

## CHAPTER 4: PROCEEDINGS OF THE SANCTIONS COMMITTEE

### 4.1. PROVISIONAL SUMMARY RECORDS OF THE SANCTIONS COMMITTEE

#### A. Provisional Summary Record of the 1st Meeting (closed), 9 August 1990

Source: S/AC.25/SR.1, 14 August 1990

Temporary Chairman: Mr. MUNTEANU (President of the Security Council)

Chairman: Ms. RASI (Finland)

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Adoption of the agenda

Election of officers

Organization of work

Other matters

#### ADOPTION OF THE AGENDA

The agenda was adopted.

#### ELECTION OF OFFICERS

The TEMPORARY CHAIRMAN said that it was his understanding that the members of the Security Council wished to elect Ms. Rasi (Finland) Chairman of the Committee.

Ms. Rasi (Finland) was elected Chairman.

Ms. Rasi (Finland) took the Chair.

Mr. KIRSCH (Canada) and Mrs. CASTAÑO (Colombia) were elected Vice-Chairmen.

#### ORGANIZATION OF WORK

The CHAIRMAN said that the Committee must decide whether, as a rule, its subsequent meetings should be open or closed. The Security Council Committees established pursuant to resolution 253 (1968) concerning the question of Southern Rhodesia and resolution 421 (1977) concerning the question of South Africa had held closed meetings as a rule. Accordingly, she suggested that the Committee should follow that practice.

It was so decided.

The CHAIRMAN said that the Security Council, in its resolution 661 (1990), had established the Committee to monitor compliance with the resolution and had called upon all States to co-operate fully with the Committee in the fulfilment of that task. The Secretary-General had transmitted the text of the resolution to the Ministers for Foreign Affairs of all States and requested information on action taken by them to implement the resolution. Some communications had already been received from States.

#### OTHER MATTERS

Sir Crispin TICKELL (United Kingdom) said that the first priority of the Committee was to determine what was happening in terms of implementing Security Council resolution 661 (1990), to which end a paper should be prepared collating the measures taken by all States. Any gaps could then be identified and any areas of uncertainty clarified, following which the Committee could make recommendations as to how implementation of the resolution might be tightened.

#### B. Provisional Summary Record of the 2nd Meeting (closed), 17 August 1990

*Source: S/AC.25/SR.2, 22 August 1990*

Chairman: Ms. RASI (Finland)

#### CONTENTS

Adoption of the agenda

Organization of work

Interim report of the Secretary-General on the implementation of Security Council resolution 661 (1990)

Other matters

#### ADOPTION OF THE AGENDA

The agenda was adopted.

#### ORGANIZATION OF WORK (S/AC.25/1990/CRP.1)

The CHAIRMAN drew attention to document S/AC.25/1990/CRP.1, containing draft guidelines for the conduct of the Committee's work, which reflected the understanding reached during the informal consultations held on 9 August 1990.

Mr. BLANC (France), supported by Mr. RICHARDSON (United Kingdom), agreed to the provisional adoption of the draft guidelines, on the understanding that they might be reconsidered at a later date, if necessary.

Mr. AL-ASHTAL (Yemen) said that he shared the views of the preceding speakers. However, with regard to paragraph 9, he was unclear as to why the

success of the work of the Committee depended especially upon the co-operation of the permanent members of the Security Council, rather than upon all members.

Mr. ALARCON de QUESADA (Cuba) said that he, too, shared the views of the representative of France. With regard to the question raised by the representative of Yemen, he drew attention to paragraph 3 of the draft guidelines, which stated that the rule of the Committee for reaching decisions would be consensus. That rule implied that the co-operation of all members of the Security Council was essential. Moreover, the Committee's success clearly depended on the support of the entire membership of the Organization. He therefore suggested that in order to avoid any confusion, the first sentence of paragraph 9 should be deleted.

Mr. YU Mengjia (China) agreed that the draft guidelines should be adopted on a provisional basis. It was his understanding that the mechanism provided for in paragraph 4 would not affect the principle of consensus.

Mr. WATSON (United States of America) said that he concurred with most of the views expressed by other speakers, particularly the comments made by the representatives of Yemen and Cuba with regard to paragraph 9. He proposed that the words "especially the permanent members of the Security Council" should be deleted.

The CHAIRMAN suggested that the Committee should provisionally adopt the draft guidelines, taking into account the amendment proposed by the United States representative.

Mr. TADESSE (Ethiopia) suggested that the second sentence of paragraph 9 should become new paragraph 10.

The draft guidelines in document S/AC.25/1990/CRP.1, as amended, were provisionally adopted.

INTERIM REPORT OF THE SECRETARY-GENERAL ON THE IMPLEMENTATION OF SECURITY COUNCIL RESOLUTION 661 (1990) (S/21536 and Corr.1)

The CHAIRMAN recalled that during consultations held on 9 August 1990, the members of the Committee had agreed, in the light of the stipulated deadline of 24 August 1990 for replies from States to the Secretary-General's note verbale of 8 August 1990 and the urgency of the tasks entrusted to the Committee, that the Chairman should request the Secretary-General to submit an interim report on the implementation of Security Council resolution 661 (1990) for consideration by the Committee at its current meeting. Such a report was before the Committee in documents S/21536 and Corr.1. The 39 documents listed in annex II to the report, containing the views of 32 States, were also before the Committee. Since the issuance of the interim report, three further replies had been received, from Cyprus, Luxembourg and New Zealand, and had been circulated as documents S/21538, S/21542 and S/21543, respectively. Those replies would be reflected in the Secretary-General's next report. In addition, a further reply from New Zealand would be circulated as document S/21547.

Mr. RICHARDSON (United Kingdom) said that the number of replies received was encouraging. It should be borne in mind that some replies were more specific than others. Once the deadline of 24 August 1990 had passed, it might be necessary to seek clarification from certain States as to the specific measures which they had adopted.

Drawing attention to the note on page 4 of the report, he said that he had hoped that the use of the term "all States" might encourage States which were not members of the United Nations to reply. In that connection, he noted that a communication had been received from the Republic of Korea, and that the Swiss authorities had stated that they would implement the sanctions imposed under Security Council resolution 661 (1990).

The CHAIRMAN said that, in accordance with established practice, the Secretary-General had sent notes verbales to all States Members of the United Nations as well as to the non-Member States, and that a letter had been addressed to the specialized agencies. If she heard no objection, she would take it that the Committee wished to take note of the interim report of the Secretary-General in documents S/21536 and Corr.1.

It was so decided.

#### OTHER MATTERS

The CHAIRMAN said that in the light of the consultations held on 9 August 1990, she had addressed a letter on 13 August 1990 to the Legal Counsel, requesting him to state his views on the implications arising from paragraph 3 of Security Council resolution 661 (1990) in connection with migrant labour and with areas where there were broad gaps in the sanctions imposed under the resolution. She drew attention to document S/AC.25/1990/CRP.2, containing a reply from the Deputy to the Under-Secretary-General for Legal Affairs. In addition, in view of the number of informal inquiries which had been directed to her, she had consulted legal sources on the question of the invoking of Article 50 of the Charter. On the basis of the very limited experience with the implementation of that Article, a number of conclusions could be drawn. Article 50 granted Members and non-Members of the United Nations alike the right to consult the Security Council when confronted with special economic problems arising from the implementation of sanctions. Such problems might arise as a result of the direct application of sanctions by the State concerned, or indirectly as a result of the application of sanctions by third States. The precise form of consultation could vary. Furthermore, the right of consultation did not imply the right to assistance, and the Security Council retained full discretion as to what actions, if any, should be taken pursuant to consultations.

Mr. ALARCON de QUESADA (Cuba) said that the Security Council and the Committee were confronted by a situation with which they could not avoid dealing



and for which there were no real precedents. The only previous situation which bore any similarity to the current one was the case of Southern Rhodesia, and it was sufficient to examine resolution 232 (1966), by which the Security Council had imposed sanctions on that country, to see that there were major differences between that decision and the sanctions imposed under Security Council resolution 661 (1990). Southern Rhodesia had not been an oil-exporting country, and thus no Member State had been economically dependent on it for oil. Currently, however, a number of countries faced real problems, either because they imported oil from Iraq or Kuwait, or because they were heavily dependent upon trade with Iraq or Kuwait as a source of foreign exchange. His delegation was aware that some of the affected countries had informally expressed their concern at the possible economic impact on them of the current sanctions. The Security Council must consider the consequences of its action in those specific cases.

Mr. PEÑALOSA (Colombia) said that the question of invoking Article 50 of the Charter called for careful study by the Security Council, as it had not yet been implemented in the history of the Organization. The drafters of the Charter had never intended that compensation should be provided to every country which might be affected by the imposition of sanctions, because in such cases all countries were affected. However, if some countries were disproportionately affected, then in order to ensure the success of the sanctions, consideration should be given to compensating them. According to the most recent press reports, one country which was critical to the success of the current measures had argued that its economic well-being depended on those measures not being implemented. Accordingly, the Security Council must approach the matter with great seriousness and a strong sense of responsibility.

Mr. KIRSCH (Canada) said that his delegation was aware of the economic hardship which a number of countries would suffer as a result of the implementation of Security Council resolution 661 (1990). His own country was considerably affected by the sanctions, but as pointed out by the representatives of Cuba and Colombia, some countries were more seriously affected than others, and it was legitimate to pay special attention to their cases. At the same time, the obligations arising from the resolution were indivisible. States could not decide by themselves which sanctions were to be implemented. It was incumbent upon the Security Council to find a solution.

Mr. WATSON (United States of America) endorsed the comments made by the representative of Canada. Article 50 should not be used as a means of circumventing the resolution, but of establishing a consultative mechanism through which the Security Council could deal with the problems of the most seriously affected countries. Although no special cases had yet been brought to the Council's attention, his Government had been approached informally by several

delegations and urged to consider the most salient aspects of the situation, namely, the availability and the price of oil.

Mr. RICHARDSON (United Kingdom) said that his delegation was keenly aware of the economic difficulties which the implementation of sanctions would cause for some States. As to the case of Southern Rhodesia, while agreeing with the thrust of the Cuban representative's comments, he recalled that there had been some applications to the Security Council under Article 50, and it might be useful to examine the decisions taken in those cases.

Mr. ALARCON de QUESADA (Cuba) said that there was another aspect of Security Council resolution 661 (1990) which might have practical implications. Paragraphs 3 (c) and 4 of that resolution referred to the exclusion from sanctions of foodstuffs "in humanitarian circumstances". He wondered whether a clear and precise definition of that concept existed in any United Nations legal instrument. Whether or not humanitarian circumstances existed was not for any individual State to decide, but rather must be determined by the body which had imposed the sanctions, namely, the Security Council. For its part, his Government could never accept any definition which would allow the supply of foodstuffs only to avert famine. Such an approach would be in direct violation of the international instruments which prohibited the use of hunger as a means of warfare. It should be noted that the sanctions also applied to the civilian population of the occupied country, Kuwait, and might have an impact on the fundamental human rights of that population.

