraq's failure, within the time prescribed by the

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<sup>366</sup> S/23643.

<sup>367</sup> S/23609.

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<sup>368</sup> S/23663.

Special Commission at the request of Iraq, to commence destruction of ballistic missile-related equipment designated for destruction by the Special Commission. The members of the Council reaffirm that it is for the Special Commission alone to determine which items must be destroyed under paragraph 9 of resolution 687 (1991). Therefore, the Government of Iraq's letter of 28 February 1992 to the Executive Chairman of the Special Commission is unacceptable. Iraq's refusal to implement the determinations of the Special Commission constitutes a further material breach of the relevant provisions of resolution 687 (1991).

The members of the Council demand that Iraq immediately implement all its obligations under Council resolution 687 (1991) and subsequent resolutions on Iraq. The members of the Council require the Government of Iraq to communicate directly to the Council without further delay an authoritative and unconditional acknowledgement of its agreement to accept and implement the above-noted obligations, including specifically to comply with the determination of the Special Commission requiring the destruction of ballistic missile-related equipment. The members of the Council emphasize that Iraq must be aware of the serious consequences of continued material breaches of resolution 687 (1991).

The members of the Council note that an Iraqi delegation is prepared to come to New York as soon as it is invited to do so. The members of the Council have asked its President to extend such an invitation to the delegation to come to New York without further delay. The members of the Council intend in any event to continue their consideration of this question no later than the week beginning 9 March 1992.

**Decision of 19 March 1992 (3061st meeting):  
statement by the President**

At its 3061st meeting, held on 19 March 1992 in accordance with the understanding reached in its prior consultations, the Council resumed its consideration of the situation between Iraq and Kuwait.

The President (Venezuela) stated that, following consultations among the members of the Security Council, he had been authorized to make the following statement of behalf of the Council:<sup>369</sup>

The Council welcomes the announcement of the Iraqi authorities that they will resume discussions with the Secretariat concerning implementation of the scheme of sales of Iraqi petroleum and petroleum products, as provided for in resolutions 706 (1991) of 15 August 1991 and 712 (1991) of 19 September 1991, and for the use of the proceeds of such sales in accordance with the Secretary-General's report of 4 September 1991 submitted pursuant to paragraph 5 of Security Council resolution 706 (1991) and the above-mentioned resolutions.

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<sup>369</sup> S/23732.

The Council also welcomes the Secretary-General's intention that these discussions be organized without delay.

The Council is prepared to authorize the regime for the sale of Iraqi petroleum and petroleum products on the above basis for a like period of time as that specified in these resolutions as soon as the Secretary-General indicates that the Iraqi authorities are prepared to proceed on a date certain with the export of petroleum and petroleum products in accordance with the scheme.

The members of the Council are prepared at an appropriate time to consider possible further extensions of the time based upon Iraq's cooperation with the above and the Council's ongoing assessment of the needs and requirements in accordance with paragraph 1 (d) of resolution 706 (1991).

**Decision of 27 March 1992: statement by the  
President**

Following informal consultations on 27 March 1992, the President of the Security Council made the following statement on behalf of the Council:<sup>370</sup>

The members of the Council held informal consultations on 27 March 1992 pursuant to paragraphs 21 and 28 of resolution 687 (1991) of 3 April 1991 and paragraph 6 of resolution 700 (1991) of 17 June 1991.

After hearing all the opinions expressed in the course of the consultations, the President concluded that there still was no agreement that the necessary conditions existed for a modification of the regimes established in paragraph 20 of resolution 687 (1991), as referred to in paragraph 21 of that resolution; in paragraphs 22 to 25 of that resolution, as referred to in paragraph 28 of that resolution; and in paragraph 6 of resolution 700 (1991). The members of the Council expressed the hope that the offers of cooperation recently conveyed by Iraq will be fully matched by actual deeds.

**Decision of 10 April 1992: statement by the  
President**

Following informal consultations on 10 April 1992, the President of the Security Council made the following statement on behalf of the Council:<sup>371</sup>

The members of the Council have learned with great concern from the Executive Chairman of the Special Commission of recent developments which appear to call for a halt in and constitute a threat to the safety and security of the Special Commission's aerial surveillance flights over Iraq. The members of the Council wish to point out that the surveillance flights are carried out under the authority of Security Council resolutions 687 (1991) of 3 April 1991, 707 (1991) of 15 August 1991 and 715 (1991) of 11 October 1991. Reaffirming the right

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<sup>370</sup> S/23761.

<sup>371</sup> S/23803.

of the Special Commission to conduct such aerial surveillance flights, the members of the Council call upon the Government of Iraq to take all the necessary steps to ensure that the Iraqi military forces will not interfere with or threaten the security of the flights concerned and to comply with its responsibilities to secure the safety of the Special Commission's aircraft and personnel while flying over Iraq. The members of the Council warn the Government of Iraq of serious consequences which would ensue from any failure to comply with these obligations.

**Decision of 27 May 1992: statement by the  
President**

Following informal consultations on 27 May 1992, the President of the Security Council made the following statement on behalf of the Council:<sup>372</sup>

The members of the Council held informal consultations on 27 May 1992 pursuant to paragraph 21 of resolution 687 (1991) of 3 April 1991.

After hearing all the opinions expressed in the course of the consultations, the President of the Council concluded that there still was no agreement that the necessary conditions existed for a modification of the regime established in paragraph 20 of resolution 687 (1991), as referred to in paragraph 21 of that resolution.

**Decision of 17 June 1992: statement by the  
President**

Following informal consultations on 17 June 1992, the President of the Security Council made the following statement on behalf of the Council:<sup>373</sup>

The members of the Council have noted the letter of 17 April 1992 from the Chairman of the Iraq-Kuwait Boundary Demarcation Commission to the Secretary-General and express their complete support for the work of the Secretary-General and the Boundary Demarcation Commission in implementing paragraph 3 of resolution 687 (1991) of 3 April 1991. They recall in this connection that through the demarcation process the Commission is not reallocating territory between Kuwait and Iraq, but is simply carrying out the technical task necessary to demarcate the precise coordinates of the boundary between Iraq and Kuwait for the first time. The task is being carried out in the special circumstances following Iraq's invasion of Kuwait and pursuant to resolution 687 (1991) and the Secretary-General's report of 2 May 1991 for implementing paragraph 3 of that resolution. They look forward to the completion of the work of the Commission.

The members of the Council have noted with particular concern the letter of 21 May 1992 from the Minister for Foreign Affairs of the Republic of Iraq to the Secretary-General

concerning work of the Commission, which appears to call into question Iraq's adherence to resolution 687 (1991). The members of the Council are concerned in particular that the letter from Iraq of 21 May 1992 may be interpreted as rejecting the finality of the Commission's decisions notwithstanding the terms of resolution 687 (1991) and the Secretary-General's above-mentioned report, both of which were formally accepted by Iraq.

The members of the Council note with dismay that the letter recalls past Iraqi claims to Kuwait without also recalling Iraq's subsequent repudiations of these claims, inter alia, through its acceptance of resolution 687 (1991). They firmly reject any suggestion that tends to dispute the very existence of Kuwait, a State Member of the United Nations.

The members of the Council remind Iraq of its obligations under resolution 687 (1991), in particular paragraph 2 thereof, and under other relevant resolutions of the Council.

The members of the Council also remind Iraq of its acceptance of the resolutions of the Council adopted pursuant to Chapter VII of the Charter of the United Nations, which forms the basis for the ceasefire. They wish to stress to Iraq the inviolability of the international boundary between Iraq and Kuwait being demarcated by the Commission and guaranteed by the Council pursuant to resolution 687 (1991), and the grave consequences that would ensue from any breach thereof.

**Decision of 6 July 1992: statement by the  
President**

Following informal consultations on 6 July 1992, the President of the Security Council issued the following statement on behalf of the Council:<sup>374</sup>

The members of the Council have learned with concern of the refusal of the Government of Iraq to permit a team of inspectors sent to Iraq by the Special Commission to enter certain premises designated by the Commission for inspection.

The members of the Council recall that, under section C, paragraph 9 (b) (i), of resolution 687 (1991), Iraq is required to permit the Special Commission to undertake immediate on-site inspection of any locations designated by the Commission. This obligation is imposed as a result of a decision of the Council, taken under Chapter VII of the Charter of the United Nations. Furthermore, Iraq has agreed to such inspections as a condition precedent to the establishment of a formal ceasefire between Iraq and Kuwait and the Member States cooperating with Kuwait in accordance with resolution 678 (1990) of 29 November 1990. They further recall that by paragraph 3 (b) of resolution 707 (1991) of 15 August 1991, the Council has reaffirmed the relevant provision of resolution 687 (1991) and expressly demanded that Iraq "allow the Special Commission ... and their inspection teams immediate, unconditional, and

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<sup>372</sup> S/24010.

<sup>373</sup> S/24113.

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<sup>374</sup> S/24240.

unrestricted access to any and all areas, facilities, equipment, records and means of transportation which they wish to inspect”.

Iraq’s present refusal to permit access to the inspection team currently in Iraq to the premises designated by the Special Commission constitutes a material and unacceptable breach by Iraq of a provision of resolution 687 (1991) which established the ceasefire and provided the conditions essential to the restoration of peace and security in the region. The members of the Council demand that the Government of Iraq immediately agree to the admission of the premises concerned of the inspectors of the Special Commission as required by the Executive Chairman of the Commission, so that the Special Commission may establish whether or not any documents, records, materials, or equipment relevant to the responsibilities of the Commission are located therein.

**Decision of 17 July 1992 (3098th meeting):  
statement by the President**

At its 3098th meeting, held on 17 July 1992 in accordance with the understanding reached in its prior consultations, the Council resumed its consideration of the situation between Iraq and Kuwait.

The President (Cape Verde) stated that, following consultations among the members of the Security Council, he had been authorized to make the following statement on behalf of the Council:<sup>375</sup>

The Council deeply deplores the murder of a member of the United Nations Guards Contingent in Iraq on 16 July 1992 in the Governorate of Dohuk. It supports the Secretary-General’s decision to order an immediate and thorough investigation of this appalling crime. Members of the Council wish to express their sincere condolences to the family of the victim, Mr. Ravuama Dakia, and to the Government of Fiji.

The Council wishes to register its profound concern at the deteriorating security conditions affecting the safety and well-being of United Nations personnel in Iraq. It demands that attacks perpetrated against the United Nations Guards Contingent and other humanitarian personnel deployed in Iraq cease immediately and that maximum cooperation be extended by the authorities in the investigation of this crime, as well as in the protection of United Nations personnel.

**Decision of 27 July 1992: statement by the  
President**

Following informal consultations on 27 July 1992, the President of the Security Council made the following statement on behalf of the Council:<sup>376</sup>

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<sup>375</sup> S/24309.

<sup>376</sup> S/24352.

The members of the Security Council held informal consultations on 27 July 1992 pursuant to paragraphs 21 and 28 of resolution 687 (1991) of 3 April 1991 and paragraph 6 of resolution 700 (1991) of 17 June 1991.

After hearing all the opinions expressed in the course of the consultations, the President of the Council concluded that there was no agreement that the necessary conditions existed for a modification of the regimes established in paragraph 20 of resolution 687 (1991), as referred to in paragraph 21 of that resolution; in paragraphs 22 to 25 of that resolution, as referred to in paragraph 28 of that resolution; and in paragraph 6 of resolution 700 (1991).

**Decision of 26 August 1992 (3108th meeting):  
resolution 773 (1992)**

At its 3108th meeting, held on 26 August 1992 in accordance with the understanding reached in its prior consultations, the Council resumed its consideration of the situation between Iraq and Kuwait.

The President (China) drew the attention of the Council members to a draft resolution submitted by France, the Russian Federation, the United Kingdom and the United States,<sup>377</sup> and read out revisions to the draft resolution in its provisional form.<sup>378</sup>

Speaking before the vote, the representative of Venezuela emphasized that his country considered that the process of demarcation of the Iraq-Kuwait boundary was being carried out, as pointed out in the draft resolution, in the special circumstances following Iraq’s invasion of Kuwait, which had posed a threat to international peace and security. It was Venezuela’s understanding, therefore, that the draft resolution did not establish a precedent altering the general principle expressed in Article 33 of the Charter that it was the parties directly involved in territorial dispute that should negotiate and reach an appropriate agreement to overcome their differences.<sup>379</sup>

The representative of Ecuador recalled that, when abstaining in the vote on resolution 687 (1991), his delegation had stated its conviction that Article 36 of the Charter did not grant the Security Council competence under Chapter VII to pronounce itself on the territorial boundary between Iraq and Kuwait or to determine any settlement intended to demarcate that boundary. Ecuador considered that the means used to implement Security Council resolutions could not give

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<sup>377</sup> S/24488; subsequently adopted as resolution 773 (1992).

<sup>378</sup> The revisions were contained in document S/24488.

<sup>379</sup> S/PV.3108, p. 3.

the Council powers beyond those set out in the Charter itself, and that those means had to be in strict conformity with the norms of international law. While reiterating all the considerations his country had put forward when it abstained in the vote on resolution 687 (1991), the speaker noted that, in conformity with Article 25 of the Charter, Ecuador did not wish to place any obstacles in the way of actions which the Council might agree under that resolution.<sup>380</sup>

The representative of Japan said he believed that the demarcation of the boundary between Iraq and Kuwait was essential to maintain peace and security in the region. Acknowledging that any boundary dispute was a very sensitive issue, he stressed that, when a third party became involved in efforts to settle it, it should do so in a manner free of any political motives. His delegation's understanding was that the United Nations Iraq-Kuwait Boundary Demarcation Commission had taken a very technical and scientific approach and had demarcated the boundary on the basis of the historical background, and various documents and maps, and had not been influenced by political considerations.<sup>381</sup>

The draft resolution, as orally revised in its provisional form, was then put to the vote. It received 14 votes in favour, none against and 1 abstention (Ecuador), and was adopted as resolution 773 (1992), which reads:

*The Security Council,*

*Reaffirming* its resolution 687 (1991) of 3 April 1991, and in particular paragraphs 2 to 4 thereof, and its resolution 689 (1991) of 9 April 1991,

*Recalling* the report of the Secretary-General of 2 May 1991 relative to paragraph 3 of Security Council resolution 687 (1991), concerning the establishment of the United Nations Iraq-Kuwait Boundary Demarcation Commission and the subsequent exchange of letters between the Secretary-General and the President of the Security Council of 6 and 13 May 1991,

*Having considered* the Secretary-General's letter of 12 August 1992 to the President of the Security Council transmitting the further report of the Commission,

*Recalling* in this connection that through the demarcation process the Commission is not reallocating territory between Iraq and Kuwait but is simply carrying out the technical task necessary to demarcate for the first time the precise coordinates of the boundary set out in the "Agreed Minutes between the

State of Kuwait and the Republic of Iraq regarding the restoration of friendly relations, recognition and related matters" signed by them on 4 October 1963, and that this task is being carried out in the special circumstances following Iraq's invasion of Kuwait and pursuant to resolution 687 (1991) and the Secretary-General's report on the implementation of paragraph 3 of that resolution,

1. *Welcomes* the Secretary-General's letter of 12 August 1992 to the President of the Security Council and the further report of the United Nations Iraq-Kuwait Boundary Demarcation Commission enclosed therewith;

2. *Expresses its appreciation* to the Commission for its work on the demarcation of the land boundary, and welcomes its demarcation decisions;

3. *Welcomes also* the decision of the Commission to consider the eastern section of the boundary, which includes the offshore boundary, at its next session and urges it to demarcate this part of the boundary as soon as possible and thus complete its work;

4. *Underlines* its guarantee of the inviolability of the above-mentioned international boundary and its decision to take as appropriate all necessary measures to that end in accordance with the Charter of the United Nations, as provided for in paragraph 4 of resolution 687 (1991);

5. *Welcomes further* the Secretary-General's intention to carry out at the earliest practicable time the realignment of the demilitarized zone referred to in paragraph 5 of resolution 687 (1991) to correspond to the international boundary demarcated by the Commission, with the consequent removal of the Iraqi police posts;

6. *Urges* the two States concerned to cooperate fully with the work of the Commission;

7. *Decides* to remain seized of the matter.

Speaking after the vote, the representative of India reiterated his delegation's position that it would never support any decision whereby the Security Council would impose arbitrarily a boundary line between two countries. In the particular case before the Council, however, he had noted that what the Council had done was to recognize that a boundary agreed to by Iraq and Kuwait, and embodied in an agreement duly registered with the United Nations, existed, and to call upon them to respect its inviolability. The Council itself was not establishing any new boundary between Iraq and Kuwait, but only making arrangements for the demarcation of an already agreed boundary. It was in that light that his delegation viewed the work of the Boundary Commission.<sup>382</sup>

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<sup>380</sup> Ibid., pp. 3-5.

<sup>381</sup> Ibid., p. 6.

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<sup>382</sup> Ibid., pp. 7-8.

The representative of the United States strongly supported the resolution just adopted. He quoted the fourth preambular paragraph, recalling that the Boundary Commission was not reallocating territory between Iraq and Kuwait, but was simply carrying out the technical task necessary to demarcate for the first time the precise coordinates of the boundary. He commended the Boundary Commission for having resolutely completed its work on the land boundary. He looked forward to the Secretary-General carrying out the necessary realignment of the demilitarized zone at the earliest practicable time, with the consequent removal of the Iraqi police posts within Kuwaiti territory. He stressed that the resolution was also intended to reassure the Boundary Commission that prior Council resolutions did not preclude demarcation of the offshore boundary, and to urge the Commission to conclude its demarcation of the boundary subject to the Commission's terms of reference set out in the Secretary-General's report of 2 May 1991.<sup>383</sup>

The representative of the Russian Federation similarly stressed that the Boundary Commission was demarcating the international boundary historically existing between Iraq and Kuwait. Concluding the process of demarcation was, in his view, an important element in strengthening regional stability. He recalled that, by resolution 687 (1991), the Security Council had guaranteed the inviolability of the boundary.<sup>384</sup>

**Decision of 24 September 1992: statement by the President**

Following informal consultations on 24 September 1992, the President of the Security Council made the following statement on behalf of the Council:<sup>385</sup>

The members of the Security Council held informal consultations on 24 September 1992 pursuant to paragraph 21 of resolution 687 (1991) of 3 April 1991.

After hearing all the opinions expressed in the course of the consultations, the President of the Council concluded that there still was no agreement that the necessary conditions existed for a modification of the regime established in paragraph 20 of resolution 687 (1991), as referred to in paragraph 21 of that resolution.

**Decision of 2 October 1992 (3117th meeting): resolution 778 (1992)**

At its 3117th meeting, held on 2 October 1992 in accordance with the understanding reached in its prior consultations, the Security Council resumed its consideration of the situation between Iraq and Kuwait.

The President (France) drew the attention of the members of the Council to a draft resolution submitted by Belgium, France, the Russian Federation, the United Kingdom and the United States,<sup>386</sup> which Hungary and Japan had joined in sponsoring.

Speaking before the vote, the representative of China stated that his delegation believed that the following issues — payments to the United Nations Compensation Fund; the costs of carrying out the tasks authorized by section C of resolution 687 (1991); the costs of the Iraq-Kuwait Boundary Demarcation Commission; and the financing of the humanitarian needs of the Iraqi people — should be resolved by making full use of the established United Nations machinery, through the implementation of the Security Council resolutions 706 (1991) and 712 (1991). He noted, in that regard, that the United Nations and the Government of Iraq had, in accordance with those resolutions, held several rounds of negotiations on the export of Iraqi oil and that some progress had been made. He noted further that the Iraqi side had expressed its willingness to resume negotiations to resolve the remaining problems. He hoped that the sides would resume the negotiations soon and reach agreement on the export of Iraqi oil so that the relevant Council resolutions could be effectively implemented. In view of those circumstances, he believed that it was unnecessary to take such an extraordinary measure as the seizure of a country's frozen assets abroad. Such an action concerned the sovereignty of the country concerned and had complicated legal implications. The Chinese delegation thought the Council should be cautious on this matter. It would accordingly abstain in the vote on the draft resolution.<sup>387</sup>

The representative of Morocco said that his country had welcomed the machinery set up by the Council to ensure the provision of humanitarian aid and other vital needs to the people of Iraq. After long months of hesitation, Iraq and the United Nations

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<sup>383</sup> Ibid., pp. 8-9.  
<sup>384</sup> Ibid., pp. 9-10.  
<sup>385</sup> S/24584.

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<sup>386</sup> S/24605.  
<sup>387</sup> S/PV.3117, pp. 3-5.

seemed to be moving towards a certain degree of cooperation. Unfortunately, however, difficulties encountered at the talks on the implementation of resolutions 706 (1991) and 712 (1991) had led some members of the Council to contemplate a new draft resolution to replace temporarily the provisions of those two resolutions. Morocco would have preferred to remain within the framework of those resolutions and to see more cooperation by the Government of Iraq. It would, nevertheless, vote in favour of the draft resolution in an attempt to create a bridge and renew dialogue. It would do so in the confidence that the measures contemplated by the draft resolution were temporary short-term measures, valid only as long as resolutions 706 (1991) and 712 (1991) were not implemented.<sup>388</sup>

The draft resolution was then put to the vote. It received 14 votes in favour, none against and 1 abstention (China), and was adopted as resolution 778 (1992), which reads:

*The Security Council,*

*Recalling* its previous relevant resolutions and in particular resolutions 706 (1991) of 15 August 1991 and 712 (1991) of 19 September 1991,

*Taking note* of the letter of 15 July 1992 from the Secretary-General to the President of the Security Council on Iraq's compliance with the obligations placed on it by resolution 687 (1991) of 3 April 1991 and subsequent resolutions,

*Condemning* Iraq's continued failure to comply with its obligations under relevant resolutions,

*Reaffirming* its concern about the nutritional and health situation of the Iraqi civilian population, and the risk of a further deterioration of this situation, and recalling in this regard that resolutions 706 (1991) and 712 (1991) provide a mechanism for providing humanitarian relief to the Iraqi population, and that resolution 688 (1991) of 5 April 1991 provides a basis for humanitarian relief efforts in Iraq,

*Having regard* to the fact that the period of six months referred to in resolutions 706 (1991) and 712 (1991) expired on 18 March 1992,

*Deploring* Iraq's refusal to cooperate in the implementation of resolutions 706 (1991) and 712 (1991), which puts its civilian population at risk and which results in the failure by Iraq to meet its obligations under relevant Council resolutions,

*Recalling* that the escrow account provided for in resolutions 706 (1991) and 712 (1991) will consist of Iraqi funds

administered by the Secretary-General which will be used to pay contributions to the United Nations Compensation Fund, the full costs of carrying out the tasks authorized in section C of resolution 687 (1991), the full costs incurred by the United Nations in facilitating the return of all Kuwaiti property seized by Iraq, half the costs of the United Nations Iraq-Kuwait Boundary Demarcation Commission and the cost to the United Nations of implementing resolution 706 (1991) and of other necessary humanitarian activities in Iraq,

*Recalling* that Iraq, as stated in paragraph 16 of resolution 687 (1991), is liable for all direct damages resulting from its invasion and occupation of Kuwait, without prejudice to its debts and obligations arising prior to 2 August 1990, which will be addressed through the normal mechanisms,

*Recalling* its decision in resolution 692 (1991) of 20 May 1991 that the requirement for Iraqi contributions to the Compensation Fund applies to certain Iraqi petroleum and petroleum products exported from Iraq before 3 April 1991, as well as to all Iraqi petroleum and petroleum products exported from Iraq after 2 April 1991,

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

1. *Decides* that all States in which there are funds of the Government of Iraq, or its State bodies, corporations, or agencies, that represent the proceeds of sale of Iraqi petroleum or petroleum products, paid for, by or on behalf of the purchaser on or after 6 August 1990, shall cause the transfer of those funds (or equivalent amounts) as soon as possible to the escrow account provided for in resolutions 706 (1991) and 712 (1991) provided that this paragraph shall not require any State to cause the transfer of such funds in excess of 200 million United States dollars or to cause the transfer of more than 50 per cent of the total funds transferred or contributed pursuant to paragraphs 1 to 3 of the present resolution and further provided that States may exclude from the operation of this paragraph any funds which have already been released to a claimant or supplier prior to the adoption of the present resolution, or any other funds subject to or required to satisfy the rights of third parties, at the time of the adoption of the present resolution;

2. *Also decides* that all States in which there are petroleum or petroleum products owned by the Government of Iraq, or its State bodies, corporations, or agencies, shall take all feasible steps to purchase or arrange for the sale of such petroleum or petroleum products at fair market value, and thereupon to transfer the proceeds as soon as possible to the escrow account provided for in resolutions 706 (1991) and 712 (1991);

3. *Urges* all States to contribute funds from other sources to the escrow account as soon as possible;

4. *Decides further* that all States shall provide the Secretary-General with any information needed for the effective implementation of the present resolution and that they shall take the necessary measures to ensure that banks and other bodies and persons provide all relevant information necessary to

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<sup>388</sup> *Ibid.*, pp. 4-6.



identify the funds referred to in paragraphs 1 and 2 above and details of any transactions relating thereto, or the said petroleum or petroleum products, with a view to such information being utilized by all States and by the Secretary-General in the effective implementation of the present resolution;

5. *Requests* the Secretary-General:

(a) To ascertain the whereabouts and amounts of the said petroleum and petroleum products and the proceeds of sale referred to in paragraphs 1 and 2 above, drawing on the work already done under the auspices of the United Nations Compensation Commission, and report the results to the Council as soon as possible;

(b) To ascertain the costs of United Nations activities concerning the elimination of weapons of mass destruction, the provision of humanitarian relief in Iraq, and the other United Nations operations specified in paragraphs 2 and 3 of resolution 706 (1991);

(c) To take the following actions:

(i) To transfer to the United Nations Compensation Fund, from the funds referred to in paragraphs 1 and 2 above, the percentage referred to in paragraph 10 below; and

(ii) To use the remainder of funds referred to in paragraphs 1 to 3 above for the costs of United Nations activities concerning the elimination of weapons of mass destruction, the provision of humanitarian relief in Iraq, and the other United Nations operations specified in paragraphs 2 and 3 of resolution 706 (1991), taking into account any preference expressed by States transferring or contributing funds as to the allocation of such funds among these purposes;

6. *Decides* that for so long as oil exports take place pursuant to the system provided in resolutions 706 (1991) and 712 (1991) or to the eventual lifting of sanctions pursuant to paragraph 22 of resolution 687 (1991), implementation of paragraphs 1 to 5 above shall be suspended and all proceeds of those oil exports shall immediately be transferred by the Secretary-General in the currency in which the transfer to the escrow account was made, to the accounts or States from which funds had been provided under paragraphs 1 to 3 above, to the extent required to replace in full the amounts so provided (together with applicable interest), and that, if necessary for this purpose, any other funds remaining in the escrow account shall similarly be transferred to those accounts or States, provided, however, that the Secretary-General may retain and use any funds urgently needed for the purposes specified in paragraph 5 (c) (ii) above;

7. *Decides* that the operation of the present resolution shall have no effect on rights, debts and claims existing with respect to funds prior to their transfer to the escrow account; and that the accounts from which such funds were transferred shall be kept open for retransfer of the funds in question;

8. *Reaffirms* that the escrow account referred to in the present resolution, like the Compensation Fund, enjoys the privileges and immunities of the United Nations, including immunity from legal proceedings, or any forms of attachment, garnishment or execution; and that no claim shall lie at the instance of any person or body in connection with any action taken in compliance with or implementation of the present resolution;

9. *Requests* the Secretary-General to repay, from any available funds in the escrow account, any sum transferred under the present resolution to the account or State from which it was transferred, if the transfer is found at any time by him not to have been of funds subject to the present resolution; a request for such a finding could be made by the State from which the funds were transferred;

10. *Confirms* that the percentage of the value of exports of petroleum and petroleum products from Iraq for payment to the Compensation Fund shall, for the purpose of the present resolution and exports of petroleum or petroleum products subject to paragraph 6 of resolution 692 (1991), be the same as the percentage decided by the Security Council in paragraph 2 of resolution 705 (1991) of 15 August 1991, until such time as the Governing Council of the Compensation Fund may decide otherwise;

11. *Decides* that no further Iraqi assets shall be released for purposes set forth in paragraph 20 of resolution 687 (1991) except to the sub-account of the escrow account established pursuant to paragraph 8 of resolution 712 (1991), or directly to the United Nations for humanitarian activities in Iraq;

12. *Decides* that, for the purposes of the present resolution and other relevant resolutions, the term "petroleum products" does not include petrochemical derivatives;

13. *Calls upon* all States to cooperate fully in the implementation of the present resolution;

14. *Decides* to remain seized of this matter.