Mr. AL-ASH TAL (Yemen) noted that the original version of the resolution had referred to "special humanitarian circumstances" but that the drafters had agreed to delete the word "special" in order not to weaken it. The expression "humanitarian circumstances" had to be explained. He agreed with the preceding speaker that it should not mean refusal to export food except in case of famine. Hunger and disease must be prevented on humanitarian grounds.

Mr. PEÑALOSA (Colombia) said that the Committee's work must be conducted expeditiously. The Chairman must be able to feel that she had members' support to take appropriate interim measures and obtain required clarifications in the period between meetings.

The CHAIRMAN said that Article 50 of the Charter of the United Nations had not yet been formally invoked, but she stressed the need for a case-by-case approach. There was little precedent in the use of Article 50 and the Committee must therefore be innovative and hold informal consultations. Defining "humanitarian circumstances" was a political more than a legal matter and determinations would have to be made on a case-by-case basis, with any problems arising in that connection being referred back to the Security Council.

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She drew attention to the letter she had received from the Permanent Representative of the Netherlands in document S/AC.25/1990/COMM.1 and invited comments.

Mr. WATSON (United States of America) said that the "services" referred to in the letter were covered by the sanctions and that his delegation was particularly concerned about those that would generate hard currency for Iraq.

Mr. BLANC (France) said that his country was preparing to interdict the provision of services to Iraq because it would run counter to the resolution if contracts and the like continued to be honoured.

The CHAIRMAN suggested that the question raised in the letter should be referred to the Legal Counsel.

Mr. WATSON (United States of America) said that the members of the Committee should first be given an opportunity to study the question. Perhaps they could come to a decision without a legal opinion.

The CHAIRMAN said that she would consult members further on the matter.

Turning to the matter raised by the representative of Colombia concerning questions of a legal nature, she suggested that, whenever any such question was raised, she would immediately bring it to the attention of all members of the Committee. If no objection was raised by the prescribed deadline, she would then submit the question to the Legal Counsel, whose opinion would be reported back to the Committee.

Mr. PEÑALOSA (Colombia) said that his proposal referred to all questions, not just legal ones. The Chairman should automatically request details where necessary without first referring the question to the Committee.

Mr. WATSON (United States of America), referring to a point raised by the representative of Cuba, said that the Committee and the Security Council took decisions, whereas the Legal Counsel provided opinions that were not binding.

Mr. BAGBENI ADEITO NZENGEYA (Zaire) said that the Committee had a very precise mandate and that if it did not wish to take a decision on the basis of the information available, it could turn to the Legal Counsel for an opinion.

Mr. ALARCON de QUESADA (Cuba) said that he supported the Colombian proposal because it would expedite the Committee's work and make for greater flexibility. The Chairman, with the full support of the members, should have authority in respect of communications received and should be able to seek the views of the Legal Counsel even though the Committee itself, or the Security Council, had to take the final decision in any matter. The Committee, given the special nature of its task, should also be able to meet more frequently if necessary.

Mr. KIRSCH (Canada) agreed that the Committee should be able to meet whenever necessary but felt that it should not get bogged down in burdensome

procedures. The Chairman should have the necessary latitude to deal with cases where action on the part of the Committee was called for or where difficulties arose. The Chairman should report her intentions to the members of the Committee and, if there was no objection, then take the necessary steps.

Mr. BLANC (France) agreed with the previous speaker and said that the procedure suggested by the Chairman in respect of legal opinions was acceptable.

Mr. RICHARDSON (United Kingdom) said that in non-legal matters, the Chairman might wish to ask States for additional information and should have all due discretion in that connection. Where legal problems were involved, however, the views of the Legal Counsel were required.

Mr. YU Mengjia (China) said he supported the Colombian proposal for expediting the Committee's work. The Committee trusted the Chairman and she should be able to take the appropriate initiative in clarifying issues, obtaining information and soliciting a legal opinion. She should also have appropriate discretion in terms of scheduling future meetings. Where substantive issues were involved, however, the Committee should seek consensus following consultations.

Mr. BLANC (France) said that he supported the Chairman's proposal concerning the procedure for soliciting the views of the Legal Counsel.

Mr. BAGBENI ADEITO NZENGEYA (Zaire) said that the Committee also had a mandate to solicit information from States concerning the implementation of Security Council resolution 661 (1990) and problems arising in that connection. The Committee's powers must be respected.

Mr. LOZINSKIY (Union of Soviet Socialist Republics) said that members should consider a matter before it was submitted to the Legal Counsel, who should then provide the Committee with the information it required.

Mr. FLOREANU (Romania) said that the assistance of the Legal Counsel was extremely important for an understanding of the legal aspects involved in the implementation of the resolution and he therefore favoured the procedure outlined by the Chairman.

The CHAIRMAN said that, in the light of the discussion, she took it that the Committee wished her to refer all inquiries from Member States or other parties to members for their preliminary views. If a legal issue was involved, she would seek the authorization of members to refer the inquiry to the Legal Counsel, which she would do if no objections were raised by the prescribed deadline.

### C. Provisional Summary Record of the 3rd Meeting (closed), 23 August 1990

Source: S/AC.25/SR.3, 27 August 1990

Chairman:

Ms. RASI

(Finland)

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Adoption of the agenda

Communications from Bulgaria and Jordan

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ADOPTION OF THE AGENDA

Mr. PEÑALOSA (Colombia), speaking on a point of order, asked the Chairman whether the Committee could function if all members were not present.

The CHAIRMAN said that it could, as that had been the practice of other committees established as subsidiary organs of the Security Council.

Mr. PEÑALOSA (Colombia) said that his delegation wished to place on record the fact that it did not agree with that view but that it would not raise any formal objection.

Mr. RAZALI (Malaysia) said that in the operation of the Committee established by Security Council resolution 421 (1977), of which Malaysia was the Chairman, meetings had been held in the absence of some members.

The agenda was adopted.

COMMUNICATIONS FROM BULGARIA AND JORDAN (S/21576, S/AC.25/1990/CRP.3)

The CHAIRMAN said that the Security Council had requested the Committee to meet on an urgent basis to consider, in the context of Article 50 of the Charter of the United Nations, communications received from States which found themselves confronted with special economic problems arising from the implementation of the measures contained in Security Council resolution 661 (1990). The Council had also requested the Committee to submit a report containing its recommendations as soon as possible. She drew attention to the communications in documents S/21576 and S/AC.25/1990/CRP.3 and said that should the Committee wish to hear the representatives of Bulgaria and Jordan, she would suggest that it hear each of them privately, one at a time, and after listening to an initial statement, put questions to them.

Mr. RICHARDSON (United Kingdom) said that he had no objection to hearing Bulgaria and Jordan privately but felt that Jordan should be heard first because its communication bore the earlier date.

The CHAIRMAN said that the practice of following the alphabetical order had been utilized, but if she heard no objection she would take it that the Committee agreed to hear Jordan first.

It was so decided.

At the invitation of the Chairman, Mr. Salah (Jordan) took a place at the Committee table.

Mr. SALAH (Jordan) drew attention to the memorandum in document S/AC.25/1990/CRP.3 outlining the harm to Jordan's economy that would result from the implementation of Security Council resolution 661 (1990). The full amount of the damage expected was still not known. The export of potash and phosphate, Jordan's main exports, had become unprofitable because of the increase in insurance rates. Tens of thousands of refugees had been allowed to pass through Jordan for humanitarian reasons, but it had been necessary to close the border in order to maintain essential services for the 150,000 refugees already in the country. There was an urgent need to help repatriate those refugees. Compliance with the resolution would disrupt an intricate network of trade and employment relations. Tens of thousands of Jordanians depended on remissions from expatriates, creating a problem that needed creative solutions. Different sectors of the economy were affected in different ways. Alternative markets were required for those sectors that were dependent on exports to Iraq. In other cases, alternative and secure sources of energy were required.

Jordan was committed to full implementation of the resolution, but no State should be asked to commit economic suicide. Jordan had found in Article 50 the appropriate mechanism for balancing those two opposing considerations. It therefore hoped that the Security Council would give more than promises of help. The remedies offered should be prompt, effective and complete in order to offset the damage arising from compliance.

Mr. BLANC (France) said that he fully understood Jordan's concerns and wished to know what its most urgent and immediate requirements were.

Mr. SALAH (Jordan) drew attention to paragraphs 1, 2 and 3 of the memorandum's conclusions, with particular emphasis on paragraph 2, which he said was of prime importance. He said that his country would indicate specific amounts.

Mr. PEÑALOSA (Colombia) said it would be useful to envisage immediate measures and that the Committee should be provided with information concerning emergency requirements within 60 days.

Mr. SALAH (Jordan) said he could provide that information within 24 hours and that the country could not wait 60 days.

Mr. BLANC (France) agreed that Jordan could not wait 60 days, especially where the replenishment of foodstuffs and the provision of oil and oil derivatives were concerned.

The CHAIRMAN said that she would ask Jordan to provide a list of its urgent needs at the earliest possible time.

Mr. SALAH (Jordan) withdrew.

At the invitation of the Chairman, Mr. Kostov (Bulgaria) took a place at the Committee table.

Mr. KOSTOV (Bulgaria) drew attention to the first, second, third and fourth paragraphs in annex I to his country's note verbale (S/21576) and said that the implementation of sanctions, particularly in view of his country's active and developed economic relations with Iraq, would impose enormous additional burdens on Bulgaria, which was already suffering from indebtedness, inflation and ecological problems that threatened to endanger the democratization process currently under way.

The situation was extremely serious because the Bulgarian economy was based almost exclusively on oil. He read out the sixth, seventh and eighth paragraphs of annex I to document S/21576 which outlined the impending losses to his country's economy as a result of the suspension of its trade with Iraq and Kuwait. On that basis, Bulgaria had sound reasons for invoking Articles 49 and 50 of the Charter. In connection with Article 49, he drew attention to the ninth paragraph of the annex.

The drafters of the Charter had envisaged the applicability of Article 49 to all cases in which countries needed assistance as a result of the imposition of sanctions, noting that some countries would suffer unduly for geographical reasons or because of special economic and financial relations with the State which was the target of collective measures, and it was therefore appropriate to consider means of alleviating their plight. Bulgaria was compelled, in strict compliance with Article 49, to exercise its right under Article 50 to hold consultations with the Security Council in order to find a solution to its economic problems arising from the imposition of the mandatory sanctions. After reading out the tenth paragraph of the annex, he drew attention to the twelfth paragraph, which listed possible forms of assistance to his country. He also supported the idea of establishing a special fund to deal with special economic problems faced by States. He then drew attention to the thirteenth paragraph of the annex, which emphasized his country's strict implementation of Security Council resolution 661 (1990) and support for all efforts aimed at putting an end to the Gulf crisis.

Mr. KOSTOV (Bulgaria) withdrew.

The CHAIRMAN said that, in accordance with the request made by members of the Committee, Jordan would submit further information in writing. She would draw up, in consultation with members, a working paper for consideration by the Committee at its next meeting. If she heard no objections, she would take it that the Committee agreed to that course of action.

It was so decided.

## REVIEW OF THE IMPLEMENTATION OF SECURITY COUNCIL RESOLUTION 661 (1990)

Mr. RICHARDSON (United Kingdom) said that it was important for the Committee to take an active role in following up the implementation of Security Council resolution 661 (1990). A great deal of information had been received from Member States; some replies were more detailed than others. It would be appropriate for the Chairman to request States to be more precise in their replies.

Mr. KIRSCH (Canada) agreed with the comments made by the previous speaker and suggested that action on the agenda item should be deferred to a later meeting.

Mr. PEÑALOSA (Colombia) asked whether the Committee had received any reports concerning alleged violations of the sanctions.

The CHAIRMAN said that no communications of that nature had been received so far.

Mr. RAZALI (Malaysia) said that even if the Committee had not received any formal notifications concerning a breach of sanctions, it should be borne in mind that the Security Council would soon have to take action on a very important issue. Its decision would be based on evidence showing that the full range of measures was not being implemented. It was incumbent upon the Committee to examine any such allegations.

Mr. WILKINSON (United States of America) said that he supported the comments made earlier concerning the need for more precise information. On the basis of press reports that oil tankers were sailing from Iraqi ports, there appeared to be a clear effort to evade the sanctions. His delegation would contribute wherever possible to the search for appropriate information.

Mr. PEÑALOSA (Colombia) said that he agreed with the comments made by the representative of Malaysia and stated that the Security Council was considering taking an important decision in connection with which information regarding violations of the provisions of resolution 661 (1990) would be vital. Since it appeared that a permanent member of the Security Council had a lengthy list of violations, it would be appropriate if such information were brought to the attention of the Committee, as the Committee had been established to consider such violations.

Mr. ZAMORA RODRIGUEZ (Cuba) endorsed the views expressed by the representatives of Malaysia and Colombia. If the Security Council was to be in a position to implement stronger and more coercive measures, it must be informed of the alleged violations.

Mr. FLOREAN (Romania) said that his country would fully implement the resolution. Romania's position had been brought to the attention of the Secretary-General in document S/21507 and had been mentioned in the interim report of the Secretary-General in document S/21536. His country was one of those most



strongly affected by the sanctions, and his Government reserved the right, under Article 50 of the Charter, to inform the Committee of the negative consequences which those measures would have for its economy.

Mr. RICHARDSON (United Kingdom) said that, in accordance with paragraph 7 of its provisionally agreed guidelines (S/AC.25/1990/CRP.1), the Committee would have to set up procedures for the reporting of alleged violations.

The CHAIRMAN appealed to all members of the Committee to inform the Committee of any alleged breaches of the sanctions of which they had knowledge. At a later stage, the Committee might wish to establish a procedure for dealing with such information.

Mr. RAZALI (Malaysia) expressed disappointment that the relevant particulars had not been made available. The Committee should take care not to undercut its effectiveness by failing to consider all possible evidence.

The CHAIRMAN said that it was of the utmost importance for the Committee to receive all available information on alleged violations of the provisions of the resolution.

#### D. Provisional Summary Record of the 4th Meeting (closed), 28 August 1990

*Source: S/AC.25/SR.4, 11 September 1990*

Chairman: Ms. RASI (Finland)

#### CONTENTS

Adoption of the agenda

Further report of the Secretary-General on the implementation of Security Council resolution 661 (1990)

Consultations under Article 50

Other matters

#### ADOPTION OF THE AGENDA

The agenda was adopted.

FURTHER REPORT OF THE SECRETARY-GENERAL ON THE IMPLEMENTATION OF SECURITY COUNCIL RESOLUTION 661 (1990) (S/21641)

The CHAIRMAN drew attention to the further report of the Secretary-General on the implementation of Security Council resolution 661 (1990) (S/21641). In paragraph 3 of that report, the Secretary-General stated that a total of 100 replies had been received from 88 States. In paragraph 4, he stated that it was his intention, pursuant to paragraph 10 of resolution 661 (1990), to address a further request for information on the measures taken by Governments in

accordance with the provisions of the resolution to those States which had not yet responded. Accordingly, on 27 August 1990, the Secretary-General had addressed a note verbale to the latter States, requesting them to reply as early as possible and no later than 5 September 1990.

Since the issuance of the Secretary-General's further report, six additional replies had been received, from Afghanistan, the Lao People's Democratic Republic, Nepal, Thailand and Tunisia, contained in documents S/21645 to S/21649 and S/21652, respectively. A reply by Bolivia and a further reply by France would be issued under the symbols S/21657 and S/21655, respectively.

Mr. RICHARDSON (United Kingdom) said that some States had submitted extremely exhaustive replies to the Secretary-General's note while other States had not specified what action they would take to implement resolution 661 (1990). A number of States had little or no trade with Iraq and seemed to believe that the resolution did not affect them directly. However, there would always be entrepreneurs who would be willing to arrange exports through a third country, often without a Government's knowledge. When such cases came before the Committee, it would be important for the Committee to know precisely the legislation or executive orders which had been implemented by the third country in question. He therefore suggested that the Chairman should seek further clarification from the States concerned.

Mr. PEÑALOSA (Colombia) said that, in order to ensure that States' replies were compatible and comparable, it would be a good idea to prepare a questionnaire and send it to all countries, including those which had already replied to the Secretary-General's note. The questionnaire should contain a series of very clear and precise points indicating the kinds of replies the Committee wished to receive. Such a questionnaire would be particularly useful to countries which were not fully aware of the action they must take in order to implement resolution 661 (1990).

Mr. WILKINSON (United States of America) said that he supported the early preparation of an appropriate questionnaire which could serve as the basis for further communications from the Secretary-General.

The CHAIRMAN said that she would consult the members of the Committee with a view to preparing a suitable draft dealing with the ways in which States might be requested to provide more information.

If she heard no objection, she would take it that the Committee wished to take note of the further report of the Secretary-General in document S/21641.

It was so decided.

CONSULTATIONS UNDER ARTICLE 50 (S/21576, S/21614; S/AC.25/1990/CRP.4; S/AC.25/1990/WP.1)

The CHAIRMAN recalled that, at the request of the Security Council, the

Committee, at its 3rd meeting, had begun considering, in the context of Article 50 of the Charter of the United Nations, the communications received from States which found themselves confronted with special economic problems arising from the implementation of the measures contained in Council resolution 661 (1990). At that meeting, the Committee had had before it communications from Bulgaria (S/21576) and Jordan (S/AC.25/1990/CRP.3, subsequently issued under the symbol S/21614), and had heard statements by the representatives of those States. At the current meeting, the Committee had before it a letter dated 27 August 1990 from the Permanent Representative of Jordan to the United Nations addressed to the Chairman (S/AC.25/1990/CRP.4), providing additional information submitted in the light of the questions he had been asked at the Committee's 3rd meeting.

At its 3rd meeting, the Committee had reached an understanding that the Chairman, taking into account the additional information to be provided by Jordan, would prepare a working paper on the Jordanian case for the Committee's consideration. The Committee currently had before it the working paper prepared by the Chairman in accordance with that understanding (S/AC.25/1990/WP/1) which contained elements for inclusion in the Committee's recommendation to the Security Council.

Mr. AL-ASHTAL (Yemen) said that in principle he supported the need to deal with the case of Jordan in a special draft resolution. At the same time, the Committee should prepare a draft resolution containing criteria for dealing with other countries which might request the Secretary-General to consider their cases in the light of Article 50 of the Charter.

The working paper (S/AC.25/1990/WP/1) should take account of the letter dated 27 August 1990 from the Permanent Representative of Jordan (S/AC.25/1990/CRP.4), in which Jordan requested that it should be granted a waiver on an interim basis to continue importing oil and oil derivatives from Iraq. Its requests for assistance in dealing with the massive influx of persons from Iraq and Kuwait, contained in paragraphs 4 (a), (b) and (c) of the letter, were not exaggerated, and the Committee should take them into account in its recommendations to the Security Council regarding requests for assistance under Article 50 of the Charter.

There were special agreements between Jordan and Iraq whereby Jordan received oil and oil derivatives from Iraq but did not provide immediate payment for them. The fact that Jordan received oil from Iraq did not mean that Iraq would receive payment in the form of money, since what was involved was not the selling of oil but the provision of assistance. Therefore, a waiver which permitted Jordan to import oil and oil derivatives from Iraq without providing payment for them would not constitute a violation of resolution 661 (1990).

Mr. GOSHU (Ethiopia) said it was obviously unfortunate that the measures contained in resolution 661 (1990) had had adverse effects on the economies of

other countries. The Committee should ensure that Iraq did not make use of the plight of countries experiencing economic hardships as a result of their implementation of the sanctions as an opportunity to circumvent the sanctions.

His delegation reiterated its support for measures to alleviate Jordan's predicament and endorsed the working paper (S/AC.25/1990/WP/1). Ethiopia was prepared to review other requests on a case-by-case basis and to lend its support as and when appropriate. However, it was opposed to the idea of waivers, which some countries had requested, since they could lead to the creation of loopholes. Ethiopia was in agreement with the general principle of working to find ways and means of alleviating the impact of the sanctions, such as through the replacement of oil and oil derivatives or the provision of alternative means of financial support.

Mr. RICHARDSON (United Kingdom) said he agreed with the representative of Yemen that Jordan constituted a special case. The United Kingdom had granted an immediate sum of \$1 million to assist Jordan. The question of waivers would always be difficult and, while his delegation appreciated Jordan's particularly difficult circumstances, the Committee had to bear in mind the requests of other countries already before it and those it would receive in the future. The Committee should therefore consider very carefully the recommendations which it wished to make to the Security Council.

Mr. KIRSCH (Canada) said that the situation in Jordan deserved special consideration under Article 50 of the Charter because of the special economic problems which that country was encountering. The Canadian Government had announced that it would provide up to \$2.5 million in emergency assistance to Jordan in order to help alleviate the plight of refugees who had fled into Jordan from Iraq and Kuwait. The international community should co-ordinate relief measures for all those affected.

He suggested that the Committee should postpone its discussion of the working paper to another meeting in order to give its members time to hold consultations. Because of the uniqueness of the Jordanian situation, the measures which could be put into effect for Jordan should not necessarily be considered as a model when the Committee considered other requests under Article 50 of the Charter. Canada was in favour of establishing criteria which could be used for other situations.

Mr. ALARCON de QUESADA (Cuba) said that the case of Jordan should be considered on an exceptional basis, separately from other requests for assistance under Article 50 of the Charter. Because of its geographic situation, Jordan was experiencing particular difficulties. In its resolution 664 (1990), the Security Council demanded that Iraq should permit the immediate departure from Kuwait and Iraq of the nationals of third countries. However, the Council had expressed no concern about nationals who had left Iraq and Kuwait without having been able to

return home. The tens of thousands of refugees trapped in Jordan were an additional burden on the Jordanian people and State, and the Council should take action to assist them.