Speaking after the vote, the representative of the United States stated that Iraq's refusal to accept resolutions 706 (1991) and 712 (1991) — which created a mechanism to fund United Nations operations mandated by resolution 687 (1991), as well as humanitarian relief operations in Iraq, from Iraqi oil sales — had prevented its own population from receiving humanitarian relief. Moreover, it had jeopardized the continued operations of the United Nations programmes mandated by resolution 687 (1991), which the Security Council had instituted as part of its effort to restore peace and security to the region. He stressed that the resolution just adopted was a reasonable and proportionate response to Iraq's intransigence. It borrowed Iraqi assets to fund the escrow account created by resolutions 706 (1991) and

712 (1991). As those two resolutions originally contemplated, the Secretary-General would then be able to use those funds to pay for United Nations operations, such as the Special Commission, the Compensation Fund and humanitarian programmes. The speaker added that the resolution just adopted did not prevent Iraq from accepting resolutions 706 (1991) and 712 (1991). On the contrary, it provided that if Iraq did so the Iraqi funds borrowed would be returned. While he hoped that Iraq would quickly accept resolutions 706 (1991) and 712 (1991), he firmly believed that the Security Council was right in waiting no longer for Iraq to do so.<sup>389</sup>

**Decision of 24 November 1992: statement by the President**

Following informal consultations on 24 November 1992, the President of the Security Council made the following statement on behalf of the Council:<sup>390</sup>

The members of the Security Council held informal consultations on 24 November 1992 pursuant to paragraphs 21 and 28 of resolution 687 (1991) of 3 April 1991 and paragraph 6 of resolution 700 (1991) of 17 June 1991.

After hearing all the opinions expressed in the course of the consultations, the President concluded that there was no agreement that the necessary conditions existed for a modification of the regimes established in paragraph 20 of resolution 687 (1991), as referred to in paragraph 21 of that resolution; in paragraphs 22 to 25 of that resolution, as referred to in paragraph 28 of that resolution; and in paragraph 6 of resolution 700 (1991).

**B. Letter dated 2 April 1991 from the Permanent Representative of Turkey to the United Nations addressed to the President of the Security Council**

**Letter dated 4 April 1991 from the Chargé d'affaires a.i. of the Permanent Mission of France to the United Nations addressed to the President of the Security Council**

**Decision of 5 April 1991 (2982nd meeting): resolution 688 (1991)**

By a letter dated 2 April 1991 addressed to the President of the Security Council,<sup>391</sup> the representative of Turkey stated that, owing to the action taken by the Iraqi army against the local population in northern Iraq, approximately 220,000 Iraqi citizens were being driven out of their country and were massed along the Turkish border. He asserted that these actions violated all norms of behaviour towards civilian populations and constituted an excessive use of force and a threat to the region's peace and security. He noted that, in the course of the Iraqi operations, many mortar shells had landed on Turkish territory. He requested that a meeting of the Council be convened immediately to consider the alarming situation and to adopt the necessary measures to put an end to the inhuman repression that was being carried out on a massive scale.

By a letter dated 4 April 1991 addressed to the President of the Security Council,<sup>392</sup> the representative of France requested an urgent meeting of the Council to discuss "the serious situation resulting from the abuses being committed against the Iraqi population in several parts of Iraq, and more particularly in the Kurdish-inhabited areas". He stated that, by virtue of its repercussions in the region, the situation constituted a threat to international peace and security.

At its 2982nd meeting, on 5 April 1991, the Council included the two above-mentioned letters in its agenda. After the adoption of the agenda, the Council invited the representatives of Canada, Denmark, Germany, Greece, Iraq, Ireland, the Islamic Republic of Iran, Italy, Luxembourg, the Netherlands, Norway, Pakistan, Portugal, Spain, Sweden and Turkey, at their request, to participate in the discussion without the right to vote.

The President (Belgium) drew the attention of the members of the Council to a draft resolution submitted by Belgium, France, the United Kingdom and the United States.<sup>393</sup> He also drew their attention to several other letters, including two letters dated 3 and 4 April 1991, respectively, from the representative of the Islamic Republic of Iran addressed to the Secretary-

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<sup>389</sup> Ibid., pp. 8-10.

<sup>390</sup> S/24843.

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<sup>391</sup> S/22435.

<sup>392</sup> S/22442.

<sup>393</sup> S/22448; subsequently adopted without change as resolution 688 (1991).

General.<sup>394</sup> In his letter of 3 April, the representative of the Islamic Republic of Iran informed the Secretary-General that, on 2 April, an Iranian border town had become the target of continuous shelling by Iraqi artillery, and that three Iranian border guards had reportedly been killed. In an attached note verbale to the Iraqi Embassy in Tehran, the Iranian Government had called upon Iraq to cease its hostile behaviour. In his letter of 4 April, the representative of the Islamic Republic of Iran brought to the Secretary-General's urgent attention the desperate situation of Iraqi civilians who were crossing all along the border into his country. He stated that events in Iraq and the method by which the Iraqi military had dealt with the uprising of the Iraqi population had uprooted and driven hundreds of thousands of them towards neighbouring countries. It was estimated that about 500,000 Iraqi civilians would try to cross the border into the Islamic Republic of Iran within the next few days; more than 110,000, including 45,000 in the north, had already crossed the border. The influx of refugees, in addition to its obvious economic and social problems, had caused tension and chaos at the borders. The prolongation of the situation, with its implications for Iraq's neighbours, would have consequences that threatened regional peace and security. The magnitude of the suffering of the Iraqi refugees, its international character, and its consequences for regional peace and security made concerted international reaction by the Security Council a political and humanitarian imperative.

Speaking at the outset of the meeting, the representative of Turkey said that his Government had requested the Council meeting in view of the grave threat to the peace and security of the region posed by the tragic events taking place in Iraq. He stated that, in their attempt to quell the various insurgencies in that country, the Iraqi armed forces had attacked cities and other localities with helicopters, tanks and artillery, causing the inhabitants to flee for their safety. The situation in northern Iraq, adjacent to the borders of Turkey and the Islamic Republic of Iran was especially

alarming. Up to 300,000 people had been driven to the Iraqi-Turkish border; of these, over 100,000 had trekked across the border and were now reported to be in Turkey. Turkey had reports that perhaps 600,000 more people were heading for the Turkish border. The area was remote, mountainous and intensely cold at this time of year. The displaced people — Kurds, Arabs and Turkomans — many of whom were women and children, had come under intense mortar fire. Many of the mortar shells had landed on the Turkish side of the border. The speaker stressed that what was going on in northern Iraq could not be considered an internal affair of that country. Given the scale of the human tragedy and its international implications, the Council could not allow itself to be relegated to the role of a mere spectator. The threat posed by these events to the security of the region was clear. In the chaotic conditions prevailing in northern Iraq, it was conceivable that a million people might be forced to move from that country to Turkey. No country could cope with such a massive influx of destitute people fleeing for their lives. Turkey would not allow its border provinces to be overwhelmed. It expected the Council to take urgent and forceful action to secure an immediate cessation of the repression of the inhabitants of northern Iraq. The Council must send a clear signal to Iraq demanding respect for international borders and respect for human rights. At the same time, Turkey was duty bound to take whatever measures it deemed necessary to prevent the anarchy and chaos reigning on the Iraqi side of the border from spilling over into Turkey.

The speaker added that Turkey was making efforts to provide humanitarian assistance to the needy people at its border and to those who had crossed into Turkey. However, this was an operation that required the full backing and support of the international community. The Secretary-General should be requested to send a humanitarian mission, urgently, to the region to assess the situation, to report on the requirements in terms of humanitarian assistance and to propose arrangements for distributing that assistance to the displaced persons. The speaker concluded by stressing that, in calling for a meeting of the Council, Turkey had no intention of interfering in Iraq's internal affairs. It recognized Article 2 (7) of the Charter and believed that it should be scrupulously observed. Turkey had taken this action because of the threat posed to the stability, security and peace of the region by Iraq's

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<sup>394</sup> Letters dated 3 and 4 April 1991, respectively, from the representative of the Islamic Republic of Iran addressed to the Secretary-General (S/22436 and S/22447); letter dated 3 April 1991 from the representative of Iraq addressed to the Secretary-General (S/22440); and letter dated 4 April 1991 from the representative of Luxembourg addressed to the Secretary-General (S/22443).

methods of repression. It firmly supported the independence, sovereignty and integrity of Iraq.<sup>395</sup>

The representative of Pakistan echoed the call for action by the Council. He emphasized at the outset that, as a matter of principle, his country was opposed to any form of interference in the internal affairs of any country, and stated that the territorial integrity of Iraq must be fully respected. At the same time, however, his delegation was deeply concerned at the severe repression being suffered by a large number of people in Iraq who had been forced to flee towards the borders of the Islamic Republic of Iran and Turkey. It was compelled to appear before the Council and appeal for restraint. The speaker called for an end to the military action and urged a peaceful negotiation of the issues. He said that his delegation would support the Council in any action it might take to achieve those ends and prevent the further loss of life.<sup>396</sup>

The representative of the Islamic Republic of Iran informed the Council that the number of Iraqi refugees in his country had risen from 110,000 to over 180,000 within a day, including about 120,000 in the north. It was estimated that, in the next few days, half a million Iraqi civilians would take refuge in the Islamic Republic of Iran. Other neighbouring countries were faced with similar flows of civilians escaping the Iraqi army. The situation inside Iraq had the potential to further destabilize inter-State relations in the region. It had consequences that threatened regional and international peace and security. Furthermore, no country in the region had the capability to deal with a humanitarian problem of such magnitude. For those reasons, the Government of the Islamic Republic of Iran, which had long refrained from interfering in the internal affairs of Iraq, now saw the need for concerted international effort to deal with both the causes and the symptoms of the crisis. It believed that it was incumbent upon the Council to take immediate measures to put an early end to the suffering of the Iraqi people.<sup>397</sup>

The representative of Iraq stated that the economic embargo imposed on his country and the bombing campaign waged against it by the United States and its allies since January 1991, which had completely devastated his country's economy and basic

infrastructure, had led many Iraqis to seek food, shelter and medicine in the north. Moreover, his Government had firm evidence of intervention by some neighbouring States in the internal affairs of Iraq, and their attempt to destabilize Iraq and perhaps even to partition it into many mini-States. In all parts of Iraq, saboteurs had fomented dissent, wreaked destruction on many towns and villages and killed many innocent people. The saboteurs had escaped, before facing the Iraqi army, fleeing to safe havens beyond the borders; through terror and intimidation on their way, they had convinced many innocent citizens, particularly in northern Iraq, to leave and go towards the northern and eastern international borders of the country. The Government of Iraq would welcome an international mission to ascertain the facts. It had expected that the Council would wait and find out the true facts from such a mission before taking any action. However, the Council had hastily produced a draft resolution, which constituted a flagrant, illegitimate intervention in Iraq's internal affairs and a violation of Article 2 of the Charter of the United Nations.<sup>398</sup>

Several Council members, speaking before the vote, spoke in support of the draft resolution. The representative of Romania stated that questions pertaining to various segments or components of populations were matters of the national jurisdiction of States and that the imperative nature of Article 2 (7) of the Charter could not be disregarded. Indeed, his delegation was pleased to see this fundamental provision well reflected in the draft resolution. However, the armed repression of the Iraqi population, which had led to a massive flow of refugees across Iraq's international frontiers, was a legitimate concern of the international community. It was an important humanitarian issue and a real threat to international peace and security, which required the cooperation of all States. Romania stressed that the Council's action in this field should be guided by impartiality and objectivity. The draft resolution under consideration should not create a precedent that could be used or misused in the future for political purposes. The Council should emphasize the humanitarian nature of the issue, addressing it as a special case in the aftermath of the Gulf war. On such an issue, the solidarity of the members of the Council was essential to guarantee the success of its actions. No precedent

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<sup>395</sup> S/PV.2982, pp. 3-8.

<sup>396</sup> *Ibid.*, pp. 8-10.

<sup>397</sup> *Ibid.*, pp. 11-15.

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<sup>398</sup> *Ibid.*, pp. 16-21.

should be established which could erode such solidarity.<sup>399</sup>

The representative of Ecuador observed that two fundamental principles of the Charter had informed his country's approach to this matter: the respect for human rights, as set out in the preamble; and the principle of non-intervention in the internal affairs of other States. He stated that the situation might perhaps have been a question of internal jurisdiction in Iraq if it had not gone beyond the borders of the country; that is, if it had been solely a case of violation of human rights by a country within its own frontiers. In that case, under Chapter IX of the Charter, the General Assembly or the Economic and Social Council would have been the competent bodies to deal with it. However, the situation under consideration constituted a threat to international peace and security. Therefore, the Council was competent to take a stand and adopt measures to put an end to it, while mentioning clearly in the draft resolution Article 2 (7) of the Charter. The speaker added that Ecuador was encouraged by Iraq's expression of readiness to accept a fact-finding mission; the Secretary-General would certainly have taken note of this offer, and would act under the draft resolution before them.<sup>400</sup>

The representative of Zaire also welcomed the reference to Article 2 (7) in the preamble of the draft resolution. He stressed that the issue raised in the resolution was strictly humanitarian. While the situation had to do with the internal policy of Iraq, it could have consequences that might threaten international peace and security. The Council's intervention was necessary to prevent any deterioration in the political and economic situation in the countries of a region hard hit by two successive wars.<sup>401</sup>

The representative of Côte d'Ivoire stated that the recent war in the Gulf, and the consequences thereof, should encourage the Security Council towards taking preventive action as part of its role in maintaining international peace and security. In the case before them, the neighbouring countries had drawn attention to the possibility of a breach of international peace and security and to the danger that the mass exodus posed. Could the Council turn a deaf ear to their cry for help

and take refuge behind the banner of non-interference in the internal affairs of another State?<sup>402</sup>

Other Council members, on the other hand, voiced objections to the draft resolution. The representative of Yemen said that the draft resolution, although dealing with the humanitarian issues that faced the Iraqi people, focused on only one area and one category of the Iraqi population. It attempted to politicize a humanitarian issue and set a dangerous precedent that could open the way to diverting the Council away from its basic responsibilities for safeguarding international peace and security and towards addressing the internal affairs of countries. The whole issue was not within the competence of the Security Council. The speaker particularly objected to those provisions of the draft resolution which claimed the existence of a threat to international peace and security; referred to political developments within Iraq, in violation of Article 2 of the Charter; and called for internal dialogue, in an obvious attempt to intervene in the internal affairs of Iraq.<sup>403</sup>

The representative of Zimbabwe recognized that the humanitarian situation was serious and affected neighbouring States. However, his country did not believe that that made the internal conflict in Iraq an issue of which the Council should be seized. The situation had arisen as a result of a domestic political conflict in Iraq and was therefore essentially an internal matter as defined in Article 2 (7) of the Charter. Addressing the situation in the manner suggested by the draft resolution would be inconsistent with the clear parameters of the Council's competence, as provided for in the Charter. The serious humanitarian situation and the question of refugees could be adequately addressed by the appropriate organs of the United Nations, including the specialized agencies.<sup>404</sup>

The representative of Cuba stated that, under Article 24 (2) of the Charter, the specific powers granted to the Security Council for the discharge of its duties were laid down in Chapters VI, VII, VIII and XII. Those Chapters did not include the questions of a humanitarian nature about which concern was being expressed in the Council. The Charter devoted Chapter IX to those questions and, under Article 60, vested

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<sup>399</sup> Ibid., pp. 22-25.

<sup>400</sup> Ibid., pp. 32-37.

<sup>401</sup> Ibid., pp. 37-38.

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<sup>402</sup> Ibid., pp. 38-42.

<sup>403</sup> Ibid., pp. 26-31.

<sup>404</sup> Ibid., pp. 31-32.

responsibility for them in the General Assembly. The Security Council had no right to violate the principle of non-intervention set forth in Article 2 (7). It had no right to intervene unduly in the internal affairs of any State or in matters within the competence of other organs of the Organization. If it considered that a subject was important and required urgent action, it could request a special session of the General Assembly in accordance with Article 20. In that way, the Council would not be taking a course of action that departed from the letter and the spirit of the Charter and that turned the Organization into a system dominated by an oligarchical group which claimed powers that no one had given it. The Council was disregarding the realities of the situation, including the fact that the political problems in Iraq were not unrelated to the intervention in the country by a major Power; it was, moreover, disregarding its obligations to act strictly in accordance with the functions granted to it under the Charter.<sup>405</sup>

The draft resolution was then put to the vote. It was adopted by 10 votes in favour to 3 against (Cuba, Yemen, Zimbabwe), with 2 abstentions (China, India), as resolution 688 (1991), which reads:

*The Security Council,*

*Mindful* of its duties and its responsibilities under the Charter of the United Nations for the maintenance of international peace and security,

*Recalling* the provisions of Article 2, paragraph 7, of the Charter,

*Gravely concerned* by the repression of the Iraqi civilian population in many parts of Iraq, including most recently in Kurdish-populated areas, which led to a massive flow of refugees towards and across international frontiers and to cross-border incursions which threaten international peace and security in the region,

*Deeply disturbed* by the magnitude of the human suffering involved,

*Taking note* of the letters dated 2 and 4 April 1991, respectively, from the representatives of Turkey and France to the United Nations addressed to the President of the Security Council,

*Taking note also* of the letters dated 3 and 4 April 1991 from the Permanent Representative of the Islamic Republic of Iran to the United Nations addressed to the Secretary-General,

*Reaffirming* the commitment of all Member States to respect the sovereignty, territorial integrity and political independence of Iraq and of all States in the region,

*Bearing in mind* the report transmitted by the Secretary-General on 20 March 1991,<sup>406</sup>

1. *Condemns* the repression of the Iraqi civilian population in many parts of Iraq, including most recently in Kurdish-populated areas, the consequences of which threaten international peace and security in the region;

2. *Demands* that Iraq, as a contribution to removing the threat to international peace and security in the region, immediately end this repression, and in the same context expresses the hope that an open dialogue will take place to ensure that the human and political rights of all Iraqi citizens are respected;

3. *Insists* that Iraq allow immediate access by international humanitarian organizations to all those in need of assistance in all parts of Iraq and make available all necessary facilities for their operations;

4. *Requests* the Secretary-General to pursue his humanitarian efforts in Iraq and to report forthwith, if appropriate on the basis of a further mission to the region, on the plight of the Iraqi civilian population, and in particular the Kurdish population, suffering from the repression in all its forms inflicted by the Iraqi authorities;

5. *Also requests* the Secretary-General to use all the resources at his disposal, including those of the relevant United Nations agencies, to address urgently the critical needs of the refugees and displaced Iraqi population;

6. *Appeals* to all Member States and to all humanitarian organizations to contribute to these humanitarian relief efforts;

7. *Demands* that Iraq cooperate with the Secretary-General to these ends;

8. *Decides* to remain seized of the matter.

Speaking after the vote, the representative of China, explaining his delegation's abstention, emphasized the complexity of the question which had both internal and international aspects. According to Article 2 (7), the Council should not consider or take action on issues concerning the internal affairs of any State. As for the international aspects of the question, they should be settled through the appropriate

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<sup>405</sup> Ibid., pp. 42-52.

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<sup>406</sup> Report to the Secretary-General on humanitarian needs in Kuwait and Iraq in the immediate post-crisis environment by a mission to the area led by Mr. Martti Ahtisaari, Under-Secretary-General for Administration and Management, dated 20 March 1991 (S/22366, annex).

channels. China supported the Secretary-General in rendering humanitarian assistance to the refugees through the relevant organizations.<sup>407</sup>

The representative of India said that the international community should offer the Iraqi refugees succour and demand that conditions be created for their return in safety and dignity. It should not, however, prescribe what should be done, for that would impinge on the internal affairs of States. His delegation felt that the Council should give serious consideration to the statement of the representative of Iraq inviting the Secretary-General or the Council to send a fact-finding mission to his country. The speaker stressed that, in its resolution, the Council should have concentrated on the peace and security aspect of the situation, which was its proper mandate under the Charter, rather than on the factors that had created the present situation. It should have left the other aspects of the situation to other, more appropriate organs of the United Nations. It was in that spirit that India had suggested to the sponsors some amendments to make the resolution more balanced and appropriate for the Council. The speaker's delegation welcomed the inclusion of a reference to Article 2 (7) of the Charter — an element that had improved the resolution. However, the sponsors of the resolution had not accepted the basic thrust of his delegation's amendments, which was why it had abstained in the voting.<sup>408</sup>

The representative of France quoted the opening words of the preamble to the Charter and said that violations of human rights such as those now being observed became a matter of international interest when they took on such proportions that they assumed the dimension of a crime against humanity. That was the case in Iraq. The influx of refugees into neighbouring countries, the continued fighting in the border areas, and the increasing number of massacres were arousing indignation and threatening international peace and security in the region. The demands made in the resolution just adopted at the initiative of his Government were the minimum that the members of the international community must make in order to live up to their commitments under the Charter.<sup>409</sup>

The representative of the United States stated that his Government was gratified that the Security Council

had addressed, on an urgent basis, the plight of displaced civilians in Iraq which had tragic human consequences and presented serious implications for regional peace and security. This was, of course, a specific case that had arisen in the aftermath of the Gulf crisis. It was not the role or the intention of the Council to interfere in the internal affairs of any country. However, it was the Council's legitimate responsibility to respond to the concerns of Turkey and the Islamic Republic of Iran — concerns increasingly shared by other neighbours of Iraq — about the massive numbers of people fleeing, or disposed to flee, from Iraq across international frontiers because of the repression of the Iraqi regime. The transboundary impact of Iraq's treatment of its civilian population threatened regional stability. That is what the Council had addressed in the resolution just adopted.<sup>410</sup>

The representative of the Union of Soviet Socialist Republics remarked that his Government had reacted with understanding and concern to the appeal made by Turkey and the Islamic Republic of Iran to the Council in connection with the alarming situation that had come about on their borders with Iraq and the threat it posed to international peace and security in the region. The Soviet Union firmly adhered to the principle of non-interference in the internal affairs of sovereign States and welcomed the reference in the resolution to Article 2 (7) of the Charter. However, it shared the view expressed by the representative of the Islamic Republic of Iran that the consequences that the massive transborder flow of Iraqi civilians had for regional peace and security called for joint action by the Security Council from both the political and humanitarian standpoint. It was the duty of the Council and of the world community as a whole to put an end to the conditions that were forcing hundreds of thousands of peaceful inhabitants to leave their homeland and seek refuge in neighbouring countries; this was creating a destabilizing situation in the area and posing a threat of a new international conflict.<sup>411</sup>

The representative of the United Kingdom welcomed the resolution, which accomplished two crucial tasks: it sent a strong and clear message to the Government of Iraq that it must stop the repression and killing of innocent civilians, which was at the root of the massive exodus into Turkey and the Islamic

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<sup>407</sup> S/PV.2982, pp. 54-56.

<sup>408</sup> *Ibid.*, pp. 62-63.

<sup>409</sup> *Ibid.*, pp. 53-55.

<sup>410</sup> *Ibid.*, pp. 57-60.

<sup>411</sup> *Ibid.*, pp. 59-62.

Republic of Iran; and it gave firm backing to the Secretary-General, to the specialized agencies and to all the governmental and non-governmental organizations whose efforts were now so urgently needed if even more lives were not to be lost. His delegation could not accept the argument that this action was in some way outside the scope of the Security Council, that it was an entirely internal matter, and he was glad that the resolution made clear that it was not so. For one thing, Article 2 (7), an essential part of the Charter, did not apply to matters which, under the Charter, were not essentially domestic; questions of human rights, for example in South Africa, had often been defined in that category. Secondly, the Turkish and Iranian letters to the Council had made it clear that there was a real threat here to international peace and security. The huge surge of refugees was destabilizing the whole region. Thirdly, Iraq had international obligations, under article 3 of the Geneva Conventions of 1949, to protect, in the case of internal armed conflicts, all innocent civilians. All those factors fully justified the action by the Council.<sup>412</sup>

The representative of Austria and the President, speaking in his capacity as the representative of Belgium, expressed profound concern at the policy of repression in some regions of Iraq, which had caused major displacements of populations towards the countries neighbouring Iraq. The scale of those exoduses, the destitution of the refugees and the enormity of their needs had given rise to extremely critical situations on the borders of those States and had caused serious border incidents. The speakers concurred with previous speakers that the Council's action was justified in this case by the specific considerations arising from an exceptionally serious situation which threatened peace and security in the region.<sup>413</sup>

A number of non-members of the Council, who were invited to make their statements after the explanations of vote, stressed the appropriateness of the Council's taking measures to deal with this matter and supported the resolution just adopted, underlining the points made in several of its paragraphs.<sup>414</sup>

<sup>412</sup> Ibid., pp. 63-66.

<sup>413</sup> Ibid., pp. 56-57 and pp. 67-68, respectively.

<sup>414</sup> Ibid., pp. 68-71 (Italy); pp. 71-73 (Germany); pp. 73-77 (Luxembourg); pp. 77-78 (Denmark); pp. 78-80

### **C. Letter dated 2 April 1991 from the Permanent Representative of Turkey to the United Nations addressed to the President of the Security Council**

#### **Letter dated 4 April 1991 from the Chargé d'affaires a.i. of the Permanent Mission of France to the United Nations addressed to the President of the Security Council**

#### **Letter dated 5 March 1992 from the Chargé d'affaires a.i. of the Permanent Mission of Belgium to the United Nations addressed to the President of the Security Council**

#### **Decision of 11 March 1992 (3059th meeting): statement by the President**

At its 3059th meeting, on 11 March 1992, the Security Council included in its agenda two letters addressed to the President of the Council which were considered by the Council at its 2982nd meeting on 5 April 1991: a letter dated 2 April 1991 from the representative of Turkey,<sup>415</sup> and a letter dated 4 April 1991 from the representative of France,<sup>416</sup> drawing attention to the serious situation resulting from abuses being committed against the Iraqi population in several parts of Iraq, in particular in the northern region.<sup>417</sup> The Council also included in its agenda a letter dated 5 March 1992 addressed to the President of the Council from the representative of Belgium,<sup>418</sup> in which attention was drawn to a report dated 18 February 1992 on the human rights situation in Iraq prepared by Mr. Max van der Stoel, Special Rapporteur of the Commission on Human Rights.<sup>419</sup> The representative of Belgium noted that the report referred, in paragraph 159, to Security Council resolution 688 (1991). In that resolution, the Council had called upon Iraq to

(Ireland); p. 81 (Spain); pp. 82-85 (Sweden); pp. 85-87 (Netherlands); p. 87 (Portugal); pp. 88-90 (Norway); pp. 91-92 (Canada); and pp. 92-93 (Greece).

<sup>415</sup> S/22435.

<sup>416</sup> S/22442.

<sup>417</sup> At its 2982nd meeting, the Council adopted resolution 688 (1991); see section 22.B of the present chapter.

<sup>418</sup> S/23685.

<sup>419</sup> S/23685/Add.1.



“immediately end [its] repression” as “a contribution to removing the threat to international peace and security in the region”. The Special Rapporteur concluded his report by observing that, as the repression continued, the threat remained and thus extraordinary measures, such as a proposed broad-based human rights monitoring mechanism, were warranted.

The Council considered the item at its 3059th meeting, which was twice suspended and resumed, on 11 and 12 March 1992. In accordance with the understanding reached in its prior consultations, the Council invited the representatives of Iraq and Kuwait, at their request, to participate in the discussion without the right to vote; and extended invitations, under rule 39 of its provisional rules of procedure, to Messrs. Hans Blix, Director General of the International Atomic Energy Agency (IAEA), and Rolf Ekeus, Executive Chairman of the Special Commission.

The President (Venezuela) stated that the Council was meeting in accordance with the decision taken at its 3058th meeting, held on 28 February 1992, as indicated in the statement by the President of the Council of the same date.<sup>420</sup> He recalled that on 14 February 1992 the Council had been informed about the interest of the Government of Iraq in sending a high-level technical team to respond to any questions that the members of the Council might put to it on all aspects of Iraq’s compliance with resolution 687 (1991) and other relevant resolutions. On behalf of the Council members, he welcomed the presence of the Deputy Prime Minister of Iraq and said that they collectively aspired to productive and constructive meetings.

The President further stated that, following consultations among the members of the Council, he had been authorized to make the following statement on behalf of the Council:<sup>421</sup>

I. GENERAL OBLIGATION

1. The resolutions concerning the situation between Iraq and Kuwait impose a number of general and specific obligations upon Iraq.
2. As regards the general obligation, Iraq is required, under paragraph 33 of resolution 687 (1991) of 3 April 1991, to give official notification to the Secretary-General and to the Security

Council of its acceptance of the provisions of that entire resolution.

3. Iraq signified its unconditional acceptance in identical letters dated 6 April 1991, addressed to the Secretary-General and the President of the Security Council and in a letter dated 10 April 1991 from the Permanent Representative of Iraq to the United Nations addressed to the President of the Security Council, and in a letter dated 23 January 1992 from the Chargé d’affaires a.i. of the Permanent Mission of Iraq to the United Nations addressed to the President of the Security Council.

4. When the Security Council met at the level of heads of State and Government on 31 January 1992, the concluding statement made by the President (3046th meeting) on behalf of its members contained the following passage:

Last year, under the authority of the United Nations, the international community succeeded in enabling Kuwait to regain its sovereignty and territorial integrity, which it had lost as a result of Iraqi aggression. The resolutions adopted by the Council remain essential to the restoration of peace and stability in the region and must be fully implemented. At the same time the members of the Council are concerned by the humanitarian situation of the innocent civilian population of Iraq.

5. On 5 February 1992, the President issued a statement on behalf of its members in which he stated, among other things:

In connection with the Secretary-General’s report on Iraq’s compliance with all the obligations placed upon it by certain Security Council resolutions concerning the situation between Iraq and Kuwait, of 25 January 1992, particularly resolution 687 (1991) and subsequent relevant resolutions, the members of the Council note that while much progress has been made, much remains to be done ... The members of the Council are disturbed by the lack of Iraqi cooperation. Iraq must implement fully resolution 687 (1991) and subsequent relevant resolutions as was stated in the statement read out by the President of the Council on behalf of its members at the 3046th meeting, held on 31 January 1992 with the participation of the heads of State and Government.

6. In a statement made on behalf of the Council on 28 February 1992, the President said:

The members of the Council demand that Iraq immediately implement all its obligations under Council resolution 687 (1991) and subsequent resolutions. They require the Government of Iraq to communicate directly to the Council without further delay an authoritative and unconditional acknowledgement of its agreement to accept and implement the above-noted obligations, including specifically to comply with the determination of the Special Commission requiring the destruction of ballistic missile-related equipment. The members of the Council emphasize that Iraq must be aware of the serious consequences of continued material breaches of resolution 687 (1991).

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<sup>420</sup> S/23663; see also section 22.A of the present chapter.

<sup>421</sup> S/23699.

7. I must also draw attention to the further report of the Secretary-General of 7 March 1992 on the status of compliance by Iraq with the obligations placed upon it by certain Security Council resolutions concerning the situation between Iraq and Kuwait.

8. From the aforementioned statements by the President and in view of the reports of the Secretary-General, it will be seen that, despite Iraq's statements of unconditional acceptance of resolution 687 (1991), the Council has determined that Iraq is not in full compliance with all of its obligations.

## II. SPECIFIC OBLIGATIONS

9. In addition to the general obligation to accept the provisions of resolution 687 (1991) in their entirety, several Council resolutions impose specific obligations upon Iraq.

### *(a) Respect for the inviolability of the international boundary*

10. By paragraph 2 of resolution 687 (1991) the Council demands that Iraq respect the inviolability of the international boundary and the allocation of islands previously agreed upon between Iraq and Kuwait. Pursuant to paragraph 3 of that resolution, the Secretary-General established a Boundary Demarcation Commission to demarcate the boundary between Iraq and Kuwait. Paragraph 5 of the same resolution requires Iraq and Kuwait to respect a demilitarized zone established by the Council. The Council has been informed that Iraq has respected the demilitarized zone and that it has fully participated in the work of the Commission. It has also been informed that Iraq refuses to withdraw a number of police posts that are not in line with the United Nations Iraq-Kuwait Observation Mission's principle that both sides should stay 1,000 metres from the boundary line shown on the Mission's map.

### *(b) Weapons-related obligations*

11. Section C of resolution 687 (1991) imposes certain specific obligations upon Iraq with respect to its chemical and biological weapons programmes, its ballistic-missile programmes with a range greater than 150 kilometres and its nuclear programmes. These obligations are elaborated upon in resolutions 707 (1991) of 15 August 1991 and 715 (1991) of 11 October 1991. The obligations are defined in paragraphs 8 to 13 of resolution 687 (1991) and they are elaborated upon in paragraphs 3 and 5 of resolution 707 (1991) and paragraph 5 of resolution 715 (1991).

12. The information relevant to Iraq's compliance with the obligations laid down in the paragraphs of the resolutions to which I have just referred is reproduced in annex I to the Secretary-General's report of 7 March 1992.

13. By resolution 699 (1991) of 17 June 1991, the Council decided that the Government of Iraq shall be liable for the full costs of carrying out the tasks authorized by section C of resolution 687 (1991). No funds have so far been received from Iraq to meet this liability.

14. The Council has noted that since the adoption of resolution 687 (1991) progress has been made in the implementation of section C of that resolution but that much remains to be done. There is serious non-compliance with the obligations concerning the programmes for weapons of mass destruction and ballistic missiles and the members of the Council have found this to be a continuing material breach of resolution 687 (1991).

15. The Special Commission has informed the Council about the outstanding matters that would at the present time appear to be the most important. The Council's attention is invited again to annex I of the Secretary-General's report of 7 March 1992.

16. The Council has also noted the statement by the International Atomic Energy Agency contained in section C of the annex to the Secretary-General's report of 25 January 1992. The attention of the Council is drawn to information annexed to the further report of the Secretary-General, of 7 March 1992, relative to the two last inspections by the Agency, on Iraq's compliance with its obligations under Council resolutions as they relate to nuclear activities.

17. In a statement issued on behalf of the members of the Council, the President stated on 19 February 1992 that:

Iraq's failure to acknowledge its obligations under resolutions 707 (1991) and 715 (1991), its rejection up until now of the two plans for ongoing monitoring and verification and its failure to provide the full, final and complete disclosure of its weapons capabilities constitute a continuing material breach of the relevant provisions of resolution 687 (1991).

18. In a further statement made on 28 February 1992 on behalf of the Council, the President said:

The members of the Council deplore and condemn the failure of the Government of Iraq to provide the Special Commission with full, final and complete disclosure, as required by resolution 707 (1991), of all aspects of its programmes to develop weapons of mass destruction and ballistic missiles with a range greater than 150 kilometres, including launchers, and of all holdings of such weapons, their components and production facilities and locations, as well as all other nuclear programmes; and the failure of Iraq to comply with the plans for ongoing monitoring and verification approved by resolution 715 (1991). ... Furthermore, the members of the Council equally deplore and condemn Iraq's failure, within the time prescribed by the Special Commission at the request of Iraq, to commence destruction of ballistic missile-related equipment designated for destruction by the Special Commission. The members of the Council reaffirm that it is for the Special Commission alone to determine which items must be destroyed under paragraph 9 of resolution 687 (1991).

*(c) Repatriation of and access to Kuwaiti and third-State nationals in Iraq*

19. As regards Kuwaiti and third-State nationals in Iraq, resolutions 664 (1990) of 18 August 1990, 666 (1990) of 13 September 1990, 667 (1990) of 16 September 1990, 674 (1990) of 29 October 1990, 686 (1991) of 2 March 1991 and 687 (1991) of 3 April 1991 impose an obligation on Iraq to release, facilitate repatriation of, and arrange for immediate access to them, as well as the return of the remains of any deceased personnel of the forces of Kuwait and of the Member States cooperating with Kuwait pursuant to resolution 678 (1990) of 29 November 1990. Furthermore, paragraph 30 of resolution 687 (1991) requires Iraq to extend all necessary cooperation to the International Committee of the Red Cross in facilitating the search for Kuwaiti and third-State nationals still unaccounted for.

20. The Council was informed by the International Committee of the Red Cross in January 1992 that almost 7,000 persons have returned from Iraq to their countries since the beginning of March 1991. The Committee also stated that despite all its efforts, there are still thousands of persons reported missing by the parties to the conflict.

21. A special commission composed of the representatives of France, Iraq, Kuwait, Saudi Arabia, the United Kingdom of Great Britain and Northern Ireland and the United States of America has met under the auspices of the Committee, to try to reach an agreement on, among other things, the implementation of paragraph 30 of resolution 687 (1991). However, the Committee has informed the Council that it has not yet received any information as to the whereabouts of the persons reported missing in Iraq. Nor has it received detailed and documented information on the search conducted by the Iraqi authorities. Finally, it is also still awaiting information on persons who have died while in custody.

22. The attention of the Council is drawn to paragraphs 12 to 14 of the Secretary-General's further report of 7 March 1992.

*(d) Iraq's liability under international law*

23. Another obligation concerns Iraq's liability under international law. In resolution 674 (1990), the Council reminds Iraq "that under international law it is liable for any loss, damage or injury arising in regard to Kuwait and third States, and their nationals and corporations, as a result of the invasion and illegal occupation of Kuwait by Iraq". Its liability under international law is reaffirmed in paragraph 2 (b) of resolution 686 (1991) and paragraph 16 of resolution 687 (1991). The latter resolution further specifies that Iraq "is liable under international law for any direct loss, damage — including environmental damage and the depletion of natural resources — or injury to foreign governments, nationals and corporations, as a result of its unlawful invasion and occupation of Kuwait".

24. By paragraph 18 of the same resolution, the Council created a Fund to pay compensation for claims that fall within paragraph 16, to be financed by a percentage of the value of the

exports of petroleum and petroleum products from Iraq. In view of the existing economic sanctions against Iraq under resolution 661 (1990) of 6 August 1990, Iraq was permitted by the Security Council under resolutions 706 (1991) of 15 April 1991 and 712 (1991) of 19 September 1991 to sell a limited quantity of oil, as an exception, a portion of the proceeds from which would be used to provide financial resources for the Fund. To date, it has not availed itself of this possibility. The Council notes that this authorization is due to lapse on 18 March 1992. The members of the Council are aware of a request by Iraq for a five-year moratorium on meeting its financial obligations, including payments into the Compensation Fund.

*(e) Repayment and servicing of Iraq's foreign debt*

25. With regard to another obligation, the Council demands, in paragraph 17 of resolution 687 (1991), that Iraq scrupulously adhere to all of its obligations concerning servicing and repayment of its foreign debt.

26. The attention of the Council is drawn to paragraphs 17 and 18 of the Secretary-General's further report of 7 March 1992.

*(f) Return of property*

27. I now turn to the question of return of property. The Security Council, in paragraph 2 (d) of resolution 686 (1991), demands that Iraq immediately begin to return all Kuwaiti property seized by it, to be completed in the shortest possible period. The members of the Council have noted with satisfaction that, as stated in the further report of the Secretary-General, Iraqi officials involved with the return of property have extended maximum cooperation to the United Nations to facilitate the return.

*(g) Monthly statements of gold and foreign currency reserves*

28. Another obligation is set out in paragraph 7 of resolution 706 (1991), under which the Government of Iraq is required to provide to the Secretary-General and appropriate international organizations monthly statements of its gold and foreign currency reserves. To date, no such statements have been provided to the Secretary-General or to the International Monetary Fund.

*(h) Undertaking not to commit or support acts of international terrorism*

29. By paragraph 32 of resolution 687 (1991), Iraq is required not to commit or support acts of international terrorism or allow any organization directed towards commission of such acts to operate within its territory and to condemn unequivocally and renounce all acts, methods, and practices of terrorism.

30. The Council notes Iraq's statements contained in identical letters dated 11 June 1991 from the Chargé d'affaires a.i. of the Permanent Mission of Iraq to the United Nations addressed to the Secretary-General and to the President of the Security Council, and in a letter dated 23 January 1992 from the Chargé

d'affaires a.i. of the Permanent Mission of Iraq to the United Nations addressed to the President of the Security Council that it is a party to international conventions against terrorism and that it has never pursued a policy favourable to international terrorism as defined by international law.

*(i) Security Council action with respect to the Iraqi  
civilian population*

31. Resolutions 706 (1991) and 712 (1991) provide a means for Iraq to meet its obligations to supply its civilian population with needed humanitarian assistance, particularly food and medicine. To date, Iraq has refused to implement these resolutions. In fact after initiating discussions with secretariat representatives on implementation, Iraq abruptly terminated the discussions.

III. SECURITY COUNCIL RESOLUTION 688 (1991)

32. I should now like to refer to the demands by the Council with respect to the Iraqi civilian population. In paragraph 2 of resolution 688 (1991) of 5 April 1991, the Security Council demands that Iraq, as a contribution to removing the threat to international peace and security in the region, end the repression of its civilian population. In paragraphs 3 and 7, the Council insists that it allow immediate access by international humanitarian organizations to all those in need of assistance in all parts of Iraq, and demands its cooperation with the Secretary-General to these ends.

33. The Council remains deeply concerned at the grave human rights abuses that, despite the provisions of resolution 688 (1991), the Government of Iraq continues to perpetrate against its population, in particular in the northern region of Iraq, in southern Shi'a centres and in the southern marshes. The Council notes that this situation is confirmed by the report of the Special Rapporteur of the Commission on Human Rights on the human rights situation in Iraq of 5 March 1992 and by the comments of the Office of the Executive Delegate of the Secretary-General for the United Nations Humanitarian Assistance Programme for Iraq, Kuwait and the Iraq/Turkey and Iraq/Iran border areas contained in the further report of the Secretary-General of 7 March 1992.

34. The members of the Council are particularly concerned at the reported restrictions on the supplies of essential commodities, in particular food and fuel, which have been imposed by the government of Iraq on the three northern governorates of Dohuk, Erbil and Sulaymaniyya. In this regard, as the Special Rapporteur has noted in his report, inasmuch as the repression of the population continues, the threat to international peace and security in the region mentioned in resolution 688 (1991) remains.

IV. CONCLUDING OBSERVATION

35. In view of the observations on the record of Iraq's performance, the Council has considered itself justified in concluding that Iraq has not fully complied with the obligations

placed upon it by the Council. It is the Council's hope and expectation that this meeting will prove an invaluable opportunity to advance in the consideration of this issue as required in the interest of world peace and security, as well as that of the Iraqi people.

The representative of Austria said the Council meeting was a welcome opportunity to take stock and to enable members of the Council to evaluate to what extent its previous decisions had been implemented and to what extent it might need to take further action. Noting that the picture emerging regarding Iraq's compliance with relevant binding decisions of the Council was very disturbing, he commented on two main areas. With regard to the humanitarian and human rights situation in Iraq, he observed that at the same time that the Government of Iraq was protesting against the embargo imposed by the international community, it had blocked the import of food, fuel and medicines to some areas of the country, in particular those inhabited by the Kurds. Repressive measures also continued to affect the southern marshes. The detailed report by the Special Rapporteur contained additional information on massive human rights violations by the Government, further documenting the absence of full Iraqi compliance with resolution 688 (1991). It was deplorable, moreover, that the Government of Iraq had not used the possibility of oil sales to finance the purchase of food, medicine and other civilian supplies to meet the humanitarian needs of the civilian population, as envisaged by resolutions 706 (1991) and 712 (1991). The speaker urged Iraq to resume the talks with the Secretariat on the implementation of that scheme immediately. His second main area of concern was Iraq's failure to provide all the information required under resolutions 687 (1991) and 707 (1991), and to acknowledge its obligations and provide the declarations required under the plans for ongoing monitoring and verification approved by resolution 715 (1991). He pointed out that, under the relevant resolutions of the Council, a continuing material breach of its obligations placed Iraq in a situation which might have serious consequences, as had been emphasized repeatedly in recent statements by Presidents of the Council. The speaker recalled, further, that the Council's decisions in 1991 had been seen as part of a broader effort to establish peace and security in the area and the region as a whole. Almost one year later, that objective had not yet been achieved. Indeed, if one believed recent reports, a new arms race in that volatile region was already well under way. He

concluded, however, that with regard to collective security and the role of the United Nations as a whole in dealing with conflicts, in many ways a new beginning had been made in the context of the Gulf conflict; some important steps had been taken towards establishing a system of collective security.<sup>422</sup>

The representative of the United Kingdom welcomed the presence of a high-level delegation from Iraq headed by the Deputy Prime Minister; it was essential that the Iraqi leadership hear directly from the Council the extent and nature of its concern about Iraq's non-compliance with resolution 687 (1991) and subsequent resolutions and get a clear, first-hand impression of the Council's determination that its resolutions be fully implemented. He recalled that following the bimonthly review of sanctions completed on 5 February, the Council had asked its then President to convey its negative conclusions to the Government of Iraq and that it was in response that Iraq had asked for the opportunity for the present debate. The discussion was therefore about compliance or, rather, the lack of compliance. On this, the key text was the presidential statement endorsed by the Council at its meeting at the level of Heads of State and Government on 31 January 1992, in which it was affirmed that "The resolutions adopted by the Council remain essential to the restoration of peace and stability in the [Gulf] region and must be fully implemented".<sup>423</sup> He observed that the Secretary-General's reports of 25 January and 7 March provided a detailed picture of the degree of Iraqi non-compliance with the Council's resolutions.<sup>424</sup> His Government had noted a number of serious problem areas arising under resolution 687 (1991), including the following: demarcation of the boundary between Iraq and Kuwait; the issue of weapons of mass destruction, where the Iraqi performance had from the beginning been one of evasion, dissimulation and often dishonesty; the question of the return of Kuwaiti property; the issue of compensation for the victims of Iraqi aggression; the release of detainees; and the matter of performance bonds. In the sector of weapons of mass destruction, the Council was now confronted with three serious

issues: Iraq's failure to make full and complete disclosure of its programmes; its refusal to acknowledge its obligations for long-term monitoring; and its resistance in implementing the Special Commission's determinations on the material and installations that needed to be destroyed. The speaker hoped that as a result of the current debate the Iraqi authorities would understand the absolute need for them to comply promptly on these three points. He insisted that there was no scope for negotiations in relation to them. The determination of which items needed to be destroyed, for example, was for the Special Commission and IAEA and for them alone. Nor was it acceptable that the Council should be drawn into a discussion of what it would or would not do if Iraq complied with its obligations. The obligation to comply was an absolute, not a conditional, one. The speaker added that Iraq had also failed to comply with resolution 688 (1991), which had been adopted in response to a threat to international peace and security arising from its brutal military action against the civilian population in the Kurdish and Shia areas of the country, resulting in a massive flood of refugees across the frontiers of its neighbours. Far from engaging in the envisaged dialogue, Iraq had for several months operated an economic blockade against some of those areas, particularly the Kurdish areas, frustrated the opening of United Nations humanitarian centres in some of the Shia areas, and in many other ways acted inconsistently with the resolution. The contents of the report to the Commission on Human Rights by the Special Rapporteur on Iraq, Mr. Max van der Stoep, were, moreover, horrifying and revealed that Iraq was in serious breach of its human rights obligations under the Charter of the United Nations, international covenants on human rights and customary international law as embodied in the Universal Declaration of Human Rights. The speaker stressed that neither the United Kingdom Government nor the Security Council had ever or now had a quarrel with the people of Iraq, who had suffered so much from the transgressions and miscalculations of their rulers; they remained committed to doing what they could to alleviate the suffering. To that end, sanctions on food had been lifted as soon as Kuwait had been liberated and, in September 1991, a scheme providing for fair and equitable arrangements for the export of Iraqi oil to finance the import of humanitarian supplies had been adopted. Iraq had, regrettably, refused to cooperate in the implementation of the scheme, set out in

<sup>422</sup> S/PV.3059, pp. 19-25.

<sup>423</sup> S/23500; see section 28 of the present chapter.

<sup>424</sup> S/23514 and S/23687, respectively; the first was considered in connection with the adoption of the presidential statement of 5 February 1992; see section 22.A of the present chapter.

resolutions 706 (1991) and 712 (1991). It was therefore the intransigence of the Government of Iraq and not the action of the Security Council that was the cause of the suffering of the Iraqi people. The speaker concluded by reiterating that it was only through full compliance with all relevant Security Council resolutions that peace and stability could be brought again to the Gulf region. He hoped Iraq would heed the call to comply and would not miscalculate as it had done the year before.<sup>425</sup>

The representative of France stated that his country was dedicated to the complete and rigorous implementation of resolution 687 (1991) and subsequent resolutions, which imposed on the Government of Iraq clear and precise obligations. He reaffirmed that once Iraq abided by those resolutions, the sanctions regime could be lifted. Neither France nor the Security Council wished to starve the Iraqi civilian population in order to put pressure on its leaders. On the contrary, ways had been sought and found to feed the population, notably through the adoption of resolutions 706 (1991) and 712 (1991), which allowed Iraq to sell a certain quantity of its oil and to buy food and medicine. Deploring the fact that the Iraqi authorities had refused to make use of those resolutions, the speaker urgently called upon them to do so. The Government of Iraq would otherwise bear the sole responsibility for the suffering of its citizens, since it had the means to put an end to it. He said that France and the Council pursued two objectives, which had been laid down in resolutions 687 (1991), 707 (1991) and 715 (1991): to eliminate the weapons of mass destruction accumulated by Iraq and to ensure that Iraq's industrial capacity was not used to rebuild its military potential once that had been destroyed. Iraq was far from having fully implemented those resolutions, as evidenced by its failure to make full disclosure of its military programme and to commit itself unconditionally to comply with the two plans for ongoing monitoring and verification approved by the Council. Those plans were legally binding, and it was unacceptable that Iraq had still not committed itself to their application. The speaker also noted other matters in the policies and practices of the Government of Iraq causing great concern, notably the blockade against Kurdistan and reports that the Government was trying to impose similar measures on certain areas in the south, while continuing to reject the presence of United

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<sup>425</sup> S/PV.3059, pp. 24-30.