His delegation agreed with the representative of Yemen that the working paper (S/AC.25/1990/WP/1) did not yet satisfy some of the specific requests made by Jordan. In particular, the Committee should approve Jordan's request for a waiver which would enable it to continue importing oil and oil derivatives from Iraq.

The impact of Security Council decisions should not be underestimated. Since the adoption of resolution 661 (1990), many third world countries had been experiencing severe economic difficulties while other countries and certain businesses had been making millions of dollars in profits as a result of the sanctions. The Council should urge those countries which were profiting from the sanctions to allocate a portion of their earnings to assist Jordan in complying with the sanctions and to save it from destruction. Jordan should not disappear because of the Council's moral inability to deal with the fact that it must adopt decisions which were truly cohesive, and the Council should therefore adopt a resolution on assistance to that country. The international community must take specific action in order to provide humanitarian aid to the tens of thousands of refugees whose presence in Jordan created enormous difficulties for that country.

Mr. SERV (Côte d'Ivoire) said that the case of Jordan exemplified the kind of dilemma with which the Security Council was confronted. The Committee must find a way to reconcile the implementation of resolution 661 (1990) with the need of countries like Jordan to survive. In agreeing to give special consideration to Jordan's request, the Committee should not reject the idea of a case-by-case review based on strict criteria. Such a review should be approached with caution so as not to strip the resolution of its meaning. He shared the views expressed by the representative of Yemen and agreed with the representative of Canada that the members of the Committee should be given time to study the draft working paper (S/AC.25/1990/WP/1) before beginning to discuss it.

Mr. LUKABU KHABOUJI N'ZAJI (Zaire) said that if the Committee were to authorize Jordan to continue importing oil from Iraq, that would constitute a breach of the sanctions. Jordan's case could not be viewed as a model for other countries since Jordan was a neighbour of Iraq and derived the bulk of its revenues from trade with that country. If the sanctions were to be effective, each member of the international community would have to make certain sacrifices. To be sure, Jordan's difficulties were greater than those of other countries. He doubted, however, whether the Committee should request the Secretary-General to convene a pledging conference and establish a fund for the purpose of assisting Jordan, as suggested in paragraphs 4 and 5 of the draft working paper. Jordan was not the only country which had been severely affected by the implementation of sanctions.

Higher oil prices would have serious consequences for the least developed countries, which could not cope with them as easily as the oil-exporting and transit countries.

Mr. WILKINSON (United States of America) said that he associated himself with most of the comments made thus far and placed on record his Government's recognition of the special difficulties faced by Jordan. Clearly, the implementation of sanctions was a prerequisite for any country which wished to be given consideration under Article 50 of the Charter. Moreover, any measures which were adopted to assist countries should not undermine the purpose of the sanctions. As the representative of Canada had observed, the situation of the refugees called for massive international assistance. His Government was considering urgent measures to contribute to the efforts already under way.

Mr. STEFANINI (France) said that he shared the views expressed by the representatives of the United Kingdom, Canada, Zaire and Côte d'Ivoire. Jordan's case should be treated as separate from those of other countries because of its geographical location and economic ties to Iraq. He welcomed the draft working paper and agreed with the representative of the United Kingdom that it should be given careful consideration.

Mr. YU Mengjia (China) said that his Government sympathized with Jordan's predicament and felt that its case should be handled on an emergency basis. It was to be hoped that bilateral aid would be forthcoming soon; multilateral assistance should be fully co-ordinated. On the basis of a preliminary study, the working paper appeared to contain important elements; however, further consultations would be necessary.

Mr. FLOREAN (Romania) said that he joined other speakers in expressing support for the Jordanian request. His country also faced serious consequences as a result of the implementation of sanctions; he therefore shared Jordan's concerns. Further consultations would allow all States to clarify their positions with a view to finding the best solution. The implementation of resolution 661 (1990) must be approached in a spirit of solidarity. The Committee should adopt the recommendation contained in the draft working paper concerning the establishment of a framework for dealing with the problems of all affected countries. Such an approach would be beneficial because it would ensure non-discriminatory treatment for all States, thus facilitating the work of the Committee.

Mr. REDZUAN (Malaysia) said that while Jordan certainly represented a special case, its request should be examined in greater detail. He shared the reservations expressed by the representative of Zaire with regard to the convening of a special conference. Further consultations would be needed in order to formulate the criteria which should be applied to such cases.

Mr. LUZINSKIY (Union of Soviet Socialist Republics) said that he agreed with other speakers concerning the need for careful study of requests from States for consideration under Article 50 of the Charter. His Government also sympathized with the difficulties which Jordan was experiencing due to its former close relations with Iraq and Kuwait and to the appearance in its territory of large numbers of refugees. The draft working paper could serve as a basis for the work of the Committee. His delegation would study it carefully and would be available for further consultations.

Mr. PEÑALOSA (Colombia) concurred with the general view that the case of Jordan merited special attention from the Committee. As the representative of Cuba had accurately observed, some countries were severely affected by the implementation of sanctions, while others were reaping high profits. It would therefore be appropriate for those oil-exporting countries which were benefiting from the current situation to make contributions to a special fund.

Mr. RICHARDSON (United Kingdom), referring to the remarks by the Yemeni representative concerning paragraphs 4 (a) and (b) of the Jordanian letter (S/AC.25/1990/CRP.4), said that resolution 661 (1990) did not deal with the movement of persons, but rather the movement of goods in commercial transactions. As the resolution could hardly have been intended to prevent persons from entering Jordan, there seemed to be no cause for a waiver in that connection, or for concern on the Committee's part.

Mr. ALARCON de QUESADA (Cuba), said that extended consultations, focusing primarily on the waivers requested in S/AC.25/1990/CRP.4 (para.4), would only further delay adoption of the draft resolution before the Committee and, more importantly, genuine action to assist Jordan. Moreover, it was not the first time that the United Nations had adopted resolutions calling for pledging conferences and the establishment of special funds. He recalled the amount of time which had passed before even minimal assistance could be provided to some of the smaller Caribbean States during the most recent hurricane. It might be more expeditious if the Committee met urgently with the Permanent Representative of Jordan in order to clarify certain portions of the Jordanian letter, particularly the aspects questioned by the delegation of the United Kingdom. It should also be noted that even if all Member States were as generous as Canada had been in offering assistance to Jordan, the total would barely compensate Jordan's losses in respect of remittances from Iraq and Kuwait.

Mr. AL-ASHTAL (Yemen) said he agreed with the representative of the United Kingdom that paragraph 4 (a) of the Jordanian letter required further explanation. However, it was clear from paragraph 4 (b) that hundreds of thousands of refugees were not able to leave Jordan. The Committee should give further consideration to means of providing air and land transport for those people.

The CHAIRMAN said that she would consult with Committee members on the Jordanian letter and the question would be reconsidered at the earliest possible date. Referring to communications from Bulgaria (S/21576), Yugoslavia (S/21618 and S/21642) and Romania (S/21643), she said that the Committee should establish criteria for dealing with requests under Article 50 of the Charter. The Bureau might act as a working group which would elaborate criteria for the Committee's consideration. If she heard no objection, she would take it that the Committee agreed to her suggestion.

It was so decided.

Mr. AL-ASHTAL (Yemen) said that his delegation wished to reiterate its request for interpretation from the Legal Counsel concerning the position of the United States on the implementation of the resolution with respect to Iraqi and Kuwaiti vessels. As Aden was a major port, Yemen required guidelines on providing food, water and other services to vessels. It would also appreciate clarification on the provision of medicine and food in humanitarian circumstances - a point on which States seemed to have widely differing interpretations.

The CHAIRMAN invited the Permanent Representative of Yemen to submit a written request to the Committee for consideration by the Legal Counsel.

Mr. RICHARDSON (United Kingdom) noted that a number of States were misinterpreting resolution 661 (1990) to mean that all shipments of foodstuffs were exempt when, in fact, the resolution clearly specified humanitarian circumstances as grounds for exceptions. His delegation would welcome further discussion of the question at the Committee's 5th meeting.

Mr. WILKINSON (United States of America) expressed concern that certain interpretations concerning foodstuffs might undermine the very purpose of the resolution. His delegation would appreciate it if Committee members were informed immediately whenever interpretations were requested. Members must have time to consider such requests and comment on them. The Legal Counsel must have as much information as possible on which to base his deliberations.

Mr. KIRSCH (Canada) noted that paragraph 3 (c) of resolution 661 (1990) did not stipulate a general exemption for foodstuffs: but rather specified humanitarian circumstances. In future, the determination as to whether humanitarian circumstances existed should not be made by a concerned party, nor should it be made unilaterally. Rather, that determination must be made on the basis of objective criteria, preferably by an unbiased international food relief agency. The related question of how foodstuffs should be transported should also be determined by an international organization.

Mr. STEFANINI (France) stressed that embargo was the rule in implementing resolution 661 (1990). Exceptions for humanitarian circumstances must be reported to the Committee. They must be interpreted in the strict sense and they must be



sufficiently grave - for example, severe shortages affecting the most vulnerable population groups. As his delegation had indicated in its note verbale (S/21655), exceptions relating to medical and food supplies would be subject to prior approval by the French authorities.

Mr. ALARCON de QUESADA (Cuba) said he agreed with the representative of Canada that the existence of humanitarian circumstances should not be determined unilaterally. Such a determination must be made by the Security Council alone. Committee members would recall that in the negotiations leading to the adoption of resolution 661 (1990), the word "special" had been deleted before "humanitarian circumstances", making the formulation less restrictive. "Humanitarian circumstances" should therefore be construed in the larger context of the basic human right to decent nourishment. Exceptions must be made not only where foodstuffs were necessary in order to avert death, but also in instances where withholding food could have long-term effects - on the growth or mental development of children for example.

Mr. SERY (Côte d'Ivoire) said that even the Legal Counsel might not be able to provide a more objective definition of "humanitarian circumstances", because the term had political implications. Some happy medium must be found between political concerns and the needs of the nationals of certain States in the definition of humanitarian circumstances, based, perhaps, on criteria elaborated by the Committee's working group, with input from international humanitarian agencies.

Ms. KALKKU (Finland) said that the Committee must find a means of obtaining accurate information from Iraq and Kuwait on the real situation concerning foodstuffs. Relevant United Nations organizations in the region might be of assistance in that regard.

Mr. RICHARDSON (United Kingdom) said that he did not agree with the remarks by the Cuban representative. If the Security Council had intended to exempt foodstuffs systematically, it would not have included the proviso "in humanitarian circumstances". As it implied a variation of resolution 662 (1990), the point raised by Cuba should be taken up in the Security Council proper. A distinction must be drawn between matters on which the Committee was, and was not, competent to deliberate.