Nations officials or members of humanitarian organizations. The Government's policy of repression, which deprived large sections of the Iraqi population of their fundamental rights, was a direct violation of resolution 688 (1991), to whose implementation France was also dedicated. The highly critical nature of the general human rights situation in Iraq, as highlighted in the recent report of the Special Rapporteur, was also of great concern. In that context, France could not accept an easing or lifting of sanctions. Nor did it accept the theory that if Iraq complied with a certain percentage of Security Council resolutions the Council must lift the sanctions by a similar proportion. In the first place, as long as Iraq hid documents and materials, on what basis could the Council make a finding of compliance? Moreover, a resolution was not divisible; it must be implemented in full, not according to the proportion that was to the liking of the Iraqi authorities. The speaker concluded by hoping that Iraq would understand that only a policy of cooperation with the United Nations could meet its national interests and the interests of its people. The only way for the Iraqi authorities to achieve their objective — the lifting of sanctions — was therefore fully and unconditionally to abide by their obligations.<sup>426</sup>

The representative of the United States remarked that during the past year no subject had preoccupied the Council more than its efforts to restore international peace and security in the Gulf in the aftermath of Iraq's aggression against Kuwait. By resolution 687 (1991), the Council had established a detailed framework for that purpose, which required Iraq to take precise steps on many issues and which had been accepted by Iraq. Adoption of that resolution had been one of the most important actions ever taken by the Council, responding to the hope of mankind to make the United Nations an instrument of peace and stability. That resolution had led to a number of others to implement its specific parts and spell out Iraq's obligations. The Council was meeting that day because its requirements had not been met. Unfortunately, from the beginning Iraq had tried to obfuscate and evade its obligations. The Council had agreed in resolution 687 (1991) that if the Gulf region was to enjoy peace and security, Iraq's weapons of mass destruction and ballistic missiles had to be permanently eliminated. That required Iraq's cooperation. Iraq had failed, however, to make full and complete disclosure of its

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<sup>426</sup> Ibid., pp. 31-35.

weapons programmes, without which the inspectors would never know if all such weapons had been located and destroyed. In the absence of full disclosure, one would have to conclude that the destruction could not categorically be proved to be complete. In the same sphere, Iraq had failed to destroy, as required, materiel and weapons production facilities designated by the Special Commission. The Council continued to support the proposition that the Special Commission, and not Iraq itself, must determine which facilities were required under Security Council resolutions to be destroyed. That was not a matter for negotiation, but for a final determination by the Special Commission, which must be observed by Iraq. Iraq had further failed to agree unconditionally, as required by resolutions 707 (1991) and 715 (1991), to implement the ongoing monitoring and verification plans. As the Council insisted on the necessity of assuring the international community that Iraq would not reacquire those destabilizing weapons, there was no alternative to Iraqi acceptance and implementation of those resolutions. The speaker added that Iraq also had a poor record of compliance with its other obligations under resolution 687 (1991): on border issues, the return of property, and the repatriation of third-country nationals. Like previous speakers, he observed that, although Iraq had repeatedly criticized the Council for causing shortages of food, medicine and other essential humanitarian supplies, it had not taken advantage of the mechanism provided by resolutions 706 (1991) and 712 (1991) to improve the welfare of the Iraqi population. Moreover, Baghdad persisted in actions of repression against its civilian population, particularly in the predominantly Kurdish-inhabited areas of the north and in the predominantly Shia-inhabited areas of the south, which had led the Special Rapporteur to conclude that the threat to international peace and security referred to in resolution 688 (1991) continued. In conclusion, as the President of the Council had stated in his opening statement, the Council demanded and expected Iraqi actions to comply with Council resolutions. Without full and unconditional compliance, the chances of lifting sanctions were nil. Once again, the Council stood at a critical junction in its consideration of restoring and maintaining international peace and security in the Gulf region. The United States Government and the Council would be watching closely Iraqi actions in the future. By disdaining and failing to comply with the Council's resolutions, Iraq risked making yet another tragic and fateful

miscalculation, the full consequences of which the Government of Iraq would once again have to bear.<sup>427</sup>

The representative of the Russian Federation shared the view expressed by previous speakers that Iraq's refusal fully to abide by its obligations under the Council's resolutions had created a dangerous situation. Iraq had failed to satisfy the preliminary conditions for the implementation of the weapons-related provisions of the relevant resolutions. It had not provided the Special Commission and IAEA with a comprehensive, final and complete picture of all aspects of its proscribed weapons programmes; nor had it agreed unconditionally to implement all of its obligations under resolutions 687 (1991), 707 (1991) and 715 (1991) regarding the programme of ongoing monitoring and verification of its renunciation of such weapons. At the same time, Iraq had created obstacles to the Special Commission's work, particularly in recently refusing to destroy, within the timetable laid down by the Commission, equipment relating to ballistic missiles. Paragraph 9 of resolution 687 (1991) clearly indicated that such equipment must be destroyed and that Iraqi attempts to dispute that demand were unacceptable. An unsatisfactory situation also existed concerning the implementation of other provisions of resolution 687 (1991), notably those regarding access to and the return of third-country nationals, the return of seized Kuwaiti property, and the repayment and servicing of the country's foreign debt. Another subject of particular concern was the repressive policy of the Iraqi authorities with regard to the civilian population of the country, in particular in those regions in which the Kurds lived and in the south of the country, in violation of the provisions of resolution 688 (1991). At the same time, the Government of Iraq had refused to avail itself of the opportunity provided by resolutions 706 (1991) and 712 (1991) to sell a certain quantity of its oil to finance the purchase of essential humanitarian goods. The Russian Federation thus expressed regret that, while refusing to proceed to a full and genuine implementation of the Council's decisions, the Iraqi regime should intensify the sufferings of the Iraqi people and block any mitigation of them. The speaker added that the report of the Special Rapporteur of the Commission on Human Rights revealed a most disturbing situation in the field of human rights in Iraq, which had a direct bearing on the question of the

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<sup>427</sup> Ibid., pp. 36-47.

implementation of resolution 688 (1991). The Special Rapporteur had come to the conclusion that the Government of Iraq was responsible for widespread and systematic violations of human rights of the most serious nature, namely, mass executions, torture and genocide. The Russian Federation was under the impression that Baghdad was still not fully aware of the seriousness of what Iraq had done. For the first time since the Second World War one State had occupied and annexed another sovereign State Member of the United Nations, violating its obligations under the Charter and the fundamental principles of international law. Moreover, Iraq had drawn up and was beginning to implement a programme for the production of nuclear weapons; it was making preparations to manufacture biological weapons; and it had threatened to use chemical weapons, which it had used in the past, thus making the threats particularly ominous. In response, the Security Council had drawn up and reaffirmed a programme of measures aimed at halting those actions, which were most threatening to international peace and security, and at preventing their recurrence. The vital interests of all Member States demanded an immediate and unconditional implementation of that programme. In conclusion, the speaker stressed that instead of confrontation with the Council, Iraq must immediately and fully implement all of the Council's demands.<sup>428</sup>

The representative of China welcomed the opportunity for the Council to have a dialogue with the Iraqi delegation, hoping it would help to realize the objectives contained in the relevant Security Council resolutions. China, like other members of the Council, was of the view that the resolutions adopted by the Council remained essential to the restoration of peace and stability in the Gulf region and must be fully implemented. The speaker was pleased to note, as pointed out by the Secretary-General in his report, that significant progress had been made in the implementation of some of the important parts of the resolutions. However, since much remained to be done, he hoped that Iraq would continue to cooperate with the parties concerned and earnestly fulfil its obligations. At the same time, China was concerned that the difficult situation confronting the innocent Iraqi people continued to deteriorate; it was not fair to prolong their suffering and hardship. China's position in this respect remained unchanged from that

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<sup>428</sup> Ibid., pp. 47-53.

enunciated at the time of the adoption of resolution 687 (1991): it favoured the timely and gradual lifting of economic sanctions against Iraq in the light of the development of the situation. It was out of humanitarian considerations, moreover, that China had supported the reasonable proposal — put forward by the non-aligned States members of the Council in the Committee established by Security Council resolution 661 (1990) — that the “no objection” procedure should be changed to a “simple notification” procedure in allowing Iraq to import civilian products. That would help to alleviate the difficulties of the Iraqi people and be conducive to an early economic recovery in the countries of the region. The speaker concluded by expressing the hope that the meeting would have a positive impact on the implementation of the relevant Security Council resolutions, so that the independence, sovereignty and territorial integrity of the Gulf countries would be safeguarded and respected by the international community.<sup>429</sup>

The representative of Japan observed that the tragic consequences of Iraq's actions continued to be felt, with the people of Kuwait continuing to suffer from the effects of Iraq's aggression in terms of human lives lost, material destruction and environmental degradation. As they strove to rebuild their lives and their country, Iraq's responsibility for their suffering was not forgotten and the Iraqi leadership was held accountable for the consequences of its aggression. In refusing to cooperate with the Council and to respect its resolutions, the Government of Iraq was demonstrating its defiance not only of the Council but also of the international community as a whole. Iraq's leaders must realize that they were not in a position to decide which provisions they would implement and which ones they would not. There was no room for negotiation. Like previous speakers, the representative of Japan also expressed concern for the innocent people of Iraq as they continued to face severe hardship: they must also be counted among the victims of their Government's aggressive actions and its refusal to implement the Council's resolutions. However, he noted that by refusing to export oil as laid out by the Council and by creating obstacles to the activities of various humanitarian agencies, the Government of Iraq was denying its own people access to the humanitarian relief that had been made available. Japan once again urged Iraq to implement all relevant Security Council

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<sup>429</sup> Ibid., pp. 53-56.



resolutions, noting that the Council had already made known its position: namely, that if Iraq continued to be in material breach of its obligations, that would have serious consequences.<sup>430</sup>

The representative of Hungary similarly stressed that the Council's resolutions in this matter could not be viewed as a basis for negotiation. Moreover, as the President's statement at the end of the Council's meeting at the level of Heads of State and Government in January had reaffirmed, they must be implemented in full. While Hungary believed that dialogue was useful to clarify differences in points of view and eliminate possible misunderstandings, it stressed that the current dialogue between the Council and Iraq could not be a free-ranging discussion: its sole subject must be the implementation by Iraq of the relevant Council resolutions. The speaker deplored the fact that Iraq had not yet fully complied with those resolutions, citing as cause for concern the same deficiencies that had been mentioned by previous speakers. He concluded that his country believed that the only way that the sanctions imposed on Iraq could be loosened would be for Iraq to implement the Council's resolutions in full, adding that Iraq must be aware of the serious consequences of continuing its serious derelictions in this area.<sup>431</sup>

The representative of India stated that one basic premise of the Council's meeting was the importance of respect for and full implementation of Council resolutions adopted under Chapter VII of the Charter on the issue under consideration. All countries, including Iraq which had expressly accepted resolution 687 (1991), the basic document, assumed the responsibility to comply with and implement those decisions. Noting that the Council had before it the Secretary-General's reports of 25 January and 7 March 1992 on the extent of Iraq's compliance with the obligations placed upon it by the relevant Council resolutions,<sup>432</sup> the speaker said that those detailed and informative reports were the only basis on which the Council could and should conduct its work. His delegation had taken note of the Secretary-General's assessment that significant progress had been achieved in respect of section C of resolution 687 (1991), but that much remained to be done. What remained must also be implemented. The necessity of compliance with

all mandatory provisions of the resolutions, which were inherently integral, had been underlined by the Council on numerous occasions. A second premise of the meeting, in India's view, should be the need for a humanitarian approach. The Council was aware of the hardships suffered by innocent civilians in Iraq, but there had been meagre progress in that area; it had yet to accept formally the proposal of the non-aligned members that items of undeniable humanitarian need be transferred from the "no objection" procedure to the "notification" category. Another important issue in addressing the humanitarian aspects of this crisis — or indeed any other crisis that invoked Security Council action under Chapter VII of the Charter — was the operation of Article 50 of the Charter. India had, on several occasions, reiterated the need to strengthen the overall impact and influence of Council action by the activation, in concrete terms, of Article 50, enabling countries that faithfully implemented Council resolutions to obtain redress wherever such implementation adversely affected them.<sup>433</sup>

During the course of the debate, a number of other speakers stated that for the Council to remain credible it must see that Iraq strictly respected its obligations.<sup>434</sup> They called upon Iraq to fulfil unconditionally the decisions of the Council, which had been reiterated by the President and by previous speakers. Like others, they also expressed concern at the humanitarian and human rights situation in the country.

The representative of Iraq remarked that this was his country's first opportunity at that level to submit its point of view before the Council in respect of the latter's dealings with Iraq. He stated that resolution 687 (1991), in which the Council had formulated the measures necessary for an official ceasefire to be declared, set out measures and conditions that were unprecedented in United Nations history: they transcended by a large degree the initial limits and declared objectives of the Council's previous resolutions. Iraq had expressed its views on that resolution, but had accepted it to ward off the dangers threatening its people and had seriously endeavoured to implement its provisions. Indeed, as the letter dated 23 January 1992 from the Iraqi Minister for Foreign

<sup>430</sup> *Ibid.*, pp. 56-58.

<sup>431</sup> *Ibid.*, pp. 58-65.

<sup>432</sup> S/23514 and S/23687, respectively.

<sup>433</sup> S/PV.3059, pp. 74-79.

<sup>434</sup> *Ibid.*, pp. 66-71 (Belgium); pp. 71-75 (Ecuador); pp. 79-82 (Cape Verde); pp. 82-86 (Zimbabwe); pp. 86-88 (Morocco); and pp. 88-90 (Venezuela).

Affairs made clear, the fundamental contents of the resolution had already been implemented. Focusing on aspects that had been the source of problems and allegations against Iraq, the speaker stated that the weapons, munitions and delivery systems prohibited by resolution 687 (1991) had been or were being destroyed. Moreover, the equipment used, or allegedly used, in producing such items had been identified and its use had either been frozen or converted to civilian industries not prohibited by that resolution. All this was taking place under the supervision of the inspection teams. The allegations regarding the detention of Kuwaiti nationals were false, and Iraq had requested the International Committee of the Red Cross (ICRC) to determine the facts. So, too, were the allegations regarding Kuwaiti property: that had been listed and in many cases returned. The speaker reaffirmed that Iraq had fulfilled the most fundamental part of sections A, B, D and H of resolution 687 (1991). The implementation of the remaining measures, which by their nature required some time, was proceeding properly, with Iraq's serious and professional cooperation. Yet the Council had continued to declare, after each compliance review since June 1991, that Iraq had not yet fully complied with resolution 687 (1991), which meant that the economic embargo remained in force and the suffering of 18 million Iraqis continued unmitigated. The extent of Iraq's fulfilment of that resolution had been ignored under pressure from a small but influential number of members of the Security Council. Those countries had not stopped at Iraq's compliance with resolution 687 (1991) as a condition for lifting the economic sanctions, but had announced that they would not be prepared to lift the embargo until the political leadership of Iraq had been replaced. They continued to reiterate that precondition, despite its flagrant contradiction of the principles of the Charter and the Council's own resolutions. The problems created by certain members of the inspection teams who served the objectives of those countries had, moreover, been exploited to adopt new Council resolutions containing provisions even more extreme than those in resolution 687 (1991).

The representative of Iraq expressed his country's willingness to cooperate in connection with a number of issues that had been raised, particularly in the presidential statement of 28 February, while underlying the need for respect for Iraqi sovereignty, dignity and national security. It was ready to continue cooperating

with the Special Commission and IAEA to accomplish the tasks stipulated in resolution 687 (1991); to continue providing information to complete the picture in accordance with the goals of that resolution; to reach a practical solution to the question of verification of Iraq's capabilities to produce prohibited weapons in the future; and to establish a practical mechanism to address the issue of the equipment covered by the provisions of paragraph 8 of resolution 687 (1991), with a view to rendering that equipment harmless. On the question of completing the information and data, about which doubts and allegations continued to be expressed, Iraq proposed that a technical meeting be held between Iraqi representatives and representatives of the Special Commission, and attended by all members of the Security Council. At that meeting, the Commission could put its demands and questions relating to resolution 687 (1991), and the information and documentation presented by Iraq could be reviewed. A comprehensive report on the situation could then be submitted to the Council. By those means, the Council's demand for a full, complete and final declaration of the programmes in question would be met in a scientific, objective and reliable manner. The speaker also proposed a "common" discussion to resolve the issues of ongoing monitoring and the fate of machinery and equipment capable of dual use. Noting that the Council had entrusted certain tasks to the Special Commission, he insisted that those tasks should remain technical in nature. The Council should not relinquish its authority in taking the final decision on matters of a political and legal nature relating to the destiny of a free people and the fate of their property. Keeping matters vague and unresolved, and preserving for the Special Commission alone the absolute power of issuing decisions, meant that the fate of property belonging to the Iraqi people would remain indefinitely in the hands of a body that did not exist under the Charter, without allowing Iraq any say in the matter. The speaker added that the Council's understanding of the principles and the legitimate and logical demands presented by Iraq would lead to an "objective, equitable and just implementation" of the substantive obligations placed upon Iraq in resolutions 687 (1991), 707 (1991) and 715 (1991), in a manner which would satisfy the Council.

Finally, on the subject of the economic embargo, the representative of Iraq reiterated that, despite the extent of Iraq's implementation of the provisions of resolution 687 (1991), the Council had not budged an

inch in its position. Nor had the Council taken into consideration adherence to the Charter and international law in respect of the rights of the civilian population. Thirteen months after the establishment of the ceasefire and the adoption of resolution 660 (1991) imposing the economic embargo, the people of Iraq remained deprived of their right to lead a normal life and had to import all their humanitarian needs. Although, in theory, Iraq was allowed to import food and medicine, its assets in other countries continued to be frozen. Moreover, when the Council adopted a resolution allowing Iraq to export limited quantities of oil in order to be able to pay for food and medicine, it had included, both in the resolution itself and in the implementation plan, an endless list of preconditions which infringed upon Iraq's sovereignty and security: preconditions which constituted flagrant interference in its internal affairs, and which stemmed from ill-intended political objectives. The preconditions had practically prevented Iraq from meeting its people's need for food and medicine. The speaker called upon the Council to abandon that position in favour of an objective and fair one. In concluding, he requested the President of the Council to allow him some time, perhaps at a meeting the next day, to comment on the points raised in the statement made by the President and on the concerns expressed by several members.<sup>435</sup>

The President then stated that the meeting would, as agreed, be suspended until later that afternoon when other speakers would make statements. The Deputy Prime Minister of Iraq would have an opportunity to make a statement either at the end of that meeting or the next morning. Before suspending the meeting, the President invited the members to assemble for informal consultations shortly before the meeting resumed.

At the resumed 3059th meeting, also on 11 March 1992, Mr. Hans Blix, Director General of IAEA, focused on the Agency's work in the three areas of its mandate: the mapping of nuclear programmes and facilities in Iraq intended, or susceptible of being used, for the production of nuclear weapons or weapon-usable materials; the removal, destruction or rendering harmless of proscribed items; and the planning and performance of ongoing monitoring and verification of Iraq's compliance with the Council's resolutions in the nuclear sphere. Considerable work had been accomplished, which would not have been possible

without Iraq's cooperation. However, the results would have come sooner and with much less pain if Iraq had fully and spontaneously complied with its obligations under the Council's resolutions and the exchange of letters with the Secretary-General. Instead, Iraq had often followed a pattern of denial of clandestine activities until the evidence was overwhelming, followed by cooperation until the next case of concealment was revealed. In a number of cases serious confrontations had occurred when IAEA inspection teams had been denied unrestricted access to sites or the removal of pertinent documents. In the face of those attitudes, IAEA could not have carried out the inspection programme and the mapping of the Iraqi nuclear programme but for the firm and consistent support of the Security Council. The current meeting of the Council was testimony to the continuation of that support in view of concrete difficulties which the Special Commission and IAEA were encountering. After 10 months of work in the identification and mapping of Iraq's extensive efforts to acquire nuclear-weapon capability, a fairly consistent and coherent picture of its nuclear programme was emerging. However, some gaps or grey areas remained. In view of those and Iraq's track record of non-revelation, inspections needed to continue and might even be necessary as future monitoring and verification began. A general shortcoming in Iraq's attitude had been the lack of full and explicit acceptance of resolutions 707 (1991) and 715 (1991), which the speaker considered to be an expression not only of reluctance but of resistance, which was incompatible with the binding nature of those resolutions. The Security Council's insistence on this matter was important, both as a question of its authority and as a matter that underlay the many specific points of non-compliance that had been noted by IAEA.<sup>436</sup> While IAEA had noted some improvements in the attitudes of the Iraqi authorities during recent inspections, lack of cooperation and non-compliance persisted in respect of the provision of information on sources of procurement of critical material and equipment. Further, the initial information needed to establish the future ongoing plan for monitoring and verification, required to be supplied by Iraq under resolution 715 (1991), had been provided only in a partial and incomplete way. A statement by Iraq of its readiness to provide procurement

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<sup>435</sup> *Ibid.*, pp. 91-115.

<sup>436</sup> A detailed list of such points was set out by IAEA in documents S/23514 and S/23687.

information and to complete the information required under resolution 705 (1991) would eliminate important hurdles.

As to the removal, destruction or rendering harmless of proscribed nuclear items, the Director General of IAEA stated that large facilities and amounts of equipment required for the production of nuclear weapons and nuclear-weapon-usable material had been destroyed, removed or rendered harmless. New facilities could not easily be built without detection, and the import or production of new relevant equipment would meet great obstacles. Dual-use items were being placed under Agency seal and their destruction or release was being dealt with on a case-by-case basis. Release of such items, and any request for the use of proscribed facilities in non-proscribed activities would have to be evaluated in the light of the possibility of effective monitoring of agreed-upon use. Although the Agency had not so far met with resistance by Iraq to its request for destruction, removal or rendering harmless of proscribed nuclear items, it was aware that the Special Commission had encountered such resistance. The Security Council's support for the authority of the Special Commission and IAEA to determine what was to be destroyed, removed or rendered harmless and Iraq's corresponding duty to accept and to implement such requests was, therefore, much appreciated. The speaker added that what remained in Iraq was a large cadre of highly trained scientists and engineers who had been engaged in its nuclear programme. It was important that that cadre, reportedly currently engaged in the civilian reconstruction of the country, remain engaged in non-proscribed activities. In conclusion, the speaker stated that it was essential that the measures prescribed by the Council for Iraq succeed — not only to allay fears about Iraq reviving a programme of weapons of mass destruction, notably nuclear weapons, but also to demonstrate that international verification was a viable means to create confidence. That experience was necessary if actions taken in Iraq were to represent steps towards the goal of establishing in the Middle East a zone free of weapons of mass destruction, as envisaged in paragraph 14 of resolution 687 (1991). The International Atomic Energy Agency was committed to the successful implementation of the Council's resolutions on Iraq and looked to the

Security Council for guidance and support in its efforts to contribute to that result.<sup>437</sup>

Mr. Rolf Ekeus, Executive Chairman of the Special Commission, stated that the Commission had one fundamental aim — to be able to report to the Security Council as soon as possible that Iraq had fully met all its obligations under section C of resolution 687 (1991) as elaborated upon in resolutions 707 (1991) and 715 (1991). However, the speed with which the Commission could carry out its responsibilities and report the successful execution of its task was largely determined by the degree of Iraq's cooperation, openness and transparency. With regard to the disclosure of all aspects of its prohibited programmes, Iraq had provided some information, but it was neither complete nor systematic. Nor was it accompanied by credible documentary and material evidence. In brief, Iraq had not provided the full, final and complete disclosure as required by resolution 707 (1991). Indeed, it had not even acknowledged that resolution. Instead of making such disclosure, Iraq had proposed a dialogue in which the Commission would seek to elicit the information from Iraq through an inquisitorial approach, thus shifting the onus of seeking and compiling the information to the Commission whereas the Council's decisions properly placed that onus on Iraq. With respect to the Commission's responsibility for the destruction, removal or rendering harmless of Iraq's weapons and capabilities in the proscribed areas, the speaker stated that the destruction of weapons already declared by Iraq was under way with Iraqi cooperation, and that cooperation had been good. However, the disposal of the capabilities for the production of such weapons was another matter. Although Iraq was required to destroy, under the supervision of the Special Commission, all its proscribed missile capabilities, it had recently refused to proceed with the destruction of certain missile-producing capabilities identified for destruction by the Commission. Iraq was continuing to refuse to comply with the Commission's decision despite the presidential statement of 28 February 1992, which had clearly reaffirmed that it was for the Special Commission alone to determine which items had to be destroyed under paragraph 9 of resolution 687 (1991). Iraq had argued, moreover, that nearly every building and every piece of equipment that had been devoted to its proscribed-weapons programmes should be kept and

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<sup>437</sup> S/PV.3059 (Resumption 1), pp. 116-126.

converted to what it had said would be civilian use, contending that otherwise the Special Commission would be depriving the country of its civilian industrial base. The speaker rejected this argument: not a single structure or item which had or would be earmarked for destruction had formed part of Iraq's civilian industrial base. The Special Commission would be failing in its responsibility to the Council if it did not ensure that items used by Iraq for production of weapons of mass destruction were destroyed, removed or rendered harmless. The latter would involve modifying the items to such a degree as to render them incapable of use by Iraq in prohibited activities or amenable to reconversion.