Mr. ALARCON de QUESADA (Cuba) indicated that the Committee could provide guidance to the Security Council on the interpretation of the term "humanitarian circumstances". Certain basic humanitarian considerations were inviolable, irrespective of war or peace. Foodstuffs might well be imported for purposes other than nourishment, such as processing for export, and that would not constitute a humanitarian circumstance. However, the well-being of innocent persons or the future of children must not be compromised by the implementation of the resolution.

Mr. AL-ALFI (Yemen) said that his delegation had raised the questions concerning food and medical supplies for purposes of clarification only. It was not seeking individual interpretations by delegations, but rather a consensus by the Committee or, if appropriate, the Security Council or the Legal Counsel. His delegation did not wish to violate the provisions of resolution 661 (1990) and its questions had been formulated in that spirit.

The CHAIRMAN said that, if she heard no objection, the question of foodstuffs would be placed on the agenda of the Committee's 5th meeting.

It was so decided.

#### OTHER MATTERS

The CHAIRMAN recalled that the Committee had received a communication from the Netherlands which had been circulated, together with a draft letter to the Legal Counsel, in document S/AC.25/1990/NOTE 1. The reply from the Office of Legal Affairs was before the Committee in document S/AC.25/1990/NOTE 2. If she heard no objection, she would take it that the Committee wished to defer the matter to a later meeting, at which time the reply from the Office of Legal Affairs would be forwarded to the Permanent Representative of the Netherlands.

It was so decided.

The CHAIRMAN drew attention to document S/AC.25/1990/COMM.2, containing two letters from the Permanent Representative of Turkey addressed to the Chairman, and to document S/AC.25/1990/COMM.3, containing a letter from the Permanent Representative of Yugoslavia addressed to the Chairman. If she heard no objection, she would take it that the Committee decided to refer those communications to the Legal Counsel for his comments.

It was so decided.

Mr. ALARCON de QUESADA (Cuba) said that he was bringing to the Committee's attention a matter relating to his country's implementation of resolution 661 (1990). On 25 August 1990, an Iraqi vessel containing 130,900 metric tons of light crude oil from Iraq had been unloaded at the port of Matanzas, Cuba. That operation had been carried out pursuant to an agreement between a Soviet, a Cuban and an Ecuadorian enterprise which had been signed on 25 January 1990, hence well before the events currently unfolding in the Middle East. Furthermore, the cargo had been loaded in Turkey on 31 July 1990, before the invasion of Kuwait. It was under those circumstances that the parties to the agreement had decided on 3 August 1990 to proceed with the shipment to Cuba and that his Government had authorized the unloading of the cargo.

#### E. Provisional Summary Record of the 5th Meeting (closed), 31 August 1990

Source: S/AC.25/SR.5, 12 September 1990

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Chairman:

Ms. RASI

(Finland)

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Review of the implementation of Security Council resolution 661 (1990)

Consultations under Article 50 of the Charter of the United Nations

Foodstuffs and delivery of foodstuffs and medical supplies: Security Council resolution 661 (1990), paragraph 3 (c)

Other matters

### ADOPTION OF THE AGENDA

The agenda was adopted.

### REVIEW OF THE IMPLEMENTATION OF SECURITY COUNCIL RESOLUTION 661 (1990)

The CHAIRMAN drew attention to documents S/21652, S/21659, S/21661, S/21667, S/21668, S/21669, S/21671, S/21672, S/21676, S/21681 and S/21682, containing replies to the Secretary-General's note verbale of 8 August 1990 from Togo, Brunei Darussalam, Zimbabwe, Antigua and Barbuda, Belize, Honduras, Morocco, Nicaragua, Cyprus, Mauritius and Mongolia, respectively.

### CONSULTATIONS UNDER ARTICLE 50 OF THE CHARTER OF THE UNITED NATIONS

The CHAIRMAN recalled the agreement reached at the previous meeting that she should continue consultations with members of the Committee with regard to the case of Jordan. As some members had requested more time, those consultations were continuing.

She drew attention to document S/21649, containing the text of a note verbale from the Permanent Representative of Tunisia to the United Nations addressed to the Secretary-General.

With regard to the requests by Romania and Yugoslavia for consultations under Article 50 of the Charter, contained in documents S/21643 and S/21642, respectively, the representatives of those two States had asked to be heard by the Committee. If she heard no objection, she would take it that the Committee agreed to invite those countries to address it at a later meeting.

It was so decided.

### FOODSTUFFS AND DELIVERY OF FOODSTUFFS AND MEDICAL SUPPLIES: SECURITY COUNCIL RESOLUTION 661 (1990), PARAGRAPH 3 (c)

The CHAIRMAN recalled that at its fourth meeting, the Committee had begun a discussion of the question of foodstuffs and delivery of foodstuffs and medical supplies to Iraq and Kuwait. Members had expressed the view that the Committee needed accurate information on the situation in those two countries, particularly with regard to foodstuffs. In that connection, it had been suggested that the

assistance of the relevant United Nations specialized agencies, as well as humanitarian organizations in the field, and particularly, the International Committee of the Red Cross, might be sought with a view to obtaining objective and impartial information.

Mr. AL-ASHTAL (Yemen) drew attention to document S/AC.25/1990/COMM.5, containing a letter which he had addressed to the Chairman. The second paragraph requested clarification of the expression "humanitarian circumstances" contained in paragraph 3 (c) of Security Council resolution 661 (1990). He was not opposed to the idea of seeking objective and impartial information from international humanitarian organizations. However, at the current stage, the Committee should concentrate on a broad exchange of views among its members and on obtaining the advice of the Legal Counsel as to the exact meaning of the paragraph, with a view to reaching a common position. Currently, interpretations varied from one country to another, and if no decision was taken, a situation might arise in which countries could accuse each other of violating the sanctions.

On humanitarian grounds, the Iraqi and Kuwaiti peoples must not be allowed to face the prospect of famine. They must be able to obtain the necessary foodstuffs, such as cereals, cooking oil and milk for children. The Committee did not require further information from international humanitarian organizations in order to exempt those items from the sanctions, because food was a basic requirement. It was, however, necessary to ensure that foodstuffs did not become the object of commercial transactions which might be in violation of the embargo.

Mr. KIRSCH (Canada) said that even if the suggestion made by the representative of Yemen was adopted, it would not entirely solve the problem. It was difficult to take decisions on questions such as the delivery of foodstuffs without knowing what the situation was in Iraq. No unilateral determination should be made as to whether or not humanitarian circumstances existed. At the previous meeting, his delegation had suggested that efforts should be made to establish unbiased criteria. Those discussions were still in the preliminary stages.

The Committee should keep the situation in Iraq and Kuwait under continuous review so as to be able to determine when and if the situation justified the delivery of foodstuffs. It should be possible to obtain that information from a variety of sources, especially the international humanitarian organizations which had expertise in relief operations. If and when it was determined that food relief was necessary, those organizations should be entrusted with providing it.

Mr. LOZINSKIY (Union of Soviet Socialist Republics) said that the representative of Yemen had raised a question which was of fundamental importance for the Committee and the Security Council with regard to ensuring the implementation of sanctions.

He agreed with the representative of Canada that the current priority was to

define general principles. However, an impression was being created by the international media that the Security Council intended to use starvation as a weapon. Thus, it was very important to make it clear that the Security Council would resort only to the measures provided for in the Charter. Foodstuffs should be supplied to Iraq on the basis of humanitarian considerations, without waiting for a disaster to occur. He concurred with the view that the international humanitarian organizations could play an important role in that respect.

Mr. WILKINSON (United States of America) said the wording of paragraph 3 (c) of resolution 661 made it clear that medical supplies and foodstuffs were exempted. He found it difficult to comprehend the references by other speakers to the need for an urgent decision, since his delegation had received no firsthand information that food supplies were growing scarce in Iraq. In a public statement delivered in Baghdad earlier in the month, the Iraqi Minister of Trade had stated that Iraq had large reserves of foodstuffs, including record quantities of wheat. That information should be taken into account.

His delegation's remarks should not, however, be construed as implying that the question was not an important one: it was, and it should be addressed deliberately and systematically.

Ms. KALKKU (Finland) said that the resolution must not be interpreted so strictly that famine would result. The shipment of foodstuffs must be resumed when humanitarian circumstances required, and a determination had to be made as to what foodstuffs should be shipped, and when. Appropriate guidelines should be established with the help of the International Committee of the Red Cross and other organizations already present in Kuwait and Iraq. When it had the necessary information, the Committee itself must determine how to proceed. The Committee must also consider how foodstuffs were to be shipped, and it must have specific up-to-date knowledge in order to advise States inquiring whether a food shipment was acceptable or not.

Mr. YU Mengjia (China) said that the resolution was clearly not intended to punish the inhabitants of Iraq and Kuwait, who, everyone agreed, must not be left to starve. The Committee should therefore ask specific organizations, such as the International Committee of the Red Cross, to investigate the situation and make appropriate recommendations.

Mr. RICHARDSON (United Kingdom) said that no one favoured allowing the inhabitants of Kuwait and Iraq to starve. However, the Committee did not have the facts about the available food reserves, which according to Iraq's Minister of Trade were considerable. He therefore endorsed the Canadian proposal concerning the need for a monitoring mechanism, information-gathering and review procedures and consideration of how food could be shipped and distributed. The point was to

make it clear that the Committee was monitoring the food situation and was prepared to act when sufficient information was available.

Mr. SERY (Côte d'Ivoire) said that the Committee should turn to the many humanitarian organizations that were available for help in defining terms and collecting information. No one wanted a famine in the area. Citizens should not be made to pay for the misdeeds of their Governments. Existing channels could be used to implement and co-ordinate food assistance.

Mr. ALARCON de QUESADA (Cuba) said that the Security Council had very clearly excepted food and medicine from the embargo. Under the terms of the resolution, there was no political, legal or moral authority to inflict hunger on the population of Iraq and Kuwait. He recalled in that connection that the word "special" preceding "humanitarian circumstances" had been deleted before the resolution was adopted. Reports about the food and medical situation in Iraq and Kuwait differed, but he noted that on 23 August the President of the International Committee of the Red Cross had warned against a total blockade as being contrary to international law and had stated his opposition to any measures that would deprive Iraq and Kuwait of medical supplies and food, stressing that the situation there was already very difficult. If indeed the situation had been difficult the week before, it presumably would be even worse now. The Security Council could therefore not ignore a situation it had created. Under no circumstances could decisions on the implementation of the resolution be left to military commanders in the field. The only responsible approach was to come to an agreement on how paragraph 3 (c) was to be interpreted.

Mr. REDZUAN (Malaysia) said there was a clear consensus that famine must not be used as a weapon to implement the resolution. He endorsed the suggestions made by the representatives of the United Kingdom and the Soviet Union, and said that the Committee should inform the media what its procedures would be.