As to the third stage of the Commission's responsibilities — the ongoing monitoring and verification of Iraq's compliance with its obligations under section C of resolution 687 (1991) — the existence of an impasse was now amply confirmed. By its resolution 707 (1991), the Council had approved the plans for monitoring and verification submitted by the Secretary-General and by the then Director General of IAEA. In January 1992, Iraq had reaffirmed its position that the plans were aimed at objectives that were incompatible with the letter and spirit of the Charter, the norms of international law, and international and humanitarian pacts and covenants. Although Iraq had recently claimed that this did not amount to a rejection of the plans, the Commission could not understand it otherwise. Iraq's rejection was confirmed, moreover, by its failure to submit two declarations required under the Commission's plans, which would provide the basic information needed to set up a satisfactory monitoring regime. Iraq had argued that the plans infringed upon its independence, sovereignty and national security. However, they had been formulated on the basis of existing international norms and those under negotiation for the forthcoming international convention on the elimination of chemical weapons, which was intended to have universal application. To the extent that general provisions in the plans appeared intrusive, that was largely a result of Iraq's conduct: the intrusive elements had been approved by the Council against a background of concealment, movement of proscribed items and violation of the privileges and immunities of inspection teams. If Iraq cooperated, they need not be invoked. The speaker added that prompt and successful implementation of all the stages of the work of the Special Commission and IAEA required that their facilities, privileges and

immunities be fully respected. That flowed from the Council's resolutions, relevant international conventions to which Iraq was a party, and from the express provisions of the status agreement between the United Nations and Iraq which had entered into force on 14 May 1991. He concluded that, in the absence of the undertaking by Iraq to comply fully with the Council's decisions, and until practical experience was gained to confirm that such an undertaking was being honoured, the Special Commission would be seriously hindered in those phases of its operations concerning the identification and destruction of proscribed items and would be precluded from instituting the ongoing monitoring and verification phase. In such a situation, the possibility of the Special Commission's certifying Iraq's compliance with its obligations under section C of resolution 687 (1991) did not even arise.<sup>438</sup>

At the same meeting, the representative of Kuwait observed that his country was the main beneficiary of rights enshrined in the operative paragraphs of resolution 687 (1991), implementation of which rested upon the Iraqi regime. With regard to the general nature of that resolution and Iraq's obligations, he made the following points. Resolution 687 (1991) was binding on Iraq for two reasons. First, it had been adopted under Chapter VII of the Charter and therefore was binding not only on Iraq, as a main party, but also on all other countries. Secondly, the Iraqi legislature, the National Assembly, had accepted the resolution unconditionally, thus negating all reservations and remarks made by Iraq in its preliminary letter of acceptance, which the Council had rejected. Iraq had, accordingly, become absolutely bound to implement resolution 687 (1991), without any negotiation concerning its provisions or any interpretation of them by Iraq. Implementation was to be in accordance with the interpretations, mechanisms and reports prepared by the Secretary-General and approved by the Council. Iraq's conduct in regard to the operative paragraphs of resolution 687 (1991) demonstrated, however, that it had reneged on its absolute acceptance of the resolution and was attempting to evade its obligations. By way of example, the speaker elaborated on Iraq's lack of compliance with the provisions of resolutions 686 (1991) and 687 (1991) relevant to Kuwait regarding the repatriation of prisoners of war and missing persons who were Kuwaiti or third-country nationals; the demarcation of the boundary between

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<sup>438</sup> *Ibid.*, pp. 126-137.

Iraq and Kuwait; and the return of stolen Kuwaiti property. The speaker added that other conduct by Iraq demonstrated its lack of seriousness regarding the letter and spirit of those resolutions. The continued presence of the seven Iraqi police posts inside Kuwaiti territory represented a violation by Iraq of Kuwait's sovereignty and territorial integrity. Iraq continued to reject, moreover, resolutions 706 (1991) and 712 (1991), authorizing the export of Iraqi oil to finance the purchase of humanitarian goods and to pay its contribution to the compensation fund. That intransigence on the part of Iraq was harmful both to the Iraqi people and to those large numbers of people affected by the Iraqi invasion of and aggression against Kuwait who would benefit from the compensation fund. Finally, the most blatant example of Iraq's violation of the Council's resolutions was the fact that it declined to reveal and destroy all stockpiles of weapons of mass destruction and accept the monitoring regime. The speaker concluded that Iraq's failure to meet its obligations created a grave situation which implied two risks: the continued aggressive intentions of that regime towards its neighbours and towards security and peace in the region; and the intent to make use of such capabilities if they escaped destruction. At the current meeting, the Council was called upon, in the presence of the high-level Iraqi delegation, to guarantee that peace and security in the area were not obstructed by the capricious, aggressive nature of the Iraqi regime.<sup>439</sup>

The President of the Council then announced a period set aside for directing questions at the Deputy Prime Minister of Iraq who, in accordance with his request, would deal with them at the meeting the next morning.<sup>440</sup>

The representative of the United Kingdom sought clarification of the nature and scope of the four points made by the Deputy Prime Minister concerning Iraq's willingness to cooperate with the Special Commission and IAEA: were those undertakings entirely unqualified and unconditional; and did its readiness to reach a practical mechanism regarding the issue of equipment covered by paragraph 8 of resolution 687 (1991) — which referred to chemical and biological weapons and ballistic weapons — relate also to nuclear matters, which were dealt with in paragraph 12. He

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<sup>439</sup> *Ibid.*, pp. 137-153.

<sup>440</sup> *Ibid.*, p. 153.

also addressed the ideas put forward by the Deputy Prime Minister for involving the Security Council in discussions about the handling of weapons of mass destruction. On this, the President's introductory statement and the presidential statement of 28 February had made it clear that the view of the Council was that it was not its business to get involved in the detailed decisions that had to be taken by the Special Commission and IAEA. The speaker sought Iraq's assurance that if certain determinations and decisions were taken by those bodies, Iraq would accept them as fully binding and would implement them. That was very important for the Council to know. Outside the scope of the weapons of mass destruction section of resolution 687 (1991), the speaker asked whether, if the Council renewed resolutions 706 (1991) and 712 (1991), the Government of Iraq would be prepared to resume the contacts with the Secretariat with a view to implementing a scheme which would enable humanitarian supplies to reach the people of Iraq. Finally, he expressed regret that the Deputy Prime Minister of Iraq had not addressed his country's obligations under resolution 688 (1991), and asked when the Government of Iraq intended to lift the economic blockade on a part of its country so that any humanitarian supplies which were sent by the United Nations agencies or others would be able to reach all parts of the Iraqi population.<sup>441</sup>

The representative of the United States prefaced his questions with some comments on the statement by the Deputy Prime Minister of Iraq. He observed that the statement appeared to be directed towards trying to destroy, at least in part, the confidence of the Security Council in the Special Commission and IAEA and their work. In several areas it suggested that the Council now had to put itself into the process of actually implementing its own resolutions. Even worse, perhaps, it suggested that the Council should enter into a negotiating process with Iraq for the implementation of what were mandatory resolutions of the Council. This perhaps reflected a continued fundamental misunderstanding on the part of Iraq about mandatory resolutions and a serious miscalculation of the intention and purpose of the Council in dealing with Iraq's programmes of weapons of mass destruction in particular. Iraq suggested that it would be ready to negotiate what it would declare under resolution 687 (1991), and which elements of its prohibited weapons

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<sup>441</sup> *Ibid.*, pp. 153-157.

programmes it would be willing to destroy. The former was obligatory under the resolution; the latter ignored the firm position of the Council that the Special Commission and IAEA would be the technical mechanism for the designation of what should be destroyed, rendered harmless or removed in the Iraqi programme and in its production base. Roughly the same proposal had been made in the Iraqi statement with respect to the issue of long-term monitoring. Again, long-term monitoring plans presented by the Council to Iraq and approved in mandatory resolutions were clearly not subject to negotiation. The speaker stressed that a drawn-out discussion and negotiation of compliance with resolutions was not in the interest of regional peace and stability. Nor was it the intention of the members of the Council or provided for in the resolutions with which Iraq must comply. Other portions of the Iraqi statement seemed merely to repeat the old arguments of the past. There was little that was new and it did not serve to advance the process of Iraqi compliance, which was deeply disappointing. The United States was also disappointed, as were others, at the absence of any references in the statement to resolution 688 (1991), or to the important United Nations role in providing humanitarian assistance to the citizens of Iraq, or any discussion of what Iraq would do to alleviate the plight particularly of the Kurds and the Shia. On the other hand, the speaker responded positively to the Iraqi promise to publish the names of missing persons in several Iraqi newspapers once a week for a period of several weeks, which appeared to break new ground. He observed, finally, that Iraq had made frequent references to its sovereignty and to internal affairs. However, Iraq knew full well that the Council was operating with regard to its resolutions on Iraq under Chapter VII of the Charter. Such resolutions were mandatory and fell under the last portion of paragraph 7 of Article 2 of the Charter, which made it clear that the principle of non-intervention "shall not prejudice the application of enforcement measures under Chapter VII". The measures that Iraq complained of were clearly enforcement measures under Chapter VII.

The representative of the United States then addressed a few questions to the Deputy Prime Minister of Iraq. They concerned the readiness of Iraq: (1) to make full, final and complete disclosure of its programmes of weapons of mass destruction; (2) to commence destruction of its ballistic missile production and repair facilities; (3) to return to IAEA

the nuclear documents seized from and never returned to a Special Commission inspection team; (4) to provide unconditional acceptance of the long-term monitoring and verification plans, and to observe the privileges and immunities to be accorded to the Special Commission and IAEA; (5) to accept the work of the Boundary Commission and to remove its border police posts from the Kuwaiti side of the border on the map used by the United Nations Iraq-Kuwait Observation Mission; (6) to resolve the matter of the missing Kuwaitis and third-country nationals; (7) to meet the humanitarian needs of the Iraqi people by implementing resolutions 706 (1991) and 712 (1991); (8) to return seized Kuwaiti property; and (9) to begin providing the Secretary-General and appropriate international organizations with monthly statements of its gold and foreign currency reserves.<sup>442</sup>

The representative of India, focusing on an issue of humanitarian concern raised by members of the Council, asked the Deputy Prime Minister of Iraq to confirm that Iraq would be able in the near future to expedite the full repatriation of Kuwaiti and other foreign nationals in cooperation with the International Committee of the Red Cross.<sup>443</sup>

The representative of France stated that his delegation found the comments made by the Deputy Prime Minister of Iraq unacceptable as they challenged the resolutions of the Council and the mechanisms laid down and endorsed in them. He posed three questions concerning when Iraq would be able to provide a full and complete picture of its military programme; when it would make known to the Council its unconditional acceptance of the monitoring plan approved under resolution 715 (1991); and when it would open the United Nations humanitarian centres in Kurdistan and in the south of the country, and lift the blockade it had imposed on part of its population.<sup>444</sup>

The President thereupon suspended the meeting until the following day.

**Decision of 12 March 1992 (3059th meeting):  
statement by the President**

At the second resumption of the 3059th meeting, on 12 March 1992, the President stated that, in accordance with the request made by the Deputy Prime

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<sup>442</sup> Ibid., pp. 158-165.

<sup>443</sup> Ibid., p. 165.

<sup>444</sup> Ibid., pp. 165-170.

Minister of Iraq, the latter was being afforded the opportunity to make a statement in response to the introductory statement made by the President on behalf of the Council and to the questions and concerns expressed by the members in the course of the Council's deliberations the previous day.<sup>445</sup>

The representative of Iraq, commenting first on the statement by the President, observed that regarding respect for the international boundary, there was no fundamental problem. There was a minor problem: the withdrawal of five Iraqi police posts, which Iraq had asked be deferred until the demarcation of the boundary had been completed. On the weapons-related obligations, he reaffirmed that all weapons prohibited under resolution 687 (1991) and their subsystems had been destroyed. As to disclosure, Iraq was ready to make full, comprehensive and final declarations of all weapons programmes specified in that resolution. It was ready immediately to begin detailed technical meetings with the Special Commission and IAEA with a view to providing a complete picture, provided that the Council defined a limited time frame for that task. With regard to the "destruction ... or rendering harmless" of the relevant equipment, Iraq was committed to the provisions of resolution 687 (1991) as they stood. The speaker reiterated, however, that the current interpretation of this subject was not in line with the text of the resolution. Destruction had to be limited to equipment that could be used only in the production of prohibited weapons. He called on the Council to meet Iraq's legitimate request with respect to equipment that could be used for civilian purposes or other non-prohibited purposes: namely, that such equipment be rendered harmless or converted to non-prohibited purposes, and that provision be made to verify such use. With respect to verification, Iraq, through its acceptance of resolution 687 (1991), had accepted the principle of future verification of compliance. However, the speaker reaffirmed that Iraq's national sovereignty and territorial integrity must be respected, and asked the Security Council to guarantee those principles. His delegation was ready to engage in a constructive dialogue with the Special Commission and IAEA with a view to providing the information that had been requested and agreeing on practical arrangements falling within the framework of the mandate and objectives defined by the Council — but not going beyond them to serve either political or

intelligence purposes. On the matter of detainees, the speaker stated that the competent Iraqi authorities were ready to take all necessary measures to publish in Iraqi newspapers the names of the missing third-country nationals and to arrange for visits by ICRC representatives to prisons and detention camps. As to the question of its liability under international law, Iraq had accepted the resolutions imposing such liability; it insisted, however, that compensation should be based on international legal provisions, which called for justice and fairness. With regard to its obligation regarding debts and interest, Iraq declared that it respected its obligations, but could not meet them if the embargo were not lifted and it could not export its oil and recover its normal economic situation. As to the return of property, the speaker referred to a point made in the President's introductory statement, in which the members of the Council had noted with satisfaction that, as stated in the further report of the Secretary-General, Iraqi officials had extended maximum cooperation to the United Nations to facilitate the return.

On the question of Iraq's exporting oil to meet the basic humanitarian needs of its people, the speaker recalled that he had proposed a practical way to dispel suspicions that Iraq might use the proceeds for other purposes: Iraq would sell oil to Council members and confine its own purchases to the permanent members of the Council so that they could determine how the revenues were spent. Unfortunately, the regime laid out in resolution 706 (1991), adopted under Chapter VII, had political implications that would lead to interference in Iraq's internal affairs. However, if the Council remained prepared to look into this question, Iraq remained willing to respond. It was ready to resume talks with the Secretariat to work out practical arrangements monitored by the United Nations. The speaker hoped in this regard that the Council would not renew resolution 706 (1991), and that it would be able to separate this operation from any new resolution. Including it in a Council resolution was impractical as problems might be encountered in implementing the machinery: such problems could be dealt with through a dialogue with the Secretariat rather than returning once again to the Council, where there was a risk of running into complications involving another resolution adopted under Chapter VII of the Charter.

As to resolution 688 (1991), Iraq still considered it to be a blatant interference in its internal affairs. The

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<sup>445</sup> S/PV.3059 (Resumption 2), p. 171.



Iraqi authorities had, nevertheless, cooperated with the Special Representative of the Secretary-General coordinating international relief efforts, with whom they had signed a memorandum of understanding, and with all the international agencies and organizations extending assistance to the Iraqi people throughout the country. With regard to the Kurds, a dialogue with the Kurdistan Front had resulted in a new formula for autonomy for the Kurds in Iraq, but it was ultimately not accepted by the Front. Subsequent acts of destruction and sabotage against Government authorities in the northern governorates had made it imperative for the Government to withdraw the administrative apparatus from that area, which was controlled by Kurdish parties. It was they — not the central Government — who bore responsibility for the distribution of supplies. There was no blockade of these governorates, only precautionary measures in the form of checkpoints to prevent smuggling into other countries. The speaker also denied that there was any persecution of the Shiites in Iraq. Concerning the reference to terrorism, he recalled that Iraq had affirmed its commitment in that respect. Finally, in relation to the President's statement, he requested that Iraq be allowed to appear before the Council every two months to take part in its review of the country's compliance with the Council's resolutions, in order to have the opportunity to explain its position. Touching briefly on the questions that had been asked by Council members, the speaker noted that most of them had been dealt with in his two statements.<sup>446</sup>

The representative of the United States stated that much of what they had just heard was a repetition of what had been said before, though he welcomed the reopening of contacts between Iraq and the Secretariat — previously terminated by Iraq — on the implementation of resolutions 706 (1991) and 712 (1991). Once again, the Council had heard that Iraq wished to meet and negotiate its commitments under resolution 687 (1991). And, once again, there was broad and general acceptance of a resolution, but with all kinds of new provisos, reservations, preconditions and so forth. The speaker reminded the Deputy Prime Minister of Iraq that these were mandatory resolutions, which must be complied with in full, and that there had been a long period of 11 months during which extensive discussions had been held with the Special Commission and IAEA — all of which had made it

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<sup>446</sup> Ibid., pp. 171-206.

clear what was required. It was for Iraq to cooperate in making full and complete disclosure about its weapons-of-mass-destruction programmes, and in the destruction of those programmes. The United States would have liked, moreover, to hear a full and clear commitment on Iraq's part to accept the long-term monitoring programme and to comply with it. The speaker was left with the unfortunate conclusion that, with respect not only to weapons of mass destruction, but to all the other elements of the resolution, including the very important humanitarian ones, the Council was once again in a cat-and-mouse game: there was every willingness to discuss at great length but no willingness to accept the need for compliance, much less to begin the actions to comply. That was unfortunate. It was a miscalculation which he hoped would not continue.<sup>447</sup>

The representative of the United Kingdom considered that the exchange had shown that the problems of compliance would never be resolved by words: they would have to be resolved by deeds. In so far as the Deputy Prime Minister had shown some willingness on one or two points to indicate a shift in the position of his Government, that would have to be put to the test — in the work that now had to continue to be done by IAEA and the Special Commission, in the work being done by ICRC, and in the work done by the Secretary-General in the humanitarian area and in the implementation of resolution 688 (1991) — to see whether it resulted in compliance.<sup>448</sup>

The President, with the concurrence of the members of the Council, then once again suspended the meeting and invited the members to join him immediately for consultations.

Following consultations among the members of the Council, the President made the following statement on behalf of the Council:<sup>449</sup>

In concluding the present stage of the consideration of the item on the agenda, I have been authorized, following consultations among members of the Council, to make the following statement on behalf of the Council:

The views of the Council having been expressed through its President and by the statements of its members on the extent of compliance by the Government of Iraq with its obligations under the relevant Security Council

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<sup>447</sup> Ibid., pp. 206-208.

<sup>448</sup> Ibid., p. 208.

<sup>449</sup> S/23709.

resolutions, the Council has listened with close attention to the statement by the Deputy Prime Minister of Iraq and his responses to the questions posed by Council members.

The members of the Council wish to reiterate their full support for the following statement, made by the President of the Security Council on their behalf at the opening of the 3059th meeting.

In the view of the Council, the Government of Iraq has not yet complied fully and unconditionally with those obligations, must do so and must immediately take the appropriate actions in this regard. It hopes that the goodwill expressed by the Deputy Prime Minister of Iraq will be matched by deeds.

**D. Letter dated 7 August 1992 from the  
Chargé d'affaires a.i. of the Permanent  
Mission of Belgium to the United  
Nations addressed to the President of  
the Security Council**

**Letter dated 7 August 1992 from the  
Chargé d'affaires a.i. of the Permanent  
Mission of France to the United  
Nations addressed to the President of  
the Security Council**

**Letter dated 7 August 1992 from the  
Permanent Representative of the  
United Kingdom of Great Britain and  
Northern Ireland to the United Nations  
addressed to the President of the  
Security Council**

**Letter dated 7 August 1992 from the  
Chargé d'affaires a.i. of the Permanent  
Mission of the United States of America  
to the United Nations addressed to the  
President of the Security Council**

**Decision of 11 August 1992 (3105th meeting):  
adjournment of the meeting**

By letters dated 7 August 1992 addressed to the President of the Security Council,<sup>450</sup> the representatives of Belgium, France, the United Kingdom and the United States requested an urgent

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<sup>450</sup> S/24393, S/24394, S/24395 and S/24396, respectively.

meeting of the Security Council to consider further the continuing repression of the Iraqi civilian population in many parts of Iraq, which threatened international peace and security in the region, and the failure of the Government of Iraq to cooperate under resolution 688 (1991).

At its 3105th meeting, on 11 August 1992, the Security Council included the four above-mentioned letters in its agenda and invited the representative of Iraq, at his request, to participate in the discussion without the right to vote. The President (China) also drew attention to the requests contained in the four letters that the Council should extend an invitation to Mr. van der Stoel, in his personal capacity, under rule 39 of its provisional rules of procedure. The representatives of India, Ecuador and Zimbabwe, and the President, in his capacity as the representative of China, expressed reservations about such an invitation, on the grounds that the competence of the Council was to deal with matters bearing upon international peace and security and that matters relating to human rights ought to be dealt with by the General Assembly, the Economic and Social Council or the Commission on Human Rights. However, they noted that the invitation to Mr. van der Stoel was being extended strictly in his personal capacity and not in his capacity as Special Rapporteur of the Commission on Human Rights on Iraq. Moreover, it fell within the scope of resolution 688 (1991) and should be understood to reflect all the limitations inherent in that resolution itself.<sup>451</sup> The President stated that those observations would be reflected in the records of the Security Council. In the absence of any objections, the Council agreed to extend an invitation under rule 39 to Mr. van der Stoel.

The President then drew the attention of the Council members to several other documents.<sup>452</sup> These included a letter dated 3 August 1992 from the representative of Belgium addressed to the President of the Council,<sup>453</sup> transmitting part I of an interim report on the situation of human rights in Iraq prepared by

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<sup>451</sup> For the relevant statements, see S/PV.3105, pp. 3-12; see also chapter III, case 4.

<sup>452</sup> Letter dated 3 August 1992 from the representative of Belgium to the President of the Security Council (S/24386); letter dated 6 August 1992 from the representative of Iraq to the Secretary-General (S/24388); and letter dated 10 August 1992 from the representative of the Islamic Republic of Iran to the Secretary-General (S/24414).

<sup>453</sup> S/24386.

Mr. van der Stoel. The report focused in particular on the situation in the southern marshes, whose civilian population was being subjected to military attacks, forced relocations and an internal economic blockade by the Government of Iraq. It also elaborated on a previous recommendation that human rights monitors should be sent to all parts of Iraq to assess the Government's compliance with resolution 688 (1991).<sup>454</sup> The documents also included a letter dated 10 August 1992 from the representative of the Islamic Republic of Iran addressed to the Secretary-General, observing, *inter alia*, that "The campaign of total annihilation of large segments of the Iraqi population, which has recently been intensely escalated in the southern marshlands of Iraq against the mostly Shiite inhabitants ..., can lead to conditions similar to those in the spring of 1991, threatening regional and international peace and security".<sup>455</sup>

Mr. van der Stoel stated that the Ministry of Health of Iraq had provided him with information that suggested that the health of the Iraqi population was rapidly deteriorating. Large parts of the population, moreover, could not afford the high prices for adequate food. This underlined the need for a quick breakthrough in the negotiations on the implementation — on the basis of resolutions 706 (1991) and 712 (1991) — of the so-called "food for oil" formula, which could bring about a rapid improvement in the nutritional situation. There was also an increased need for uninterrupted international humanitarian assistance. Against that background, he expressed alarm that the humanitarian aid programme in Iraq was grinding to a halt. Refusals to grant and renew visas rapidly, travel and fuel restrictions, and continuous harassment rendered the work of international humanitarian organizations virtually impossible. The Government of Iraq, while condemning the United Nations embargo as inhuman and endangering the health situation of the country, had itself imposed a food blockade against the Kurds in the north and the Shiites in the southern marshes, which constituted a threat to the most basic human right: the right to life. The life of those populations was also threatened more directly. In the north, there was intermittent shelling by Government forces of parts of

the Kurdish area. In the area of the southern marshes, recent artillery bombardments and attacks by fixed-wing aircraft pointed to the start of a major military effort by the Government to restore its control over the region whatever the cost in human lives. Recalling in this connection the operations by the Government of Iraq against the Kurds in the late 1980s which had resulted in the extermination of part of the population, the speaker expressed the hope that members of the Council would agree that everything possible should be done to avoid a repetition of that tragedy. He concluded that the Government of Iraq was in violation of resolution 688 (1991) because it had not ended its policy of repression, as demanded in the resolution, and it had not respected the obligation to allow international humanitarian organizations access throughout Iraq. He expressed the conviction that if a full implementation of that resolution could not be ensured, many thousands of innocent people were in danger of losing their lives.<sup>456</sup>

The representative of Iraq echoed the view expressed by some Council members that it would have been inappropriate for the Council to invite Mr. van der Stoel in his capacity as Special Rapporteur since the Council had no mandate in matters of human rights, and noted that he had been invited in his personal capacity. He added that the report of the Special Rapporteur, which had been presented to the Council a few days before the current meeting, should have been taken up first by the Commission on Human Rights rather than by the Security Council. Given the gravity of his allegations, he wondered why the Special Rapporteur had not first sought clarification from the Government of Iraq about the alleged violations of human rights. He refuted some of the main points that had been emphasized in the report — concerning the indiscriminate military attacks against the civilian population in the marshes; the forced relocation of the marsh Arabs in the south; an internal economic blockade; and the so-called Third River project. While he acknowledged that Government forces often carried out raids on the marshes, he contended that this was to track down and arrest deserters, murderers, smugglers and foreign infiltrators taking refuge there. It was those criminal elements, not the Government forces, which attacked the marsh Arabs and their property. The speaker concluded that, regardless of its merits or demerits, the report was an illegal attempt to help

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<sup>454</sup> Part II of the Special Rapporteur's interim report, on the situation in the rest of the country, was issued later as document A/47/367/Add.1.

<sup>455</sup> S/24414.