Mr. AL-ASHTAL (Yemen) said he assumed everyone agreed that the Security Council had never intended to use starvation as a weapon to implement the resolution. The Committee must not punish innocent civilian populations. There must be some agreement as to what humanitarian circumstances meant. He agreed that humanitarian agencies should provide information, but noted that time was of the essence. The implications of the embargo must be addressed with the same urgency as the embargo itself had been addressed. The Security Council had a responsibility to obviate the difficulties that might arise from an extremely strict interpretation of the resolution.

Countries had the right to provide foodstuffs to the peoples of Iraq and Kuwait, and should not have to wait for an international organization to undertake such action on their behalf. The Committee had to take decisions which would be in keeping with the special nature of the situation, and until the Legal Counsel

issued an advisory opinion, the Chairman should urge international organizations to provide the Committee with the necessary reports on the food situation in Iraq so that no delegation would have to rely on private sources for its information.

Yemen supported the view expressed by the representative of Malaysia that the Chairman should inform world public opinion that the Committee rejected the use of a policy of starvation in order to achieve the objectives of Security Council resolution 661 (1990). Further, the Chairman should emphasize that the Committee did not hold the civilian populations of Iraq and Kuwait in any way responsible for what had taken place. Such clarification would indicate to world public opinion that the Security Council was addressing the issue in a serious and humanitarian manner.

Mr. ROCHEREAU DE LA SABLIERE (France) said that the Committee did not yet have sufficient information to respond to the questions raised at the current meeting. The representative of Canada had suggested that the Committee should continue to study the matter in order to be able to make an assessment, based on data provided by specialized agencies or non-governmental organizations, of the circumstances which would justify exceptions to the embargo for humanitarian reasons. The suggestion, raised by the representatives of Canada and the Soviet Union, that gifts of foodstuffs should be channelled to Iraq and Kuwait through international agencies merited further consideration.

Mr. LOZINSKIY (Union of Soviet Socialist Republics) said that the Committee must take a specific position, as soon as possible, regarding general principles to guide it in its consideration of the question of deliveries of foodstuffs to Iraq. In particular, the Committee must consider the question of providing food to foreign nationals in Iraq, and the Committee should respond to Yugoslavia's request to be allowed to continue shipping of food for its workers in Iraq.

The entry into force of the provision of Security Council resolution 661 (1990) on humanitarian circumstances warranting the delivery of foodstuffs to Iraq and Kuwait was not an issue to be decided by the Committee, since that provision had entered into force at the time the Council adopted the resolution.

The representative of France had implied that the Soviet Union had suggested that gifts and other types of emergency assistance should be channelled to Iraq and Kuwait through international agencies. However, his delegation had merely wished to point out that international agencies had a special role to play in providing information about the actual food situation in Iraq and Kuwait and could notify the Committee when foodstuffs intended to meet the needs of the civilian populations of Iraq and Kuwait were being used for purposes which might be in contravention of Security Council resolution 661 (1990).

Mr. FLOREAN (Romania) said that, at the time of the adoption of Security Council resolution 661 (1990), a number of delegations had taken a firm stand on the question of the delivery of foodstuffs to Iraq and Kuwait and that, in their replies to the Secretary-General's note SCPC/7/90(1), States were attempting to clarify their position on that matter. For example, in its note verbale of 24 August 1990 (S/21655), France indicated that the only exceptions to the absolute ban on the exit of products from French territory to Iraq and Kuwait were exports of medical products and all food products intended for humanitarian purposes. That measure was probably of interest to other States.

The situation of third State nationals in Iraq and Kuwait who were awaiting repatriation was another important aspect of the question of the delivery of emergency assistance to those countries, and the Committee must act within the framework established by the Security Council and the Charter of the United Nations. If any interpretations of Security Council resolutions were required, the Committee should refer to the Legal Counsel or to the Security Council itself.

Mr. KIRSCH (Canada) said that, in order to give concrete form to the various proposals which had been made at the meeting, it would be useful if consultations could be held under the auspices of the Chairman.

The CHAIRMAN said it was her understanding that there was wide agreement within the Committee that it required impartial information about the actual situation in Iraq and Kuwait. She would consult the Secretariat in order to find out ways of establishing appropriate mechanisms for providing prompt and reliable information from the region.

OTHER MATTERS (S/AC.25/1990/COMM.1-4 and 6; S/AC.25/1990/NOTE/1 and 3)

The CHAIRMAN said that she had received a letter dated 30 August 1990 from the Permanent Representative of the United Kingdom (S/AC.25/1990/COMM.6). In her view, the matter raised in that letter did not contravene the provisions of Security Council resolution 661 (1990).

Mr. RICHARDSON (United Kingdom) said that, during the next few weeks, the Committee would have to deal with many problems similar to the one referred to in the letter from the Permanent Representative of the United Kingdom. It seemed possible that the wives and children of British nationals would have to leave Iraq on an Iraqi Airways carrier, and the authorities of a number of countries en route which the United Kingdom had approached for overflight clearance had shown reluctance to grant it on the grounds that to do so would run counter to their obligations under Security Council 661 (1990). It was the clear understanding of the Government of the United Kingdom that flights carrying only passengers were not in contravention of the provisions of Council resolution 661 (1990).

Mr. ALARCON de QUESADA (Cuba) said that, while the Committee should agree that, in the case referred to by the representative of the United Kingdom, there



was no question of a violation of Security Council resolution 661 (1990), it should be aware that there were other aspects of that resolution on which many countries continued to have doubts.

Mr. SERY (Côte d'Ivoire) suggested that, in her statement to the press, the Chairman should refer not only to the United Kingdom but should make a general point. It would be advisable to have a mechanism which would be able to resolve similar problems for all countries.

Mr. ALARCON de QUESADA (Cuba) said that, in his letter, the Permanent Representative of the United Kingdom had indicated that it was the understanding of the British Government that Iraqi planes evacuating foreign nationals would carry only passengers. The Committee's endorsement of the United Kingdom's understanding should not, however, imply that such flights should carry passengers only. For example, on their return trips, such planes might carry any goods, such as food and medical supplies, not prohibited under Security Council resolution 661 (1990).

Mr. RICHARDSON said that his delegation agreed with the representative of Côte d'Ivoire that the problem faced by the United Kingdom was one which affected many other countries. It was quite possible that whatever flight carried British women and children out of Iraq might also carry other foreign nationals.

Mr. WILKINSON (United States of America) said that his delegation was in full agreement with the Committee's endorsement of the view expressed in the letter from the Permanent Representative of the United Kingdom. However, while it seemed appropriate for the Committee to respond to the United Kingdom, there was no need for the Chairman to make a public statement or hold a press conference on the subject.

The CHAIRMAN said that, if she heard no objection, she would take it that the Committee wished to endorse the understanding of the Government of the United Kingdom that overflights carrying only passengers - foreign women and children currently detained in Iraq - would not be in contravention of Security Council resolution 661 (1990).

It was so decided.

The CHAIRMAN said that, at its fourth meeting, the Committee had deferred consideration of the reply, dated 27 August 1990, of the Legal Counsel (S/AC.25/1990/NOTE/2), regarding the matter raised in a letter dated 16 August 1990 from the Permanent Representative of the Netherlands (S/AC.25/1990/COMM.1). She suggested that the reply of the Office of Legal Affairs should be transmitted to the Permanent Representative of the Netherlands and, if she heard no objection, she would take it that the Committee accepted her suggestion.

It was so decided.

The CHAIRMAN said that, pursuant to a decision taken at the Committee's fourth meeting, the Chairman had circulated, under the symbol S/AC.25/1990/NOTE/3,

the text of two letters dated 21 and 22 August 1990, respectively, from the Permanent Representative of Turkey (S/AC.25/1990/COMM.2) and a letter dated 27 August 1990 from the Permanent Representative of Yugoslavia (S/AC.25/1990/COMM.3), together with the draft of a letter requesting the views of the Legal Counsel on the matters contained in the aforementioned letters. The note by the Chairman indicated that, unless an objection was raised by 10 a.m. on Friday, 31 August 1990, the letter would be forwarded as drafted to the Legal Counsel, together with the texts of the letters from Turkey and Yugoslavia. An objection had been raised by one member of the Committee, and she therefore requested guidance from the Committee.

Mr. WILKINSON (United States of America) said that his and other delegations were of the opinion that the Turkish and Yugoslav letters merited the Committee's very serious consideration but did not require a legal opinion. One Turkish letter dealt with a question of fact which required a discussion between the Parties concerned. The other Turkish letter concerned an opinion with which the United States agreed. The letter from Yugoslavia dealt with the supply of food to Yugoslav workers in Iraq, and his delegation wished to consider the question further in the light of the earlier discussion on the delivery of foodstuffs to Iraq and also with reference to the question of the evacuation of foreign nationals.

The CHAIRMAN said that, if she heard no objection, she would take it that the Committee agreed that further consultations were in order and that the Committee should take up the matter at its next meeting.

It was so decided.

The CHAIRMAN said that the Committee had before it a letter (S/AC.25/1990/COMM.4) dated 27 August 1990 from the Permanent Representative of Cuba addressed to the Chairman of the Committee, the subject of which had been raised by the representative of Cuba at the previous meeting. If she heard no objection, she would take it that the Committee wished to take note of the letter.

It was so decided.

#### **F. Provisional Summary Record of the 6th Meeting (closed), 6 September 1990**

*Source: S/AC.25/SR.6, 8 October 1990*

Chairman:

Ms. RASI

(Finland)

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**Adoption of the agenda**

**Review of the implementation of Security Council resolution 661 (1990)**

Consultations under Article 50 of the Charter

Foodstuffs and delivery of foodstuffs: S/RES/661 (1990), paragraph 3 (c)

ADOPTION OF THE AGENDA

The agenda was adopted.

REVIEW OF THE IMPLEMENTATION OF SECURITY COUNCIL RESOLUTION 661 (1990)  
S/AC.25/1990/WP.2)

The CHAIRMAN said that since the previous meeting replies to the Secretary-General's notes verbales of 8 August and 27 August 1990 had been received from 47 more Member States. She invited the members of the Committee to submit to her as soon as possible their comments on the questionnaire concerning national measures taken in implementation of Security Council resolution 661 (1990) which the Committee would send to States. (S/AC.25/WP.2).

Mr. RICHARDSON (United Kingdom) said that the questionnaire was clear and simple and provided a very good basis. It should, however, also focus on paragraphs 5 and 9 (a) of Security Council resolution 661 (1990) relating to contracts entered into before the date of the resolution and protection of the assets of the legitimate Government of Kuwait.

The CHAIRMAN said she would continue consultations on that matter with the members of the Committee.

CONSULTATIONS UNDER ARTICLE 50 OF THE CHARTER (S/21686, S/21710, S/21711, S/21712;  
S/AC.25/1990/WP.1/Rev.1; S/AC.25/1990/COMM.7)

The CHAIRMAN drew attention to the communications received under Article 50 of the Charter from four States: Lebanon (S/21786); Sri Lanka (S/21710); India (S/21711); and the Philippines (S/21712).