<sup>456</sup> S/PV.3105, pp. 14-23.

accomplish an illegal aim: namely, to dismember Iraq by calling for permanent human rights observers and eventually to establish another so-called safe haven in the south.<sup>457</sup>

The representative of the United States said it was evident from Mr. van der Stoel's statement that Iraq was in clear and direct violation of resolution 688 (1991), requiring Iraq to end repression of its citizens and allow humanitarian organizations access to all those in need. Saddam Hussein was guilty of human rights abuses throughout the country involving every ethnic and religious group. The United States believed it was appropriate for the Council to address those wider issues as well as the violations cited by Mr. van der Stoel in his report to the Council. It urged him to issue his report on conditions in northern Iraq as soon as possible. Saddam Hussein was also obstructing the work of those who sought to help the people of Iraq. His Government had refused to issue visas to replacements for United Nations guards who had rotated out of the country, while those who remained were being constantly harassed. Those guards performed an essential job: they provided a measure of protection for United Nations personnel and equipment; and were an important symbol of the United Nations humanitarian commitment in Iraq. If the Council accepted that Iraq could control the entry of United Nations personnel by denying visas, Iraqi intransigence could reduce the number of United Nations guards to 127 of a needed contingent of 500 within a week. With a reduced number of United Nations guards, and with United Nations personnel unable to travel between Baghdad and the north, the Government of Iraq could increase its harassment of groups throughout the country that relied on the United Nations presence to care for their humanitarian needs. In recent months, the world had witnessed a resurgence of Iraq's cruel treatment of its citizens in the north. Events in southern Iraq, particularly the recent bombing of Shia villages, showed an equally heinous disregard for the human rights of the Iraqi people. The speaker recalled that, in 1991, the Council had condemned the repression of the Iraqi civilian population in many parts of Iraq, including in the Kurdish populated areas, finding it a threat to international peace and security. At that time, the United States Government and other Governments had concluded that the situation was so serious and Iraqi

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<sup>457</sup> Ibid., pp. 23-24.

intransigence so manifest that additional measures had to be taken to prevent further Iraqi repression of the civilian population. Now, the situation existed not only in the north but also in the south of Iraq. It was imperative that Iraq, without further delay and deception, abide by all relevant Security Council resolutions, including resolution 688 (1991), end its economic blockade of the north and south, renew the United Nations humanitarian programme in Iraq, and cease its repression in the southern marshes.<sup>458</sup>

The representative of Belgium observed that it had been useful and important for Mr. van der Stoel, who was monitoring events in Iraq, to be heard by the Council. The plight of the Shia civilians in the southern marshes and of other populations, particularly the Kurds, was pitiful and getting worse. The difficulties faced by the United Nations staff in charge of structuring humanitarian assistance operations added to his delegation's concerns. Furthermore, his country had information indicating that the harsh repressive measures used by the Iraqi regime now extended to the population of Baghdad itself, a development that showed continuing disdain for the goals and principles of the Charter and constituted a violation by Iraq of various international human rights instruments. The Security Council had, in this respect, imposed specific obligations on Iraq. The speaker recalled, notably, that resolution 687 (1991) provided for a review by the Council of the embargo imposed on Iraq in the light of the policy and practices followed by its Government, and that resolution 688 (1991) demanded that Iraq immediately end its repression of the civilian population. The President of the Council had, moreover, made a statement on 11 March 1992 which included the following passage: "The Council remains deeply concerned at the grave human rights abuses that, despite the provisions of resolution 688 (1991), the Government of Iraq continues to perpetrate against its population". To Belgium's profound regret, nothing in that text was any less true now. The repression that was being inflicted on the Iraqi people was not only a massive and flagrant violation of human rights; it could once again gravely jeopardize the peace and security of the entire region. It was therefore important, in this sphere as well, for the Council to observe with extreme watchfulness the behaviour of the Government of Iraq. The repression committed by the Iraqi authorities, like its attitude towards other matters covered by resolution

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<sup>458</sup> Ibid., pp. 35-39.

687 (1991), prevented Iraq from reassuming its place in the international community.<sup>459</sup>

The representative of the Russian Federation stated that his country attached great importance to the full and consistent implementation of the resolutions of the Security Council which were intended to eliminate the consequences of the Iraqi aggression against Kuwait and to establish a lasting peace and security in that region. Accordingly, like other Council members, the Russian Federation was seriously alarmed by reports of a continuing policy of repression against the civilian population in various parts of Iraq, which constituted a direct violation of the demand in resolution 688 (1991) that Iraq, as a contribution to the removal of the threat to international peace and security in the region, should end the repression against its own civilian population. Useful information on the tragic situation of many population groups in Iraq as the result of the policy of their own Government had just been given to the Council by Mr. van der Stoel. The Russian delegation had received with particular alarm the information provided by the Secretary-General at informal consultations on 7 August 1992 about the worsening situation regarding the safety of United Nations personnel in Iraq. The increasingly frequent attempts to intimidate United Nations personnel and the instances of attempts on their lives were totally unacceptable. Those and other facts revealed the obvious unwillingness of the Iraqi authorities to have witnesses to their repressive actions against the civilian population and their efforts to interfere with the activities of representatives of the international community in Iraq. That was also the conclusion the Russian Federation drew from the fact that Baghdad had so far avoided extending the memorandum of understanding with the United Nations. The deep concern of members of the Security Council at the failure to comply with resolution 688 (1991) had been indicated on a number of occasions, including at the Council meeting in March 1992 in which a high-level Iraqi delegation had participated. However, there had not yet been any adequate response by Baghdad to the Council's demands. The letter dated 6 August 1992 from the Minister for Foreign Affairs of Iraq to the President of the Security Council<sup>460</sup> and the statement made at the current meeting by the representative of Iraq were further evidence of that

fact. The Russian delegation emphasized the groundlessness and uselessness of any attempt by Iraq to test the firmness of the Council's determination to obtain Iraq's full and unconditional compliance with all Council decisions, including resolution 688 (1991). Only by constructive cooperation with the international community could Iraq avoid the serious consequences it would face if it continued on its course of confrontation with the Security Council.<sup>461</sup>

The representative of France noted that Mr. van der Stoel's testimony was extremely disquieting. It confirmed that throughout Iraq elementary human rights were being trampled upon and that repression against the civilian population was continuing, in the north as well as in the south. It also confirmed that resolution 688 (1991) was being disregarded by the Government of Iraq. While the United Nations, the specialized agencies and the non-governmental organizations were exerting remarkable efforts to bring relief to the civilian population, the Government was placing ever-greater obstacles in the way of humanitarian action. In fact, it was seeking to put an end to that action. The French delegation attached particular importance to the presence of the contingent of United Nations guards, which must be enabled to carry out the task given to it by the Secretary-General. It was essential, therefore, that the memorandum of understanding between Iraq and the United Nations of 18 April 1991 be renewed. France would follow very closely the negotiations, which it understood had just been revived. The speaker concluded by recalling that the year before the Security Council had found that the repression by the Baghdad authorities constituted a threat to international peace and security. The Government of France, along with others, had taken measures to protect the population in the north, which at that time was particularly affected. The situation that existed now in the south was equally serious. The international community could not remain indifferent to the fate of the population in the south; it had to do everything possible to prevent further massive violations of human rights and to prevent an exodus.<sup>462</sup>

The representative of the United Kingdom found the report to the Council by Mr. van der Stoel — which related principally to resolution 688 (1991) and was therefore very much a matter for the Council — to be

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<sup>459</sup> *Ibid.*, pp. 40-42.

<sup>460</sup> S/24388.

<sup>461</sup> S/PV.3105, pp. 42-45.

<sup>462</sup> *Ibid.*, pp. 51-53.

deeply disturbing. However, he found the comments by the Iraqi representative to be even more disturbing in their failure to address the horrific facts. With regard to the state of health in Iraq, he observed that the failure of the Government of Iraq to implement the scheme under resolutions 706 (1991) and 712 (1991), which would have enabled it to buy foodstuffs and medicines for the people of Iraq, was itself a tragedy which contributed to the repression by the Government of its population in contravention of resolution 688 (1991). He agreed with Mr. van der Stoel's statement that the humanitarian programme was desperately needed in all parts of Iraq — and that included the work of the United Nations guards, which was vital for the well-being of the Iraqi population in all parts of the country. His Government therefore welcomed the news that the Under-Secretary-General for Humanitarian Affairs had been invited to visit Baghdad and hoped that the Government would renew the memorandum of understanding forthwith. The speaker added that it was clear from Mr. van der Stoel's account that Iraq was engaged in a full-scale repression of the Shia population in the southern marshes, and that the north was suffering from an economic blockade, both actions in defiance of the Council and its resolution 688 (1991). Like previous speakers, he recalled the Council's conclusion the year before that the repression of the Iraqi civilian population in many parts of Iraq, including the Kurdish-populated areas but also in the south, which had led to a massive exodus of refugees to Turkey and the Islamic Republic of Iran, itself threatened international peace and security. His Government and a number of others had felt that the situation was so serious and Iraqi intransigence so evident that measures had to be taken to help prevent the population from being further repressed. That situation now appeared to exist in the south of Iraq as it had the year before in the north. In concluding, the speaker stated that, if the Government of Iraq wished the Council to accept the claim that its intentions were good, three things had to be done immediately: one was to end the economic blockade of the north of Iraq; the second was to stop the forceful repression in the south of Iraq; and the third was to renew the memorandum of understanding.<sup>463</sup>

The representative of Hungary considered the participation of Mr. van der Stoel in the Council's meeting an important contribution towards enhancing

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<sup>463</sup> Ibid., pp. 54-57.

the awareness of the link between the way a Government treats its own citizens and the way it acts in the international arena, as well as the link between enforcing respect for human rights and maintaining international peace and security. Resolution 688 (1991) and the presidential statement of 11 March 1992 had clearly recognized this relationship by keeping the question of repression in Iraq under review by the Council. The speaker urged the Iraqi authorities to put an end to the repression of the civilian population throughout the country, to permit the continuance of humanitarian relief efforts unhindered and to implement the relevant Security Council resolutions. He concluded by reiterating a point made by his delegation at the summit meeting of Security Council members in January: for Hungary, respect for human rights and the rights of national minorities was not merely a legal or humanitarian question; it was also an integral part of international collective security, as exemplified during and after the Gulf crisis, and more recently in the conflict among the southern Slav peoples. It was indispensable, therefore, for the Council, in the context of its peacebuilding efforts, to take an unambiguous stand for the protection of those rights whenever and wherever they were flagrantly violated.<sup>464</sup>

A number of other speakers similarly deplored the continuing repression by the Iraqi Government of the civilian population in many parts of the country, which threatened international peace and security in the region.<sup>465</sup> They urged Iraq to implement the relevant Security Council resolutions and to renew the memorandum of understanding with the United Nations.

The meeting was then adjourned.

### **E. Letter dated 24 August 1992 from the Secretary-General addressed to the President of the Security Council**

#### **Decision of 2 September 1992 (3112th meeting): statement by the President**

By a letter dated 24 August 1992 addressed to the President of the Security Council,<sup>466</sup> the Secretary-

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<sup>464</sup> Ibid., pp. 57-59.

<sup>465</sup> Ibid., p. 46 (Japan); pp. 46-51 (Austria); and pp. 59-62 (Venezuela).

<sup>466</sup> S/24509.

General informed the Council about the negotiations with Iraq in August on the extension of the memorandum of understanding governing the Inter-Agency Humanitarian Programme in Iraq. The Under-Secretary-General for Humanitarian Affairs, assisted by the Coordinator and senior officials from the United Nations programmes and agencies participating in the humanitarian programme, had held five rounds of talks with the Minister for Foreign Affairs of Iraq, discussions with the Deputy Prime Minister of Iraq, and several technical meetings with Government Ministers and officials. Iraq had taken the position that, in view of the changed circumstances since the adoption of the two preceding memorandums, the humanitarian programme should be based on transitional arrangements moving from an emergency phase towards “normalization” and regular cooperation with United Nations agencies. In that context, it considered that some of the exceptional measures provided for in the two earlier agreements were no longer applicable. The Secretary-General reported that, despite extensive negotiations, wide divergences remained in the positions of the two parties on certain key issues. Thus, for example, the Government insisted that United Nations sub-offices would no longer be permitted, although access on a functional basis would be granted for project implementation, whereas the United Nations considered such field stations to be essential for the effective implementation of the humanitarian programme throughout Iraq. The Government also wished to limit the overall strength and the location of the United Nations guards, which the United Nations found unacceptable, insisting upon the continued deployment of guards, with a ceiling of 500, in view of the grave security conditions prevailing in the country. The Government had also urged that every effort should be made to exempt humanitarian requirements from the imposition of sanctions, stressing the suffering these continued to inflict on the civilian population. In the course of the discussions, the Government had expressed particular concern at the declarations of impending action aimed at imposing an exclusion zone for Iraqi aircraft below the 32nd parallel. The Secretary-General had been asked to take up this issue, which the Government maintained was in contravention of international law. The Deputy Prime Minister had explicitly linked the implications of those declarations to the continued presence of the humanitarian programme in the south of the country and the Government’s refusal to permit the

maintenance of sub-offices under a renewed memorandum of understanding. He had further indicated that in the event of such an exclusion zone being put into effect, any eventual memorandum of understanding would no longer be tolerated on Iraqi territory. Moreover, in view of the possibility of demonstrations in the Basrah area, he had suggested that any remaining humanitarian personnel in the south be withdrawn to Baghdad to ensure their safety. That had been done. The Secretary-General added that, although no agreement had been reached, the Minister for Foreign Affairs of Iraq had expressed the view that there would be another opportunity “in a short while” to discuss the humanitarian programme and to reach a formula for the extension of the memorandum of understanding. In the meantime, he had given the Government’s assurance that “a de facto memorandum of understanding existed” and that cooperation would be extended to the office of the Coordinator and United Nations programmes and agencies based in Baghdad.

The Secretary-General concluded that, from the United Nations perspective, the Government’s position prevented the Inter-Agency Humanitarian Programme from providing effective humanitarian assistance to vulnerable groups in Iraq. No further United Nations presence, in terms of sub-offices or guards, was currently permitted in the south of the country. At the same time, the Programme’s implementation in the northern governorates had been brought to a halt. In the absence of a United Nations presence in the south, a reliable assessment of conditions prevailing in that region would not be possible; while in the north the population would be placed at serious risk if adequate food and fuel were not pre-positioned by November and should the Government not reinstate adequate food rations by then. He warned that such a situation could well lead to a renewed and large-scale displacement of the population.

At its 3112th meeting, held on 2 September 1992 in accordance with the understanding reached in its prior consultations, the Council included the Secretary-General’s letter in its agenda.

The President (Ecuador) stated that, following consultations among the members of the Council, he had been authorized to make the following statement on behalf of the Council:<sup>467</sup>

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<sup>467</sup> S/24396.

The Security Council is deeply concerned at the current situation of the Inter-Agency Humanitarian Programme in Iraq, as outlined in the Secretary-General's letter of 24 August 1992 to the President of the Security Council, including its reference to Iraq's failure to renew its Memorandum of Understanding with the United Nations.

The Council recalls its statement of 17 July 1992, in which the Council expressed its profound concern at the deteriorating conditions affecting the safety and well-being of United Nations personnel in Iraq. The Council is particularly disturbed by Iraq's continuing failure to ensure the safety of United Nations personnel and the personnel of non-governmental organizations.

The Council expresses its concern regarding the conduct and statements of Iraq on the Programme which are inconsistent with the previous Council resolutions that demand that Iraq cooperate with the international humanitarian organizations.

The Council affirms that the critical humanitarian needs of vulnerable groups in Iraq require the speedy conclusion of arrangements that would ensure the continuation of the Programme. In this respect, the Council considers unrestricted access throughout the country and the assurance of adequate security measures as essential prerequisites for the effective implementation of the Programme. To this end, the Council fully endorses the Secretary-General's insistence upon appropriate field offices for participating United Nations agencies and programmes and the continuing deployment of the United Nations Guards. The Council strongly supports the Secretary-General's continuing efforts to sustain a United Nations and non-governmental organization humanitarian presence throughout Iraq, and urges him to continue to use all resources at his disposal to help all those in need in Iraq. The Council urges Iraq in the strongest possible terms to cooperate with the United Nations.

#### **F. Letter dated 2 April 1991 from the Permanent Representative of Turkey to the United Nations addressed to the President of the Security Council**

**Letter dated 4 April 1991 from the Chargé d'affaires a.i. of the Permanent Mission of France to the United Nations addressed to the President of the Security Council**

**Letter dated 5 March 1992 from the Chargé d'affaires a.i. of the Permanent Mission of Belgium to the United Nations addressed to the President of the Security Council**

**Letter dated 3 August 1992 from the Chargé d'affaires a.i. of the Permanent Mission of Belgium to the United Nations addressed to the President of the Security Council**

**Letter dated 19 November 1992 from the Permanent Representative of Belgium to the United Nations addressed to the President of the Security Council**

**Decision of 23 November 1992 (3139th meeting): statement by the President**

At its 3139th meeting, held on 23 November 1992 in accordance with the agreement reached in the course of its prior consultations, the Security Council included in its agenda the letters addressed to the President of the Security Council dated 2 and 4 April 1991 and 5 March 1992 from the representatives of Turkey, France and Belgium, respectively.<sup>468</sup> The agenda also included two subsequent letters from the representative of Belgium addressed to the President of the Council: by a letter dated 3 August 1992,<sup>469</sup> he transmitted part I of the interim report on the situation of human rights in Iraq prepared by Mr. van der Stoep, Special Rapporteur of the Commission of Human Rights; by a letter dated 19 November 1992,<sup>470</sup> the representative of Belgium noted that the Council would be holding a meeting concerning Iraq on 23 November 1992, recalled that the Council had undertaken in previous decisions to continue its discussion of the repression in Iraq, and stated that the latter remained a matter of grave concern to his Government. The item was considered by the Council at its 3139th meeting, which was twice suspended and resumed, on 23 and 24 November 1992.

Pursuant to an agreement reached in its prior consultations, the Council invited the representatives of Iraq and Kuwait, at their request, to participate in the discussion without the right to vote. It also extended invitations under rule 39 of its provisional

<sup>468</sup> S/22435, S/22442 and S/23685 and Add.1, respectively. These three letters were included in the agenda for the 3059th meeting of the Council, held on 11 March 1992; see section 22.C of the present chapter.

<sup>469</sup> S/24386.

<sup>470</sup> S/24828.



rules of procedure to Messrs. Hans Blix, Director General of the International Atomic Energy Agency, Rolf Ekeus, Executive Chairman of the Special Commission, and Jan Eliasson, Under-Secretary-General for Humanitarian Affairs and the Emergency Relief Coordinator. The President (Ecuador) then drew the attention of the members of the Council to the request contained in the letter of 19 November from the representative of Belgium that the Council extend an invitation under rule 39 of its provisional rules of procedure to Mr. van der Stoel. The representatives of China and Zimbabwe reiterated the reservations that they had expressed about such an invitation at the 3105th meeting on 11 August 1992. The representative of China also expressed a reservation about the references to the interim report of the Special Rapporteur on human rights and to the members' public meeting with Mr. van der Stoel contained in the text of the statement that was to be made shortly by the President of the Council.<sup>471</sup> The President stated that the observations that had been made would appear in the records of the Council. In the absence of any objections, the Council then agreed to invite Mr. van der Stoel under rule 39 of its provisional rules of procedure. The Council also invited the representative of the Islamic Republic of Iran, at his request, to participate in the discussion without the right to vote.

The President also drew the attention of the Council members to two other documents.<sup>472</sup> Welcoming the Deputy Prime Minister of Iraq, he stated that the Council members all hoped that the meetings would be very productive and constructive. He recalled that, in a letter dated 10 November 1992,<sup>473</sup> the Minister for Foreign Affairs of Iraq had informed the Council of the wish of the Government of Iraq to send an official high-level delegation to United Nations Headquarters in order to pursue a dialogue

with the Council on Iraq's implementation of its obligations under certain resolutions of the Council.

The President then stated that, following prior consultations among the members of the Council, he had been authorized to make the following introductory statement on behalf of the Council:<sup>474</sup>

#### I. GENERAL OBLIGATION

1. The resolutions concerning the situation between Iraq and Kuwait impose a number of general and specific obligations upon Iraq.
2. As regards the general obligation, Iraq is required, under paragraph 33 of resolution 687 (1991) of 3 April 1991, to give official notification to the Secretary-General and to the Security Council of its acceptance of the provisions of that entire resolution.
3. Iraq signified its unconditional acceptance in identical letters dated 6 April 1991, addressed to the Secretary-General and to the President of the Security Council and in a letter dated 10 April 1991 from the Permanent Representative of Iraq to the United Nations addressed to the President of the Security Council, and in a letter dated 23 January 1992 from the Chargé d'affaires a.i. of the Permanent Mission of Iraq to the United Nations addressed to the President of the Security Council.

#### II. SPECIFIC OBLIGATIONS

4. In addition to the general obligation to accept the provisions of resolution 687 (1991) in their entirety, several Council resolutions impose specific obligations upon Iraq.

##### *(a) Respect for the inviolability of the international boundary*

5. By paragraph 2 of resolution 687 (1991) the Council demands that Iraq respect the inviolability of the international boundary and the allocations of islands previously agreed upon between Iraq and Kuwait. Pursuant to paragraph 3 of that resolution, the Secretary-General established a Boundary Demarcation Commission to demarcate the boundary between Iraq and Kuwait. Paragraph 5 of the same resolution requires Iraq and Kuwait to respect a demilitarized zone established by the Council.

6. Iraq did not participate in the work of the Iraq-Kuwait Boundary Demarcation Commission at its July 1992 and October 1992 sessions. Iraq has refused up to now to withdraw a number of police posts that are not in line with the United Nations Iraq-Kuwait Observation Mission's principle that both sides should stay 1,000 metres from the boundary line shown on the Mission's map. The Council in paragraph 2 of resolution 773 (1992) of 26 August 1992 welcomed the Commission's land demarcation decisions and, in paragraph 5, the intention of the Secretary-General to carry out at the earliest practicable time the

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<sup>471</sup> For the relevant statements, see S/PV.3139, pp. 3-5; see also chapter III, case 4.

<sup>472</sup> The status of the implementation of the plan for the ongoing monitoring and verification of Iraq's compliance with relevant parts of section C of Security Council resolution 687 (1991) (S/24661); and notes by the Secretary-General transmitting to the Security Council the second report of the Director General of IAEA on the implementation of the Agency's plan for future ongoing monitoring and verification of Iraq's compliance with paragraph 12 of resolution 687 (1991) (S/24722).

<sup>473</sup> S/24822, annex.

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<sup>474</sup> S/24836.

realignment of the demilitarized zone to correspond to the international boundary demarcated, by the Commission, with the consequent removal of the Iraqi police posts.

7. In response to the letter dated 21 May 1992 from the Foreign Minister of Iraq addressed to the Secretary-General, the Council in a 17 June 1992 statement stressed to Iraq the inviolability of the international boundary between Iraq and Kuwait being demarcated by the Commission and guaranteed by the Council pursuant to resolution 687 (1991). In this statement, members of the Council also noted with dismay that the above-mentioned letter recalled past Iraqi claims to Kuwait without also recalling Iraq's subsequent repudiation of these claims. The members of the Council firmly rejected any suggestion that tended to dispute the very existence of Kuwait. Resolution 773 (1992) underlined the Council's guarantee of the above-mentioned international boundary and its decision to take as appropriate all necessary measures to that end in accordance with the Charter of the United Nations, as provided for in paragraph 4 of resolution 687 (1991).

*(b) Weapons-related obligations*

8. Section C of resolution 687 (1991) imposes certain specific obligations upon Iraq with respect to its chemical and biological weapons programmes, its programmes for ballistic missiles with a range greater than 150 kilometres and its nuclear programmes. These obligations are elaborated upon in resolutions 707 (1991) of 11 August 1991 and 715 (1991) of 11 October 1991. The obligations are defined in paragraphs 8 to 13 of resolution 687 (1991) and they are elaborated upon in paragraphs 3 and 5 of resolution 707 (1991) and paragraph 5 of resolution 715 (1991).

9. By resolution 699 (1991) of 17 June 1991, the Council decided that the Government of Iraq shall be liable for the full costs of carrying out the tasks authorized by section C of resolution 687 (1991). No funds have so far been received from Iraq to meet this liability.

10. The Council has noted that since the adoption of resolution 687 (1991) progress has been made in the implementation of section C of that resolution but that much remains to be done. In particular, Iraq needs to provide the full, final and complete disclosure of all aspects of its programmes for weapons of mass destruction and ballistic missiles with a range greater than 150 kilometres. There is a particular and vital requirement for complete information, including credible documentary evidence on Iraq's past production, suppliers and consumption of all prohibited items, and its past capacity to produce such items.

11. Iraq must also acknowledge clearly its obligations under resolution 715 (1991) and the two plans for ongoing monitoring and verification approved thereunder. It must agree to implement these obligations unconditionally. In this connection the Council notes the letter of 28 October 1992 from the Minister of Foreign Affairs of Iraq addressed to the Secretary-General seeking a review of the terms and provisions not only of resolution 715 (1991) but also resolution 707 (1991). It is

accordingly clear that Iraq seems unprepared to comply with the obligations already prescribed.

12. The Special Commission has informed the Council about the outstanding matters that would at the present time appear to be the most important. The Council has noted the report of the Secretary-General of 19 October 1992 on the status of the implementation of the plan for the ongoing monitoring and verification of Iraq's compliance with relevant parts of section C of Security Council resolution 687 (1991).

13. The Council has also noted the second report of the Director General of the International Atomic Energy Agency of 28 October 1992 on the implementation of the Agency's plan for the future ongoing monitoring and verification of Iraq's compliance with paragraph 12 of resolution 687.

14. In a statement issued on behalf of the members of the Security Council on the Special Commission's right to conduct aerial surveillance flights in Iraq, the President stated on 10 April 1992 that:

The members of the Council wish to point out that the surveillance flights are carried out under the authority of Security Council resolutions 687 (1991) of 3 April 1991, 707 (1991) of 15 August 1991 and 715 (1991) of 11 October 1991. Reaffirming the right of the Special Commission to conduct such aerial surveillance flights, the members of the Council call upon the Government of Iraq to take all the necessary steps to ensure that the Iraqi military forces will not interfere with or threaten the security of the flights concerned and to comply with its responsibilities to secure the safety of the Special Commission's aircraft and personnel flying over Iraq.

The President also said that:

The members of the Council warn the Government of Iraq of the serious consequences which would ensue from any failure to comply with these obligations.

15. The Special Commission, on 15 October 1992, informed the Council of actions endangering the safety and security of the Commission's inspection teams in Iraq, including a systematic campaign of harassment, acts of violence, vandalism and verbal denunciations and threats at all levels. The President of the Council issued on the same day a statement to the media stressing the Council's particular concern for the safety of the Commission's inspectors.

16. In a further statement made on 6 July 1992 on behalf of the members of the Council concerning the Government of Iraq's refusal to permit access to certain premises by a team of inspectors, the President said:

Iraq's present refusal to permit access to the Inspection Team currently in Iraq to the premises designated by the Special Commission constitutes a material and unacceptable breach by Iraq of a provision of resolution 687 (1991) which established the ceasefire and provided the conditions essential to the restoration of peace and security in the region. The members of the Council

demand that the Government of Iraq immediately agree to the admission to the premises concerned of the inspectors of the Commission as required by the Chairman of the Special Commission, so that the Commission may establish whether or not any documents, records, materials, or equipment relevant to the responsibilities of the Commission are located therein.

In its resolution 707 (1991) the Council demands that Iraq allow the Special Commission, the International Atomic Energy Agency and their inspection teams immediate, unconditional and unrestricted access to any and all areas, facilities, equipment, records and means of transportation which they wish to inspect. Therefore, the Council cannot accept Iraq's insistence that there must be a limit on access by the inspection teams.

*(c) Repatriation of and access to Kuwaiti and third-State nationals in Iraq*

17. As regards Kuwaiti and third-State nationals in Iraq, resolutions 664 (1990) of 18 August 1990, 666 (1990) of 13 September 1990, 667 (1990) of 16 September 1990, 674 (1990) of 29 October 1990, 686 (1991) of 2 March 1991 and 687 (1991) of 3 April 1991 impose an obligation on Iraq to release, facilitate repatriation of, and arrange for immediate access to them, as well as the return of the remains of any deceased personnel of the forces of Kuwait and of the Member States cooperating with Kuwait pursuant to resolution 678 (1990) of 29 November 1990. Furthermore, paragraph 30 of resolution 687 (1991) requires Iraq to extend all necessary cooperation to the International Committee of the Red Cross in facilitating the search for Kuwaiti and third-State nationals still unaccounted for.

18. In spite of its best ongoing efforts, the Committee has not received information as to the whereabouts of the persons reported missing in Iraq. Nor has it received detailed and documented information on the search conducted by the Iraqi authorities. Following the 11-12 March 1992 Council meeting with the Iraqi Deputy Prime Minister, Iraq published in its press lists of those believed missing detained inside Iraq. The Committee has still not received permission to visit Iraqi prisons and detention centres in accordance with its standard criteria. Very few missing persons detainees have been released since March 1992, while hundreds are believed still to be inside Iraq.

*(d) Iraq's liability under international law*

19. Another obligation concerns Iraq's liability under international law. In resolution 674 (1990), the Council reminded Iraq that "under international law it is liable for any loss, damage or injury arising in regard to Kuwait and third States and their nationals and corporations, as a result of the invasion and illegal occupation of Kuwait by Iraq". Its liability under international law is reaffirmed in paragraph 2 (b) of resolution 686 (1991) and paragraph 16 of resolution 687 (1991). The latter resolution further specifies that it "is liable under international law for any direct loss, damage — including environmental damage and the depletion of natural resources —

or injury to foreign Governments, nationals and corporations, as a result of its unlawful invasion and occupation of Kuwait".

20. By paragraph 18 of the same resolution, the Council created a fund to pay compensation for claims that fall within paragraph 16, to be financed by a percentage of the value of the exports of petroleum and petroleum products from Iraq. In view of the existing economic sanctions against Iraq under resolution 661 (1990) of 6 August 1990, Iraq was permitted by the Council under resolutions 706 (1991) of 15 August 1991 and 712 (1991) of 19 September 1991 to sell a limited quantity of oil, as an exception, a portion of the proceeds from which would be used to provide financial resources for the Fund. To date, it has not availed itself of this possibility. The Council noted that this authorization lapsed on 18 March 1992 but indicated its readiness to authorize the regime for the sale of Iraqi petroleum and petroleum products for a like period of time as that specified in these resolutions and also its readiness to consider possible further extensions, as set out in the statement of 19 March 1992, made by the President on behalf of the Council. Since then Iraq has not shown any willingness to resume discussions about implementing these resolutions. The members of the Council are aware of a previous request by Iraq for a five-year moratorium on meeting its financial obligations, including payments into the United Nations Compensation Fund.

21. In view of Iraq's refusal to cooperate in the implementation of resolutions 706 (1991) and 712 (1991) after several rounds of technical discussions with the Secretariat, the Council adopted on 2 October 1992 resolution 778 (1992) which mandates that certain frozen Iraqi assets be transferred to an escrow account opened by the United Nations. A portion of these funds will be transferred to the Compensation Fund.

*(e) Repayment and servicing of Iraq's foreign debt*

22. With regard to another obligation, the Council demands, in paragraph 17 of resolution 687 (1991), that Iraq scrupulously adhere to all of its obligations concerning servicing and repayment of its foreign debt.

*(f) Non-entitlement to claims deriving from the effects of the measures taken by the Security Council in resolution 661 (1990) and related resolutions (para. 29 of resolution 687 (1991))*

23. According to information received with regard to this item, Iraq has attempted to enforce some claims under which it would have benefited from a contract frustrated by the coming into effect of the terms of resolution 661 (1990), in particular, through the confiscation of the property of foreign companies and organizations left in Iraq.

*(g) Return of property*

24. I now turn to the question of return of property. The Security Council, in paragraph 2 (d) of resolution 686 (1991), demands that Iraq immediately begin to return all Kuwaiti property seized by it, to be completed in the shortest possible period. The members of the Council have previously noted with

satisfaction that Iraqi officials involved with the return of property have extended cooperation to the United Nations to facilitate the return of such property. However, much property, including military equipment and private property, remains to be returned.

*(h) Monthly statements of gold and foreign currency reserves*

25. Another obligation is set out by paragraph 7 of resolution 706 (1991), under which the Government of Iraq is required to provide to the Secretary-General and appropriate international organizations monthly statements of its gold and foreign currency reserves. To date, no such statements have been provided to the Secretary-General or to the International Monetary Fund.

*(i) Undertaking not to commit or support acts of international terrorism*

26. By paragraph 32 of resolution 687 (1991), Iraq is required not to commit or support acts of international terrorism or allow any organization directed towards commission of such acts to operate within its territory and to condemn unequivocally and renounce all acts, methods and practices of terrorism.

27. The Council notes Iraq's statements contained in identical letters dated 11 June 1991 from the Chargé d'affaires a.i. of the Permanent Mission of Iraq to the United Nations addressed to the President of the Security Council and the Secretary-General, and in a letter dated 23 January 1992 from the Chargé d'affaires a.i. of the Permanent Mission of Iraq to the United Nations addressed to the President of the Security Council that it is a party to international conventions against terrorism and that it has never pursued a policy favourable to international terrorism as defined by international law.

*(j) Security Council action with respect to the Iraqi civilian population*

28. Resolutions 706 (1991) and 712 (1991) provide a means for Iraq to meet its obligations to supply its civilian population with needed humanitarian assistance, particularly food and medicine. Resolution 778 (1992) mandates that certain frozen Iraqi assets be transferred to an escrow account opened by the United Nations and urges States to contribute funds from other sources to the escrow account. A portion of these funds will be used for humanitarian assistance.

III. SECURITY COUNCIL RESOLUTION 688 (1991)

29. I should now like to refer to the demands by the Security Council with respect to the Iraqi civilian population. In paragraph 2 of resolution 688 (1991), the Council demands that Iraq, as a contribution to removing the threat to international peace and security in the region, end the repression of its civilian population. In paragraphs 3 and 7, the Council insists that it allow immediate access by international humanitarian organizations to all those in need of assistance in all parts of

Iraq, and demands its cooperation with the Secretary-General to these ends.

30. The Council remains deeply concerned at the grave human rights abuses that, despite the provisions of resolution 688 (1991), the Government of Iraq continues to perpetrate against its population, in particular in the northern region of Iraq, in southern Shia centres and in the southern marshes. The Security Council notes that this situation is confirmed by the Special Rapporteur of the Commission on Human Rights in his report on the human rights situation of 5 March 1992 and in part I of his report of 3 August 1992. The members of the Council recall their public meeting with Mr. Max van der Stoep on 11 August 1992.

31. The members of the Security Council take note of the renewal on 22 October 1992 of the Memorandum of Understanding providing the framework for urgent humanitarian assistance throughout the country between the United Nations and the Government of Iraq.

IV. CONCLUDING OBSERVATION

32. In view of the observations on the record of Iraq's performance, and without prejudice to further action by the Security Council on the question of the implementation of its relevant resolutions by Iraq, the Council has considered itself justified in concluding that Iraq has up to now only selectively and then partially complied with the obligations placed upon it by the Council. It is the Council's hope that this meeting will prove a valuable opportunity to impress once again upon Iraq the imperative need for full compliance and to obtain from Iraq undertakings which would constitute an advance in the consideration of this issue as required in the interest of world peace and security, as well as that of the Iraqi people.

The representative of the United Kingdom concentrated on four areas of major political significance in which he said there had been prevarication, concealment, defiance, repression and non-compliance with the Council's resolutions. The first was the Iraq-Kuwait boundary. In recent months there had been a pattern of Iraqi actions and behaviour which completely invalidated Iraq's formal acceptance of Kuwait's existence within boundaries to be demarcated under an objective United Nations process. Most serious of all was the reassertion by Iraq of its claim to Kuwait in statements by Government ministers, officials, and in the Government-controlled media in Iraq. This struck at the very heart of the ceasefire resolutions, and called into question Iraq's commitment to resolution 687 (1991). The second area of concern was that of weapons of mass destruction. Iraq had still not complied with its obligation under resolution 707 (1991) to provide a full, final and complete declaration of its weapons of mass

destruction and ballistic missile programmes. It had also failed either to recognize or to accept its obligations under resolution 715 (1991), which provided for long-term monitoring and verification by inspection. He observed that the Foreign Minister of Iraq, in a letter of 28 October 1992, had called for a review of those two resolutions, which sounded like an attempt to escape from those obligations altogether. That would not be acceptable: without long-term monitoring and verification there could be no certainty that Iraq would not start the whole process over again. Since the Council's meeting in March, Iraq had had a very mixed track record over inspections. Although there had been some cooperation at the field level, the situation had been markedly different at the political level, access to the Ministry of Agriculture building in Baghdad having been denied. There had been hostile and inaccurate statements by Iraqi leaders about United Nations inspection teams and serious harassment of inspectors. The inspectors must be allowed to go about their work unhindered and in safety and be allowed access to wherever their work took them, without limits. The third area of concern mentioned by the speaker was the question of detainees. The detention of Kuwaiti and third-country nationals continued, he stated, and Iraq had still not agreed to ICRC standard procedures for visits to places of detention in Iraq. That was a serious humanitarian issue where Iraqi behaviour was clearly at variance with its obligations under international law and Security Council resolutions. The fourth area of concern was the matter of Iraq's treatment of its own citizens. Throughout the crisis, the Council's quarrel had been with the Government of Iraq, not with the Iraqi people. The Council had accordingly adopted resolutions 706 (1991) and 712 (1991), which would have created an exemption from the sanctions regime to permit Iraq to export oil to pay for humanitarian imports. Iraq had persistently refused to operate this fair and equitable scheme, in blatant disregard of the needs of its own people. However, the offer remained on the table. Iraq had also prevaricated over renewal of its memorandum of understanding with the United Nations, the basis for the United Nations humanitarian programmes in Iraq. The renewed memorandum of understanding, agreed to in October, did not meet all the United Nations aspirations, particularly in the south, and concerns remained about the security of humanitarian personnel in northern Iraq. The Government had, moreover, consistently ignored the Council's demand in resolution 688 (1991) that it

cease the repression of its own people. The speaker concluded that only when the leaders of Iraq heeded what was being said in the Council and took decisive steps to remedy these shortcomings would they be able to get off on a new foot.<sup>475</sup>

The representative of the United States noted that, in the face of Iraqi intransigence, the Council's efforts must continue undiminished. More than two years after Iraq's unprovoked aggression against Kuwait, and despite the concerted will of the world community, the Council still saw its requirements honoured only partially. It must know when Iraq would comply fully and completely with all its relevant resolutions, and should hold the senior Iraqi delegation attending the meeting to the strictest standards of accountability. The speaker recalled that resolution 687 (1991), which required Iraq to take precise steps on many issues, had been formally accepted by Iraq in a letter of 6 April 1991.<sup>476</sup> Subsequently, a series of resolutions had spelled out Iraq's obligations in detail. Many of those resolutions were necessary because, from the first, Iraq had evaded its obligations. In a letter to the Council on 28 October 1992, the Foreign Minister of Iraq had challenged the implementation of resolution 687 (1991). The United States rejected that challenge: if the Gulf region were to enjoy peace and security, Iraq's weapons of mass destruction and ballistic missiles had to be permanently eliminated. That goal required Iraq's cooperation in two areas: the full and complete disclosure of its weapons programmes; and long-term monitoring and verification. Although some progress had been made in this regard since March, Iraq had left many gaps in its declarations to the Special Commission and to IAEA, which were essential for establishing a proper baseline for long-term monitoring and compliance. Even more worrisome was Iraq's call, in the Foreign Minister's letter of 28 October, for the Security Council to conduct a radical review of resolutions 707 (1991) and 715 (1991), which demanded that Iraq allow full access to all sites and accept a long-term monitoring regime. The letter also questioned the Special Commission's operation of surveillance helicopters and fixed-wing aircraft. Those views raised further doubts about Iraq's readiness to comply fully with all relevant resolutions of the Council. The speaker reiterated that the United States objected to, and would not countenance, an Iraqi

<sup>475</sup> S/PV.3139, pp. 22-27.

<sup>476</sup> S/22456.

belief that Baghdad could decide for itself what the Council intended by its resolutions. Iraq's record on boundary issues, notably its non-participation in the work of the Iraq-Kuwait Boundary Demarcation Commission, was also disappointing, and the Foreign Minister's recollection in May of past Iraqi claims to Kuwait was disturbing. The boundary issue and Iraq's challenge to Kuwait's sovereignty reached to the very cause of the Gulf war. In response, the Council had adopted resolution 773 (1992), which emphasized the importance of the Boundary Demarcation Commission and underlined the inviolability of the boundary. When the demarcation of the land boundary was completed, the Iraqi regime was expected to accept in full the Commission's work. The speaker added that Iraq had not fulfilled other obligations of resolution 687 (1991), including repatriation of, and access to, detained Kuwaiti and third-country nationals, allowing access by ICRC to detention facilities in Iraq, and the return of Kuwaiti property. The Iraqi regime's repression of its civilian population, which had led to the adoption of resolution 688 (1991), too, continued to be of concern. The Baghdad regime's response to that resolution had been an economic blockade of the north. It had also subjected the civilian communities in the southern marshes to food blockades, air attacks, artillery bombardments, forced relocations and torture. Within weeks of Mr. van der Stoep's report to the Council in August detailing these human rights abuses, the United States and its coalition partners had launched Operation Southern Watch, which monitored the implementation of resolution 688 (1991) and deterred the most serious forms of repression by the Iraqi military authorities, through the enforcement of a no-fly zone south of the 32nd parallel. Although that operation had been successful, Baghdad's repression by other means continued in the south, which the United States and the rest of the international community deplored. Additional steps would be considered if the Iraqi regime continued to violate resolution 688 (1991) or other Security Council resolutions. The speaker anticipated that the Iraqi delegation might tell the Council of human suffering brought about by economic sanctions established under resolution 661 (1990). However, he recalled that there had never been a prohibition on importing medical supplies into Iraq, that the embargo on food had come to an end in April 1991, and that large quantities had been subsequently imported, but that the Iraqi regime had manipulated food distribution as an instrument of

repression. Furthermore, resolutions 706 (1991) and 712 (1991) had offered Iraq the opportunity to sell oil to finance purchases of food, medicine and humanitarian supplies. In discontinuing discussions on how to implement those resolutions, Iraq had chosen not to meet the essential needs of its civilian population and therefore bore full responsibility for the humanitarian suffering in the country. In conclusion, the speaker observed that, without full and unconditional Iraqi compliance with all relevant resolutions, his Government saw no reason to lift sanctions against Iraq.<sup>477</sup>

The representative of Zimbabwe addressed four areas of Iraq's incomplete or lack of compliance with Security Council resolutions of particular concern to his delegation: the repatriation of, and access to, Kuwaiti and third-country nationals still unaccounted for in Iraq; the return of all Kuwaiti property; respect for the inviolability of the international boundary between Iraq and Kuwait as determined by the Boundary Commission; and the humanitarian situation. With regard to the latter, Zimbabwe was disappointed that resolutions 706 (1991) and 712 (1991) remained unimplemented. It believed that their implementation would go a long way towards taking care of the many victims of various nationalities, including Kuwaitis, who were still awaiting compensation for their suffering, loss and injury as a result of the hostilities in the Gulf on the one hand, and alleviating the humanitarian situation of the Iraqi civilian population who had suffered as a result of the war and the subsequent regime of sanctions, on the other. Finally, while Zimbabwe would insist that Iraq meet its obligations under Security Council resolutions, it was also important for the Council, while undertaking its reviews, to avoid the temptation to shift the goalposts. Where compliance had occurred, that had to be recognized. It was important for the prestige and credibility of the Council that it remained focused on the legitimate goals and objectives for which the sanctions regime had been imposed on behalf of the international community as a whole.<sup>478</sup>

The representative of France said that resolution 687 (1991) and subsequent resolutions imposed clear and precise obligations on the Government of Iraq. He reiterated his country's stance that once Iraq complied with those resolutions the sanctions regime could be lifted. Like previous speakers, he noted various aspects

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<sup>477</sup> S/PV.3139, pp. 27-36.

<sup>478</sup> *Ibid.*, pp. 36-40.

of the Government's policies and practices that were cause for serious concern. With regard to weapons of mass destruction, the Council was pursuing two objectives: to eliminate such weapons stockpiled by Iraq; and to ensure that the Iraqi industrial capacity would not be used to rebuild its military potential once the latter had been destroyed. Those objectives had been set forth in resolutions 687 (1991), 707 (1991) and 715 (1991). Iraq was far from having fully complied with those resolutions. On the humanitarian side, France deplored the fact that the Iraqi authorities had broken off talks on the implementation of resolutions 706 (1991) and 712 (1991), which provided a mechanism for improving the standard of living of the Iraqi civilian population as a whole. The blockade imposed by the Iraqi authorities against Kurdistan was, moreover, causing a difficult health and humanitarian situation there and creating the risk of another exodus of populations towards neighbouring States. Armed operations, in which the Iraqi forces were engaged in the southern marshes, were another illustration of a repressive policy. That policy was depriving major portions of the Iraqi population of their fundamental rights, and was a direct violation of resolution 688 (1991) to whose implementation France remained deeply committed. Finally, the speaker was seriously concerned about the extremely critical human rights situation in Iraq, as highlighted in the reports prepared by the Special Rapporteur. In summary, what the Security Council expected of Iraq, over and above the technical details of the resolutions, was two very simple things. First, the Government of Iraq must live in peace with its neighbours — by accepting frontiers, by forgoing its expansionist designs against a less powerful neighbour, and by repudiating clearly the development of weapons of mass destruction. With regard to such weapons, the international community must not let down its guard, lest Iraq return to its aggressive designs. Secondly, the Government must live in peace with its people, by seeking a settlement with the Kurds and the Shiites of Iraq and by giving priority to ensuring the subsistence and well-being of its civilian population. The speaker concluded that, in those two areas, the Government had not made any progress. It knew, however, that if it were to accede to those two demands, it could bring about the lifting of sanctions.<sup>479</sup>

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<sup>479</sup> *Ibid.*, pp. 41-44.

The representative of Japan stated that his country was sympathetic towards the Iraqi people, who were innocent victims of their Government's policy, and it supported the humanitarian efforts of the United Nations to ease their suffering. However, only the Iraqi leadership could resolve the situation by complying with all the relevant Security Council resolutions, and by reaching agreement with the United Nations on the export of Iraqi oil. Although some progress had been made on the implementation of the Council's resolutions, Iraq still refused to accept resolutions 707 (1991) and 715 (1991), which called for future monitoring by the Special Commission and IAEA. On the contrary, Iraq had demanded that the Council change the terms of those two important resolutions. Moreover, as had been stated by previous speakers, Iraq continued to make territorial claims over Kuwait and refused to cooperate with the Boundary Demarcation Commission. The plight of Kuwaiti and third-country nationals held prisoner in Iraq was also of concern to Japan. The speaker reiterated his country's position that the Government of Iraq did not have the right to interpret the Council's resolutions or to choose which provisions it would implement and which ones it would not. It should comply fully with the provisions of all resolutions. While Japan welcomed the opportunity to exchange views with the Deputy Prime Minister of Iraq, there must be no misunderstanding. The situation would not improve until the Government of Iraq decided to cooperate fully with the Council and the United Nations as a whole.<sup>480</sup>

At the first resumption of the 3139th meeting, on 23 November 1992, the representative of the Russian Federation observed that the questions involved in settling the consequences of Iraq's aggression against Kuwait were extremely important from the point of view of ensuring international peace and security. He hoped that the participation of the Deputy Prime Minister of Iraq in the meeting would prove useful to their successful resolution. While noting that Iraq had recently demonstrated a more open and reasonable attitude and had presented additional data on the prohibited military programmes, he stated that a full picture of Iraq's activities covered by resolution 687 (1991) did not yet exist; nor was there any certainty as to the completeness and accuracy of the information presented by Iraq concerning those programmes. Moreover, Iraq's failure to acknowledge its obligations

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<sup>480</sup> *Ibid.*, pp. 44-46.

under resolutions 707 (1991) and 715 (1991), and its attempts to replace performance of its obligations with discussions concerning the clear demands of the Council, were making it impossible to carry out activities involved in monitoring and verification in accordance with the Council's decisions. Similarly, the Council could not overlook Iraq's essentially hostile attitude towards the activities of United Nations inspectors and acts that had threatened their personal safety and had caused material damage to United Nations property. Other facts also attested to an unconstructive attitude on the part of the Iraqi authorities: their refusal to cooperate with the Boundary Demarcation Commission, the detention of citizens of third countries by Iraqi military patrols in the demilitarized zone, including parts of Kuwaiti territory, and the delay in releasing Kuwaitis captured by Iraq and returning Kuwaiti property, including military property. Furthermore, the Iraqi authorities had reportedly confiscated the property of a number of foreign companies and organizations, including Russian ones, which constituted a violation of paragraph 29 of resolution 687 (1991). The Russian delegation was also concerned that Iraq had not complied with resolution 688 (1991), regarding ensuring respect for human rights in Iraq. It concluded from the foregoing that the Government of Iraq was continuing to evade conscientious and complete implementation of its obligations under Security Council resolutions. The Russian delegation had frequently raised with the Iraqi leadership the question of the inadmissibility of attempts to contest in any way the binding decisions of the Security Council, which was responsible to the world community for preventing the recurrence of such instances of adventurism as Iraq's aggression against Kuwait. It hoped that the present discussion would help Iraq to understand better the Council's position and make its Government more aware that it must comply vigorously and completely with all the provisions of Security Council decisions binding upon it that had been adopted under Chapter VII of the Charter of the United Nations.<sup>481</sup>

The representative of Morocco hoped that the dialogue with the Deputy Prime Minister would lead to positive results and a better understanding that would enable the Council to achieve the objectives laid down in its resolutions, and ultimately contribute to the final restoration of peace and stability to the Gulf region. As

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<sup>481</sup> S/PV.3139 (Resumption 1), pp. 66-69.

an Arab country, Morocco had itself greatly suffered from the region's fratricidal crisis and its disastrous consequences, which continued to devastate the Arab world. The speaker stated that he had no intention of reviewing the various questions dealt with in the introductory statement by the President of the Council, which had been "complete and useful". His purpose was to identify and stress certain developments and positive trends, without however overlooking those areas in which work remained to be done. He noted the Iraqi authorities' growing readiness to cooperate with the inspection missions, in particular with the Special Commission. His delegation also welcomed the signing of the renewed memorandum of understanding governing the inter-agency humanitarian programme in Iraq, which provided a realistic framework of cooperation between the United Nations and Iraq. His country remained very much concerned, however, by the serious humanitarian situation in Iraq. The speaker recalled, in this context, the moral obligation of the Council to do all in its power to ease the suffering of the innocent civilian population. He therefore appealed to all members of the Council that the Committee established under resolution 661 (1990) should initially take a more flexible, tolerant and responsible approach to the subject of goods related to Iraq's humanitarian needs. At the same time, Morocco was very much aware that in the humanitarian field, as in all the areas targeted by the Council's relevant resolutions, the Iraqi authorities must also continue to discharge their duties and obligations. It believed that respect for those resolutions remained essential to the restoration of peace, stability and prosperity in the Gulf region, and hoped that Iraq would continue to do all it could to cooperate with the United Nations bodies and to discharge the obligations incumbent upon it.<sup>482</sup>

A number of other Council members echoed the views of previous speakers, expressing concern about Iraq's non-compliance with its obligations under resolution 687 (1991) and related subsequent resolutions, notably regarding weapons disclosure and inspections, respect for the sovereignty and territorial integrity of Kuwait, and humanitarian and human rights matters.<sup>483</sup> Several of those members noted, with

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<sup>482</sup> *Ibid.*, pp. 72-75.

<sup>483</sup> *Ibid.*, pp. 60-62 (Cape Verde); pp. 62-66 (Venezuela); pp. 69-72 (Ecuador); and pp. 76-81 (Hungary); see also S/PV.3139, pp. 46-48 (Belgium); and pp. 48-55 (Austria).



regard to sanctions, that they were not intended as a punishment and were not aimed at the Iraqi people, but had been imposed to bring about compliance by Iraq with its obligations.<sup>484</sup> It followed, in their view, that they would not be revised or lifted until such compliance had been achieved. Responsibility for the maintenance of the sanctions regime was thus fundamentally in the hands of the Government of Iraq.