Also, document S/AC.25/1990/WP.1/Rev.1 contained the revised draft elements for a working paper on recommendations to be made by the Committee to the Security Council in instances relating to requests for assistance under Article 50. The members of the Committee also had before them document S/AC.25/1990/COMM.7, which contained the text of a letter from the Deputy Representative of the United States addressed to the Chairman. The members of the Committee should formulate their comments as soon as possible because she would like the recommendations to the Security Council to be ready by the beginning, or in the middle, of the following week.

Mr. AL-ALFI (Yemen) said that interest in the situation in Jordan seemed to be waning. If that country's plight was not to be further exacerbated, the Committee should immediately take a concrete decision on the recommendations, submitted in the form of a draft resolution, that it would make to the Security Council (S/AC.25/1990/WP.1/Rev.1), thereby demonstrating its seriousness to the many countries that expected much from its work. He would also like to know, in

that connection, if document S/AC.25/1990/COMM.7 meant that the United States wanted more information before adopting any decision on the matter.

Mr. WILKINSON (United States of America) explained that the United States had no wish to delay assistance to Jordan but that such assistance must be apportioned in the light of the information received.

Mr. AL-ALFI (Yemen) proposed that the Committee should therefore consider the draft recommendations immediately with a view to adopting them.

Mr. KIRSCH (Canada) supported that proposal.

Mr. PEÑALOSA (Colombia) also endorsed Yemen's proposal. The Committee had delayed long enough and should take a decision on the question of Jordan immediately, on the understanding that the Security Council would take the final decision.

Mr. TADESSE (Ethiopia) also felt that it was urgent to take a decision on the working paper under consideration because there was no reason to prolong the agony of the population. As for the text itself, he wondered whether paragraph 6 should just refer to the implementation of resolution 661 rather than its "validity", and whether it would not be better to leave it to the Secretary-General's discretion to decide what measures should be taken.

Mr. WILKINSON (United States of America), while welcoming the revised text of the recommendations, said that, in the very near future, he would submit the few suggestions he wished to make, with a view to consultations. For example, the last preambular paragraph referred to "many other States", but the working paper should be confined exclusively to the case of Jordan.

Mr. KIBIDI NGOVUKA (Zaire) felt that the draft recommendations should be adopted quickly, given the special difficulties encountered by Jordan.

Ms. KABA (Côte d'Ivoire) endorsed the revised text but said she would like to have it translated into French before taking a decision on it.

Mr. RICHARDSON (United Kingdom) said he thought that a decision should be taken as soon as possible on the case of Jordan, which, albeit not unique, was special and urgent. His delegation would have some comments to make about the text of the draft recommendations, which, incidentally, it considered very satisfactory, and proposed that all relevant suggestions should be submitted and considered as soon as possible.

Mr. ROCHEREAU DE LA SABLIERE (France) said that the draft recommendations as formulated were satisfactory to his delegation, which could adopt them fairly quickly. The observations made by Yemen concerning the interest in the Committee's work deserved to be taken into consideration, and the various amendments proposed should be incorporated into the text very soon so that it could be adopted. As the representative of Côte d'Ivoire had said, all texts submitted should be distributed in the different languages.

Mr. ALARCON de QUESADA (Cuba) proposed that the Chairman should transmit the working paper to the President of the Security Council, who would distribute it to the members of the Council, and that the members of the Committee, once they had received the text in all the working languages, should continue their consultations and make whatever changes might be necessary, so that the Council might adopt it, perhaps at the beginning of the following week. That would avoid creating the impression of procrastination on a matter whose urgency was obvious.

Mr. YU Mengjia (China) noted that the question had already been considered by the Security Council and by the Committee. In view of the urgency of the situation, no more time should be lost. Also, the views of the members of the Committee and the members of the Security Council should not conflict.

Mr. LOZINSKIY (Union of Soviet Socialist Republics) said that, to the extent that the Committee could help Jordan, it should do so by putting its initiative into concrete form as soon as possible, but that the case of Jordan, however complex and urgent it might be, should not make the Committee forget the plight of other countries, which also deserved its attention. The least the Committee could do for them at the current stage was to express its concern and sympathy. His delegation would therefore ask those delegations that had reservations, albeit understandable ones, concerning the reference to "other States" in the draft recommendations, to make a concession on that point.

Mr. MUNTEANU (Romania) also advocated the immediate adoption of a decision in order to meet as soon as possible the needs of Jordan which, being economically very dependent on Iraq, was experiencing a daily deterioration of its situation. The entire world was looking to the Committee and Romania appreciated the seriousness of Jordan's problems all the more because it was itself severely affected by the sanctions.

The CHAIRMAN asked the members of the Committee to submit their amendments or suggestions to her, preferably before the following day.

Mr. ALARCON de QUESADA (Cuba) said he was sorry the Committee had taken more than two weeks to take a decision on the most serious case, leaving the rest of the world with a very bad impression. He therefore proposed that the Chairman should immediately set a deadline for the submission of suggestions.

The CHAIRMAN said that Friday at 1 p.m. would be the deadline for the submission of amendments.

#### CONSULTATIONS UNDER ARTICLE 50 OF THE CHARTER

The CHAIRMAN said that the Committee would hear the representatives of Yugoslavia and Romania, as had been agreed at the previous meeting. In accordance with past practice, she suggested that the Committee should hear each representative separately and in the order in which the communications had been received.

At the invitation of the Chairman, Mr. Pejić (Yugoslavia) took a place at the Committee table.

The CHAIRMAN said that, since the Security Council had asked the Committee to consider communications received under Article 50 of the Charter, the Committee had before it two letters from the Permanent Representative of Yugoslavia, one addressed to the Secretary-General and the other to the President of the Security Council (S/21618 and S/21642). The Committee's task would be facilitated if it could obtain fuller information from the representative of Yugoslavia.

Mr. PEJIĆ (Yugoslavia) drew attention to a note verbale from the Government of Yugoslavia informing the Security Council of the measures taken to implement paragraphs 3 and 4 of resolution 661 (1990) (S/21618). Yugoslavia had always condemned any breach of international law or use of force against the sovereignty, independence and territorial integrity of a State Member of the United Nations. Nevertheless, in the current crucial phase of its economic reform, the implementation of resolution 661 (1990) would have an extremely negative effect on all aspects of the Yugoslav economy, since Iraq had, over the years, been one of his country's main trading partners. It was already estimated that there would be an immediate loss of \$1.3 billion owing to the non-execution of export contracts already concluded with Iraq and Kuwait, the suspension of Iraqi oil deliveries, the freeze on payments by Iraq and Kuwait for goods and services, the non-payment of financial claims in Iraqi currency and the obligation to purchase oil on the spot market and in other countries at higher prices. Furthermore, if the crisis continued, the potential loss for the period 1991 to 1995 was estimated at \$6 billion. By embarking on a radical programme of economic reform aimed at establishing a full-fledged market economy, liberalizing trade, encouraging foreign investment and ensuring the convertibility of the national currency, the Yugoslav Government had already taken significant steps towards stabilizing the economy. All the positive results achieved at the cost of harsh austerity measures were now threatened.

In such circumstances, Yugoslavia had no other alternative but to turn to the international community and, in particular, the Security Council under Article 50 of the Charter and request that concrete measures should be taken to provide solutions to the problems that his country was encountering. The Council and the Committee should devise concrete measures and mechanisms to ensure that the developing countries, including Yugoslavia, did not bear the cost of implementing the sanctions at a time when they were already shouldering a very heavy external debt burden. Creditors, for example, should demonstrate maximum understanding with regard to debtor countries, which would no doubt be the most seriously affected.

Mr. ALARCON de QUESADA (Cuba) said that the sanctions must not have a

negative impact on States at which they were not aimed, particularly the developing countries, which had already been severely affected in other respects.

He requested that the statement by the representative of Yugoslavia, which contained useful information, should be distributed as a working document to the members of the Committee.

The CHAIRMAN said that the Committee's secretariat would see to it that the text of the statement containing the information provided by the representative of Yugoslavia would be distributed.

Mr. Pejić (Yugoslavia) withdrew.

The CHAIRMAN drew the Committee's attention to a memorandum on the economic and financial impact on Romania resulting from the imposition of restrictions on its economic relations with Iraq and Kuwait (S/21643) and invited the representative of Romania to make a statement, which would facilitate the work of the Committee on that question.

Mr. MUNTEANU (Romania) said that his Government had voted in favour of Security Council resolution 661 (1990) and had declared its determination to implement all the provisions. Romania felt that it was the duty of all States to join in international efforts to combat aggression and ensure respect for international law as a fundamental requirement for normal relations of co-operation among States. On the other hand, the Romanian economy was suffering serious and direct economic and financial damage resulting from the implementation of Security Council resolution 661 (1990). According to current estimates, which were still preliminary, Romania would incur a loss of \$1.2 billion. In addition, account should be taken of the fact that sanctions also had the effect of preventing Iraq from paying its debts to Romania, which amounted to \$1.7 billion. Those figures did not reflect the social consequences which the interruption of trade with Iraq and disturbances in trade with other States had for the living conditions of the Romanian population. For that reason, Romania believed that the Committee should identify solutions to alleviate the great economic difficulties encountered by the most seriously affected countries, which had no control over the impact of the sanctions. The Committee could decide to urge all States to provide immediate financial, material and technical assistance to those countries; it was the moral and legal duty of the entire international community to assist those countries, which, by demonstrating their respect for international law, were seriously affected by measures undertaken against a Member State that did not comply with the basic requirements of the rule of law. His delegation had in mind the elimination of obstacles to loans, additional supplies of oil under more advantageous conditions, better use of oil processing capacities in the countries affected, encouraging the import of the commodities which those countries exported to Iraq and the export of commodities which they could no longer import from Iraq. In

general, the countries affected should be granted more favourable trading conditions and financial treatment. Several solutions had been suggested. His delegation supported the idea of convening a pledging conference for the Member States that were seriously affected. Such a conference could, for example, lead to the establishment of a special fund. Lastly, the Secretary-General, United Nations agencies, particularly the financial agencies and other intergovernmental and non-governmental organizations should be requested to respond positively to the requests for assistance that they would receive from the most seriously affected countries.

Mr. AL-ALFI (Yemen) expressed his delegation's sympathy to Romania and Yugoslavia, which were undergoing difficulties that many States would encounter. The Presidential Council of Yemen had published a report on the damage to be incurred by the Yemeni economy, which was currently estimated at \$2.5 billion. Nevertheless, the situation of the third world countries as a whole should be considered. The Secretary-General could be asked to carry out a study of the damage incurred, particularly by the developing countries, as a result of the implementation of Security Council resolution 661 (1990). Consideration could be given to cancelling those countries' debts. In addition, he wondered how the Committee would deal with specific requests received from the countries affected and whether it would decide on a step to be taken at the current meeting or subsequently.