The representative of Iraq asserted that his country had complied with resolution 687 (1991) despite its “arbitrarily iniquitous nature”. He stated that the Foreign Minister of Iraq had submitted an updated and complete factual report dated 19 November 1992 on the measures taken by Iraq in implementation of section C of that resolution,<sup>485</sup> and listed them briefly. The measures included the following: all weapons that the Council had prohibited Iraq from possessing had been destroyed, while the remaining chemical materials were under the control of Special Commission teams and being destroyed systematically; all equipment used or claimed to have been used in the production of weapons prohibited by resolution 687 (1991) had been identified by the Special Commission and IAEA; numerous inspection operations had been carried out, without prior notice, at various sites throughout Iraq; and Iraq had provided detailed information to the inspection teams. With regard to the inspections, the speaker quoted from the letter of the Minister for Foreign Affairs of Iraq dated 28 October 1992,<sup>486</sup> alleging that most of the inspection teams had behaved in a hostile, confrontational and provocative manner. They had, moreover, based their inspection plans not on scientific and technical considerations but on “the tendentious reports and data intended to provide a cover for biased and predetermined actions that were supplied to them by the intelligence agencies of certain States with well-known political designs against Iraq”. The speaker contended that, despite Iraq’s compliance with the obligations imposed on it by resolution 687 (1991), the Security Council had refused to discharge its own obligations towards the people and the State of Iraq. It had not looked into the issue of implementing, either partially or completely, paragraph 22 of that resolution, which required it to lift the embargo on the import of commodities and products originating in Iraq and to lift the prohibitions

against financial transactions related thereto. The Council had recently, moreover, placed obstacles in the way of Iraq using its frozen assets abroad in order to meet the humanitarian needs of the Iraqi people for food, medicine and other essentials. The members of the Council had not implemented the sanctions Committee’s decision which allowed them to free Iraqi assets for the purpose of meeting those needs. The adoption by the Council of resolution 778 (1992) had then closed the door completely against Iraq’s using the remainder of its frozen assets abroad to provide for its urgent humanitarian needs. The sanctions Committee, meanwhile, had persisted in its shameful conduct of preventing Iraq from obtaining its needs. The speaker asserted that keeping the embargo in place against Iraq amounted to the perpetration of the crime of genocide against the people of Iraq. Thousands of children had died and the Iraqi population as a whole continued to suffer from dire shortages of food and medicine, while being denied many other essentials of human existence.

The representative of Iraq added that, at the same time, the Council had done nothing to follow up on another vital aspect of resolution 687 (1991) that related to other countries in the region: namely, paragraph 14, in which the Council noted that the actions to be taken by Iraq in relation to its weapons-related obligations represented “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”. He quoted in this connection once again from the letter of the Minister for Foreign Affairs of Iraq dated 28 October 1992, alleging that Israel and the Islamic Republic of Iran possessed such weapons of mass destruction and concluding that those facts not only raised acutely the question of the double standards the Council applied in the resolutions it adopted but also confirmed the selective and biased approach the Council took in dealing with the various parts of its resolutions, particularly with regard to resolution 687 (1991). The speaker also reiterated the call made by his Foreign Minister in the same letter for the series of arbitrary measures adopted by the Council in addition to resolution 687 (1991) to be fundamentally reviewed, since circumstances had changed and a stable relationship existed between the Iraqi authorities and the Special Commission and IAEA. He repeated Iraq’s call for a halt to the use of foreign helicopters by the inspection teams and the activities of United States U-2

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<sup>484</sup> Austria, Cape Verde, Venezuela and Ecuador.

<sup>485</sup> S/24829.

<sup>486</sup> S/24726.

“spy planes”. He emphasized, moreover, that special care should be taken in all the activities of United Nations missions to respect Iraq’s sovereignty and dignity. Finally, stressing the importance of security and stability in the region and the need to deal in a balanced manner with all its countries, the speaker called for the adoption of comprehensive measures all over the region, as provided for in resolution 687 (1991). Iraq should be part of those measures rather than the country that was singled out in regard to their application. It was ready for constructive and responsible cooperation to that end.<sup>487</sup>

Mr. Hans Blix, speaking in his capacity as Director General of IAEA, recalled that, under paragraph 13 of resolution 687 (1991), he had been directed to carry out three tasks with a view to dismantling Iraq’s nuclear capability: first, to identify, through on-site inspections, Iraq’s nuclear capability; secondly, to destroy, remove or render harmless all nuclear weapons, nuclear-weapon-usable material, any subsystems or components, or any related research, development, support or manufacturing facilities; and, thirdly, to develop and implement a plan for the future ongoing monitoring and verification of Iraq’s compliance with the requirement not to acquire or develop a nuclear-weapon capability. Taken together, the implementation of those tasks and the completion of the necessary actions by Iraq, critically important by themselves, were seen as part of the steps towards the goal of establishing in the Middle East a zone free of weapons of mass destruction. Since the speaker’s report to the Council in March, important parts of the first two tasks had been fulfilled and the Agency had begun implementing elements of the third task. The first task — the complete mapping of Iraq’s nuclear capabilities — required the Agency to identify all Iraq’s nuclear-relevant resources and the foreign sources of supply and technology. Through inspection visits and discussions with the Iraqi authorities, a fairly comprehensive picture of Iraq’s nuclear programme had emerged. However, the Agency could not be certain that it was complete. Iraq’s unwillingness to reveal foreign sources of equipment, material and technology made it difficult to ascertain whether all nuclear-related imported equipment and material had been identified. Moreover, new information, positively evaluated by the Special Commission and the Agency, could point to sites which would require inspection —

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<sup>487</sup> S/PV.3139 (Resumption 1), pp. 81-101.

after designation by the Special Commission. The Agency therefore saw a need for continued on-site inspection. With regard to the second task, the Agency had, with the active cooperation of the Iraqi authorities, destroyed or rendered harmless key buildings, equipment and material related to the clandestine nuclear programme. It expected cooperation in these matters to continue. IAEA had now begun to phase in elements of the third task — that of long-term monitoring and verification. This had met with some cooperation and some resistance from the Iraqi side. The Iraqi authorities continued to challenge the legitimacy of the plans approved by the Council under resolution 715 (1991). Of particular concern was the letter of 28 October 1992 addressed to the Secretary-General by the Minister for Foreign Affairs of Iraq,<sup>488</sup> which restated Iraq’s non-acceptance of resolutions 707 (1991) and 715 (1991) in strong terms. The speaker reiterated his view that the lack of full and explicit acceptance of those resolutions ignored their binding nature, and also appeared to ignore Iraq’s own explicit acceptance of resolution 687 (1991), which in paragraph 12 imposed on Iraq the obligation to accept the plan for ongoing monitoring and verification in the nuclear sphere. He reported further that Iraq continued to delay compliance with repeated requests for clear and complete information on items to be reported to IAEA under that plan. In the important area of procurement information, there was no full, final and complete disclosure; there was hardly any disclosure. On the basis of the foregoing, the speaker stated that he could not conclude that Iraq had fully complied with its obligations under the relevant resolutions as they related to the tasks conferred upon IAEA.<sup>489</sup>

Mr. Rolf Ekeus, speaking in his capacity as Executive Chairman of the Special Commission, provided an analogous general assessment of where things stood with regard to the Commission’s three-fold responsibilities, namely, (1) the identification of Iraq’s weapons of mass destruction in the fields assigned to the Commission and the related programmes for their procurement and production; (2) the destruction, removal or rendering harmless of proscribed items and facilities; and (3) the institution of a credible system of ongoing monitoring and verification of Iraq’s compliance with its obligations

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<sup>488</sup> S/24726.

<sup>489</sup> S/PV.3139 (Resumption 1), pp. 102-106.

not to acquire again such weapons of mass destruction. He noted that the speed with which the Commission could discharge its responsibilities was in large measure determined by the degree of Iraq's cooperation. The first stage was not yet complete. Iraq had still not provided the full, final and complete disclosure of all aspects of its programmes to develop weapons of mass destruction, as called for by resolution 707 (1991). With regard to the second stage, Iraq's cooperation continued to be good in the destruction of weapons that it had declared, particularly chemical weapons. Regarding the disposal of the capabilities for the production of weapons of mass destruction, the impediments to the destruction of certain missile-producing capabilities reported in March had been overcome, following a strong reaction by the Security Council and its members to Iraq's refusal to carry out the Commission's instructions. Indeed, the speaker noted that all cases of destruction of major facilities under resolution 687 (1991) had required strong backing by Council members before it was possible to carry out the destruction. The second stage of the Commission's activities remained incomplete, however; many items and facilities remained under seal pending a final decision on whether they should be destroyed, removed or rendered harmless for subsequent use in permitted activities under international monitoring. The third stage, though, was where the most serious problems arose. The impasse reported in March had persisted. Iraq had consistently refused to acknowledge the existence of its obligations under resolutions 707 (1991) and 715 (1991) and under the plans for ongoing monitoring and verification approved by the latter resolution, adopted under Chapter VII of the Charter. From the outset, Iraq had indicated that it was willing to accept ongoing monitoring and verification only in principle, and on its own terms. Those terms appeared to be Iraq's exclusive understanding of paragraphs 10 and 12 of resolution 687 (1991). This was an understanding that placed the most severe limitations — expressed as considerations of sovereignty, national security, dignity and non-interference in Iraq's internal affairs and industrial development, as interpreted by Iraq — on any form of monitoring. That position was clearly enunciated in the letter of 28 October 1992 addressed to the Secretary-General by the Minister for Foreign Affairs of Iraq,<sup>490</sup> in which Iraq declared that

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<sup>490</sup> S/24726.

resolutions 707 (1991) and 715 (1991) constituted a flagrant violation of Iraq's sovereignty and called upon the Council "to conduct a radical review, on a basis of justice and fairness, of the terms and provisions of these two resolutions". In the Commission's view, that letter, taken as a whole, was a most retrograde step and illustrated that the promises made of a new approach and renewed cooperation were without real substance. To the extent that Iraq had taken any steps in regard to ongoing monitoring and verification, it had done so in a manner that did not meet the requirements of resolution 715 (1991) and the Commission's plan approved thereunder.

Continuing, the Executive Chairman stressed that the Special Commission, as a subsidiary organ of the Council, could not, in the face of Iraq's consistent and unyielding opposition to the Council's regime for monitoring and verification, fully institute it. Once Iraq acknowledged its obligations under resolution 715 (1991) and the plans approved thereunder, the Commission could, though, determine the extent to which Iraq's legitimate concerns could be accommodated within the requirements for a credible system of monitoring and verification. There could be no doubt, however, that if Iraq refused that acknowledgement and if sanctions and the oil embargo were to be lifted, the effectiveness of the Special Commission in Iraq would be gravely impaired. This was clearly confirmed by the Foreign Minister's letter of 28 October, in which he had also reiterated objections to essential aspects of the Commission's operations in the country, in particular its air transportation, helicopter and high-altitude surveillance activities — all clearly authorized by Council resolutions adopted under Chapter VII of the Charter. If, therefore, sanctions and the oil embargo were to end without Iraq's unconditional acceptance of its obligations under resolutions 707 (1991) and 715 (1991), the Commission's air transportation and aerial surveillance would be halted by withdrawal of Iraq's de facto acquiescence, and monitoring and verification would be reduced purely to visits to such installations as Iraq selected and at such times as it permitted. The speaker added that, since March, the Commission had had to defend vigorously the privileges and immunities of its inspectors and staff in Iraq, in particular their safety and security. However, its frequent protests appeared to be bearing some fruit and there were currently fewer incidents of individual harassment than had recently been the case. As to the conduct of

inspection personnel and other staff, which had been the subject of remarks in the Foreign Minister's letter of 28 October, they had acted in the most professional manner, often in most difficult and trying circumstances, in seeking to identify and map out Iraq's programmes. If, on occasion, their activities had appeared intrusive, that had been brought about by lack of cooperation by Iraq and by a sincere desire on the part of the inspection teams to ensure that the Council's mandates were carried out. Finally, the speaker observed that, in making a determination under paragraph 22 of resolution 687 (1991) — which linked the lifting of the oil embargo to Iraq's compliance with section C of that resolution — the Security Council would, of course, take into account all information available to it, over and above what was reported by the Special Commission and by IAEA. However, he trusted that prime importance would be attached to the assessments of the Commission and the Director General of IAEA as the Council's executives under section C of resolution 687 (1991). He looked forward to the day when positive results could be placed before the Council. He regretted, however, that if the course currently pursued by Iraq continued, the Executive Chairman of the Special Commission would have to repeat its March assessment — namely, that the possibility of the Special Commission's certifying Iraq's compliance with its obligations under section C of resolution 687 (1991) did not even arise.<sup>491</sup>

The Under-Secretary-General for Humanitarian Affairs and Emergency Relief Coordinator reported that, on the basis of the new memorandum of understanding between the United Nations and the Government of Iraq, signed on 22 October, a plan of action for a six-month period ending on 31 March 1993 had been finalized to respond to the humanitarian needs of the civilian population throughout Iraq. The inter-agency programme, which entailed the delivery of fuel, food and medical services, covered all regions of Iraq, but emphasized the urgency of bringing humanitarian assistance to the northern provinces because of the impending harsh winter conditions and the internal supply restrictions to that part of the country. It was in an active implementation stage within the framework of available financial resources. The speaker emphasized that for the success of this important and complex operation, it was now essential to have the full cooperation of the Government of Iraq

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<sup>491</sup> S/PV.3139 (Resumption 1), pp. 107-117.

and the financial support of the Member States for the humanitarian programme to Iraq.<sup>492</sup>

Mr. van der Stoel recalled that, at the Council meeting on 11 August, he had concluded on the basis of the evidence he had received that Iraq had still not ended its policy of repression of the Iraqi civilian population, and was therefore continuing its refusal to comply with resolution 688 (1991). The Government of Iraq had repeatedly stated that this conclusion was subjective and biased. However, it had been arrived at by using the yardsticks of the international human rights instruments to which Iraq had acceded. The Government had also repeatedly referred to special circumstances, such as the war between Iran and Iraq, the Gulf war, the uprisings in the spring of 1991 and the economic embargo, all of which it alleged had had a negative impact on the human rights situation in Iraq. There was not the slightest doubt, however, that the norms of applicable international law did not allow, even in special circumstances, summary or arbitrary executions and forced disappearances or torture. All that had happened in Iraq, not incidentally but on a massive scale. Moreover, there were reasons to fear that even if the special circumstances were to disappear, the violations of human rights would continue. The present order in Iraq had all the characteristics of a totalitarian system and precluded full respect of human rights obligations. The speaker recalled, further, that resolution 688 (1991) also insisted that Iraq allow immediate access by international humanitarian organizations to all those in need of assistance in all parts of Iraq and make available all necessary facilities for their operations. Events, especially in the course of 1992, had increasingly made it clear that Iraq refused to implement in full that part of the resolution. As the Secretary-General had put it in his letter of 24 August to the President of the Security Council, "the Government's position prevents the inter-agency humanitarian programme from providing effective assistance to vulnerable groups in Iraq". United Nations personnel participating in the programme had repeatedly been subjected to harassment, vandalism and violence, mostly in Government-controlled areas. Although a new memorandum of understanding had eventually been signed on 22 October, United Nations sub-offices and guards were no longer allowed in the south of the country, notwithstanding the Secretary-

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<sup>492</sup> *Ibid.*, pp. 118-122.

General's warning in the above-mentioned letter that, in the absence of a United Nations presence in the south, a reliable assessment of conditions prevailing in that region would not be possible. Notwithstanding Iraq's explicit assurances to the contrary, discrimination existed with respect to access to food and health care. The people in the marshlands to the south were subjected to a complete blockade, while the supply of food and fuel reaching the three Kurdish governates in the north had steadily diminished during the year. If the Government of Iraq did not change its policy rapidly and completely, thousands of lives were at risk. The speaker concluded by observing that when a Government tried to deny the right to life to a specific community within the State, the question inevitably arose as to whether it was engaging in genocidal practices. He hoped it would not prove necessary to pose that question, and that the Government of Iraq would make the necessary efforts to prevent a new disaster for the Kurdish people and the population of the southern marshes.<sup>493</sup>

The representative of Kuwait regretted that Iraq had still not met all its obligations under the relevant Security Council resolutions. Indeed, it seemed to have backed away from some of the basic obligations it had undertaken by its unqualified acceptance of resolution 687 (1991). Perhaps the most obvious example was Iraq's lack of compliance with the Boundary Demarcation Commission and its continued lack of respect for the sovereignty and territorial integrity of Kuwait. The situation of Kuwaiti and third-country nationals who were prisoners and detainees, moreover, remained unchanged. Kuwait hoped, in this regard, that the Council would establish a link between the elimination or easing of any form of sanctions against Iraq and the release of the last prisoner and a full account of every missing person. Iraq had also so far failed to comply with its obligations under resolutions 686 (1991) and 687 (1991) to return Government and private property stolen from Kuwait and to pay compensation. The speaker rejected the Government of Iraq's interpretation of resolution 687 (1991), which regarded the lifting of economic sanctions as related to the destruction of the weapons of mass destruction under section C of that resolution. That was an erroneous interpretation, a selective wish by Iraq. Resolution 687 (1991) aimed at restoring and maintaining peace and stability in the region. The

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<sup>493</sup> Ibid., pp. 123-131.

sanctions emanating from it were accordingly linked to the full implementation of all the provisions of the resolution. The Council should therefore examine carefully and fairly such questions as whether Iraq renounced, permanently and unreservedly, the use of force against Kuwait; would fully accept and respect the boundary between Iraq and Kuwait as demarcated by the Boundary Commission; and would provide full and immediate access to prisoners of war and other detainees and missing persons, and return them to their countries. These matters, among others, related to essential conditions for future peace and stability in the region and tested the seriousness of the Iraqi regime's commitment to the rule of law. If Iraq continued to fail to fulfil its obligations, Kuwait believed that the Council should, under paragraph 34 of resolution 687 (1991), take such further measures as might be required for the implementation of that resolution and to secure peace and security in the region.<sup>494</sup>

The representative of the Islamic Republic of Iran refuted the allegations made by the Deputy Prime Minister of Iraq of a so-called Iranian military build-up, particularly in the area of weapons of mass destruction. He said that Iraq's main objective after its defeat in Kuwait had been to portray the Islamic Republic of Iran as the threat in the region, and to distract the attention of the international community in general and the Council in particular from its non-compliance with Security Council resolutions.<sup>495</sup>

The President then stated his intention, with the agreement of the members of the Council, to suspend the meeting, and invited the members of the Council to meet immediately for consultations.

**Decision of 24 November 1992 (3139th meeting): statement by the President**

At the second resumption of the 3139th meeting, on 24 November 1992, the Deputy Prime Minister of Iraq was given an opportunity to respond to the opening statement made by the President on behalf of the Council and to the questions and concerns expressed by members of the Council during the deliberations the previous day. He maintained that, despite the unjust and arbitrary nature of resolution 687 (1991) and the other resolutions, his country had met the obligations imposed on it, particularly the most

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<sup>494</sup> Ibid., pp. 131-151.

<sup>495</sup> Ibid., pp. 151-155.

substantive ones — those relating to the economic embargo. On the question of boundaries, he stated that Iraq had decided not to participate in the activities of the Boundary Demarcation Commission as its views were not listened to, but it had not hindered the Commission's activities. On the question of missing persons, he asserted that Iraq detained no such persons and that it was cooperating with the Red Cross in searching for them and trying to ascertain their fate. As to why Iraq did not allow the Red Cross to visit the detention centres in the country, he claimed that there were none — only ordinary prisons which the Red Cross was free to visit. With regard to the issue of "Iraq's liability under international law", he reiterated the need for the procedures themselves to be in conformity with international law. Claims for compensation must be linked to fault and damage. Moreover, the party directly concerned should be represented: Iraq, however, was not represented in any way in the machinery that dealt with such claims. As to its foreign debt, he repeated that Iraq could neither repay its debt nor service the interest when there was an economic embargo against it. The speaker denied claims that Iraq had expropriated the property of other countries and companies, maintaining that it had informed those concerned that certain equipment would be used in agricultural and service projects in order to mitigate the suffering of the Iraqis caused by the embargo and that all rights accruing to them from such use would be fully respected. He also challenged the accuracy of allegations that many items of property, including military equipment and private property, had not yet been returned. As for international terrorism, Iraq had reaffirmed its commitments in that regard. It had never engaged in such acts. In relation to resolutions 706 (1991) and 712 (1991), the speaker reiterated that they had been adopted not to mitigate the suffering of the Iraqi people, but with the aim of interfering in the internal affairs of Iraq. In three rounds of negotiations with the United Nations, Iraq had tried but failed to reach agreement on a reasonable arrangement that would meet the urgent humanitarian needs of its people, because the influential Powers in the Security Council which were behind the drafting of the two resolutions had frustrated those efforts. In any event, talk of those two resolutions after Iraq had met so many of its obligations relating to the economic embargo was but an attempt to divert attention from the essential issue: namely, the lifting of the economic embargo, in line with paragraph 22 of resolution 687

(1991). Efforts should be deployed in that direction, which alone would make it possible to address the suffering of the Iraqi people. As for what had been said on resolution 688 (1991), the speaker reiterated that Iraq considered that resolution to be a "blatant interference in the internal affairs of Iraq". Nevertheless, it had signed three memorandums of understanding with the United Nations and was cooperating constructively with the Organization on the implementation of the most recent one, of 22 October 1992. He noted generally that the statement made by the President on behalf of the Council had not referred to the substantive achievements made in the implementation of section C of resolution 687 (1991), while the statements of Messrs. Blix and Ekeus had referred to some of those achievements. The speaker renewed his call on the Council to seriously consider discharging its obligations towards Iraq, especially those under paragraph 22 of resolution 687 (1991) which were legally and practically linked with the implementation of paragraphs 8 to 13 of that resolution. In conclusion, he reaffirmed Iraq's desire to continue the dialogue with the Council and to continue clarifying the facts, with a view to reaching better understanding and constructive cooperation between them.<sup>496</sup>

The President then proposed, with the consent of the members of the Council, to suspend the meeting, and invited the members to meet immediately for consultations.

At the third resumption of the 3139th meeting, also on 24 November 1992, the President stated that, following consultations among the members of the Council, he had been authorized to make the following statement on behalf of the Council:<sup>497</sup>

The views of the Security Council having been expressed through its President and by the statements of its members on the extent of compliance by the Government of Iraq with its obligations under the relevant resolutions, the Council has listened with close attention to the statements by the Deputy Prime Minister of Iraq. The Council regrets the lack of any indication in the statements by the Deputy Prime Minister of Iraq of how the Government of Iraq intends to comply with the resolutions of the Council. It also regrets the baseless threats, allegations and attacks launched by the Deputy Prime Minister of Iraq against the Council, the Special Commission, the International Atomic Energy Agency, the Iraq-Kuwait Boundary Demarcation Commission and the Security Council Committee

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<sup>496</sup> S/PV.3139 (Resumption 2), pp. 162-200.

<sup>497</sup> S/24839.

established by resolution 661 (1990) concerning the situation between Iraq and Kuwait. The Council rejects in toto these threats, allegations and attacks.

Having heard all the interventions in the debate, the Council reiterates its full support for the statement made by the President of the Council on its behalf at the opening of the 3139th meeting.

In the view of the Council, while there have been some positive steps, the Government of Iraq has not yet complied fully and unconditionally with its obligations, must do so and must immediately take the appropriate actions in this regard.

**Decision of 24 November 1992: statement by the President**

On 24 November 1992, following consultations among the members of the Security Council, the

President of the Council made the following statement on their behalf:<sup>498</sup>

The members of the Security Council held informal consultations on 24 November 1992 pursuant to paragraphs 21 and 28 of resolution 687 (1991) and paragraph 6 of resolution 700 (1991).

After hearing all the opinions expressed in the course of the consultations, the President concluded that there was no agreement that the necessary conditions existed for a modification of the regimes established in paragraph 20 of resolution 687 (1991), as referred to in paragraph 21 of that resolution; in paragraphs 22 to 25 of that resolution, as referred to in paragraph 28 of that resolution and in paragraph 6 of resolution 700 (1991).

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<sup>498</sup> S/24843.

## 23. The situation in the Middle East

**Decision of 30 January 1989 (2843rd meeting): resolution 630 (1989)**

On 24 January 1989, pursuant to resolution 617 (1988) of 29 July 1988, the Secretary-General submitted to the Security Council a report on the United Nations Force in Lebanon (UNIFIL) for the period from 26 July 1988 to 24 January 1989.<sup>1</sup> He observed that the Force's ability to carry out the tasks that the Council had assigned to it in 1978 was still blocked. Israel continued to refuse to withdraw its forces from Lebanon, and the "security zone" it controlled in southern Lebanon had become a focus of attack, both by those aiming to attack Israel itself and by those with the aim of liberating Lebanese territory from foreign occupation. Attempts by armed elements to infiltrate Israel, which had increased substantially during 1988, and retaliatory air and commando raids

by Israel, often far to the north of the UNIFIL area of operation, meant that international peace and security were a long way from being restored. The failure to elect a new President of the Republic and the subsequent existence of two rival governments in Beirut had prevented UNIFIL from making any progress towards fulfilment of its third task, which was to assist the Government in ensuring the return of its effective authority in southern Lebanon. The Secretary-General added that another negative factor had been the continuing harassment of UNIFIL personnel by various armed groups in the area. UNIFIL had endeavoured to provide protection and security to the civilian population, protesting against forced expulsions of Lebanese civilians from their homes in the Israeli-controlled area by the so-called "South Lebanon Army", control, and forced recruitment of local men to that army. UNIFIL had also pursued its efforts to provide humanitarian assistance in its area of operation. The Secretary-General reported further that the Lebanese authorities on both sides in Beirut had stressed their hope that the Security Council would renew the UNIFIL mandate for a further period of six months, and that Lebanon had submitted a request for an extension of the Force's mandate. The Syrian authorities also supported an extension. The Israeli authorities continued to take the position that Israel's presence in Lebanon was a temporary arrangement, which was necessary for ensuring the security of

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<sup>1</sup> S/20416 and Add.1 and Add.1/Corr.1 and Add.2. UNIFIL was established by the Security Council in 1978, by resolution 425 (1978) of 19 March 1978. It was entrusted with confirming the withdrawal of Israeli forces from Lebanese territory; restoring international peace and security; and assisting the Government of Lebanon in ensuring the return of its effective authority in the area. It was later also authorized, by resolution 511 (1982), to provide protection and humanitarian assistance to the local population. The mandate of UNIFIL was extended by subsequent resolutions, including resolution 617 (1988).