The CHAIRMAN suggested continuing the consideration of that question at a subsequent meeting and holding consultations in the interim on the follow-up to the requests put forward under Article 50 of the Charter.

Mr. ALARCON de QUESADA (Cuba) said that his delegation supported the suggestion by the Chairman concerning consultations, but pointed out that the problems to be dealt with by the Committee and the Security Council were urgent. His was not the only delegation to be concerned at certain initiatives undertaken outside the Security Council at a time when States affected by the impact of the sanctions had submitted requests for assistance. Thus, the Government of the United States was taking steps to help certain countries (see S/AC.25/1990/COMM.7), some of which, moreover, had not submitted requests for assistance to the Security Council. It was disturbing that, at a time when the question of the impact of the implementation of resolution 661 (1990) was under consideration by the Committee, elsewhere a process was underway of mobilizing funds and defining priorities which was not necessarily oriented towards the countries that had invoked Article 50 of the Charter. That in no way promoted concerted action by the Security Council, which, once again, might be late in reacting to external realities.

Mr. RICHARDSON (United Kingdom) said that it was important not to overestimate what the United Nations alone could do in that field. It did not have



unlimited means and had to appeal for the assistance of Member States and other organizations.

The requests were coming from very different countries and immediate assistance would, to a large extent, be provided by bilateral sources - governments and regional or other organizations - without calling into question the scope of Article 50. States had the right to consult the Security Council and the Council had the duty to respond to them and should do so as speedily as possible, particularly to maintain the credibility of the Organization. On the other hand, the measures taken under Article 50 should not exclude any other type of assistance.

The CHAIRMAN pointed out that the officers of the Committee had the task, as a working group, of drawing up a document for the Security Council on the co-ordination of measures undertaken under Article 50. She had begun consultations with the officers of the Committee and a working document was to be distributed in the near future.

Mr. Munteanu (Romania) withdrew.

FOODSTUFFS AND DELIVERY OF FOODSTUFFS: S/RES/661 (1990), PARAGRAPH 3 (c)

The CHAIRMAN said that the consultations that she had conducted with the members of the Committee indicated that the Committee was very close to reaching a consensus on the text of a statement on the question of foodstuffs and the delivery of foodstuffs in cases where it was justified for humanitarian considerations. Nevertheless, because of differences of views on certain crucial issues, it did not seem appropriate to continue drafting that statement at the current stage. Widespread agreement, however, had been reached on the need to have factual information on the availability of foodstuffs in Iraq and Kuwait. Accordingly, she felt that the Committee should authorize her to request the Secretary-General to gather the necessary information as quickly as possible.

It was so decided.

The CHAIRMAN announced her intention of continuing consultations on the matter and asked the Committee for authorization to inform the press of its decision.

It was so decided.

Mr. ALARCON de QUESADA (Cuba), referring to a note verbale (S/AC.25/1990/COMM.8) from the Permanent Mission of Bulgaria addressed to the Chairman, concerning a cargo of powdered milk bound for Iraq, said that the cargo could have been loaded on to a ship flying the Bulgarian flag before the adoption of Security Council resolution 661 (1990). Inasmuch as the cargo comprised foodstuffs for infants, the Committee should authorize delivery; in any event the bill of lading had already been delivered to the Iraqi authorities. Furthermore, Bulgaria had indicated its willingness to accept verification by an impartial commission that the declared cargo in fact corresponded to the shipping documents.

The CHAIRMAN said that she had intended to refer to the note and to suggest that its text be circulated to members of the Committee, with a draft letter to the Legal Counsel, in accordance with the agreed practice.

Mr. WILKINSON (United States of America) said that he was very sympathetic to the difficulties being experienced by Bulgaria and other countries. Nevertheless, the purpose of Security Council resolution 661 (1990) was clear: to prevent the supply of any products, including foodstuffs, unless justified by humanitarian circumstances. There was no doubt of the humanitarian nature of the products in question. In order to resolve the matter, the Secretary-General would be requested to obtain the relevant information to enable the Committee to determine whether humanitarian considerations justified special measures. The products in question were clearly covered by resolution 661 (1990). It was regrettable that hardships would be imposed, but the resolution was perfectly clear and there was no need to seek the opinion of the Legal Counsel.

The CHAIRMAN said that, in view of the lateness of the hour, she had no intention of re-opening the debate on the interpretation of various provisions of Security Council resolution 661 (1990), particularly those relating to the supply of foodstuffs, since it had already been decided that she would shortly pursue consultations with the members of the Committee on how it should deal with the question of foodstuffs.

Mr. AL-ALFI (Yemen) said that his delegation agreed that the Chairman should pursue consultations on the interpretation of various provisions of resolution 661 (1990), but it did not seem to him that, until a consensus had emerged, any one interpretation should take precedence over any other. He referred to the letter (S/AC.25/1990/COMM.5) sent by his Government on the subject of the provision of services by the port of Aden, and trusted that the Committee would decide to seek the opinion of the Legal Counsel on the matter.

Mr. RICHARDSON (United Kingdom) also felt that the supply of powdered milk to Iraq would violate paragraph 3 of resolution 661 (1990). In accordance with the provisions of paragraph 5, the fact that ownership of the cargo had been transferred in no way changed the situation.

Mr. ALARCON de QUESADA (Cuba) said that he categorically rejected any inhumane interpretation of the Security Council decisions. It was unfortunate that the Committee could not agree to seek the opinion of the Legal Counsel, but no provision of the resolution prevented the supply of foodstuffs for children.

Mr. KIRSCH (Canada) agreed with the Cuban delegation that Security Council resolution 661 (1990) should not be interpreted inhumanely. On the other hand, the definition of humanitarian circumstances could not depend on the nature of the products. So long as observations by international agencies had not led to any determination of whether humanitarian circumstances applied, it was not for

States to decide whether a particular product could be delivered.

Mr. PEÑALOSA (Colombia) said that he was gravely concerned by the problem facing them. The Committee could not adopt a policy which it would be easy to make use of to turn public opinion against the Security Council. There were many foreign workers in Iraq and Kuwait, and the Iraqi Government had stated that foreigners would be the first to die of hunger. The Committee should adopt a realistic position before being constrained, under pressure, to act in a manner which would not necessarily represent the best way of applying the sanctions.

Mr. REDZUAN (Malaysia) said that from a legal standpoint the position of the United States and of the United Kingdom was justified, but, given the division in the Committee, he urged the United States and the United Kingdom representatives, for the good of the Committee, to accept referral of the question to the Legal Counsel.

Mr. RICHARDSON (United Kingdom) recalled that a draft text supported by most members of the Committee had been formulated before the meeting. It had requested humanitarian agencies to report on the situation in Iraq and Kuwait without delay, so as to enable the Committee to review the situation and decide whether humanitarian circumstances obtained. It was unfortunate that some aspects of the question had been considered out of context, but the Committee could avoid similar discussions if the necessary information was made available quickly.

The CHAIRMAN noted that the Committee had received several urgent communications from States Members of the United Nations, and that it had been decided at the previous meeting to defer any decision on referral to the Legal Counsel of two communications from Turkey (S/AC.25/1990/COMM.2) and a communication from Yugoslavia (S/AC.25/1990/COMM.3) pending consultations. The text of the documents had been circulated to members of the Committee with the draft letter to the Legal Counsel (S/AC.25/1990/NOTE 3). It seemed that the consultations should continue. As for the letter from Yemen (S/AC.25/1990/COMM.5), one member of the Committee did not wish it to be referred to the Legal Counsel.

Mr. WILKINSON (United States of America) said that it was neither necessary nor appropriate to refer the letter to the Legal Counsel. Consideration should be given to the best means of dealing with the question rather than the content of the letter. It was common knowledge that Aden was a port providing services to ships, but the Legal Counsel had already provided a written opinion on a similar question raised by the Netherlands. The Committee was thus in a position to reply to Yemen.

Ms. KALKKU (Finland) said that the Committee had decided to adopt a no objection procedure when acting on questions raised by Member States which might have legal implications. Some of those questions were purely legal, others were rather more political. It would be useful to seek the opinion of the Legal Counsel

more often. Nevertheless the Committee remained free to establish its own position and was in no way bound to accept any opinion given to it.

Mr. AL-ASHTAL (Yemen) said that any opposition to a procedure which simply involved seeking a legal opinion was regrettable. The question arose of why a legal opinion had been provided to the Netherlands and not Yemen. It was an injustice against Yemen. Since the Committee acted by consensus, a single delegation could not object to seeking the opinion of the Legal Counsel. Consensus was not the same as unanimity: it meant that a broad majority held a given opinion. He appealed to the United States of America to reconsider its position.

The CHAIRMAN said that further consultations on the matter were needed. The Committee had also received a letter (S/AC.25/1990/COMM.9) from the Permanent Representative of Malta concerning the delivery to Morocco of sulphur loaded in Kuwait. If she heard no objection, she would circulate the text of the letter, with a draft letter to the Legal Counsel, to members of the Committee in accordance with the agreed practice.

It was so decided.

Mr. RICHARDSON (United Kingdom) said that the delivery would appear to be a violation of paragraph 3 (b) of resolution 661 (1990).

The CHAIRMAN drew the Committee's attention to a letter (S/AC.25/1990/COMM.10) received from the Permanent Representative of Lebanon. It did not seem to be contrary to the provisions of resolution 661 (1990) to authorize the Lebanese carrier to repatriate Indian nationals, provided that the carrier did not engage in any activity contrary to the provisions of the resolution. If she heard no objection, she proposed to so inform the Permanent Representative of Lebanon to the United Nations in writing.

It was so decided.

#### G. Provisional Summary Record of the 7th Meeting (closed), 10 September 1990

*Source: S/AC.25/SR.7, 27 September 1990*

Chairman:

Ms. RASI

(Finland)

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Adoption of the agenda

Review of the implementation of Security Council resolution 661 (1990)

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Consultations under Article 50 of the Charter

Other matters

## ADOPTION OF THE AGENDA

The agenda was adopted.

REVIEW OF THE IMPLEMENTATION OF SECURITY COUNCIL RESOLUTION 661 (1990) (S/21716, S/21720, S/21725 and S/21726; S/AC.25/1990/WP.2)

The CHAIRMAN said that since the previous meeting four States (Gabon, Nicaragua, Burkina Faso and Venezuela) had replied to the Secretary-General's note verbale of 8 August 1990 and his reminder of 27 August 1990. Those replies had been issued as documents S/21716, S/21720, S/21725 and S/21726, respectively. She then invited members of the Committee to submit their comments on the questionnaire (S/AC.25/1990/WP.2) on national measures taken in implementation of Security Council resolution 661 (1990), no later than Tuesday, 11 September, at 3 p.m., so that the Committee could formulate its recommendations to the Council during the course of the week.

FOODSTUFFS AND DELIVERY OF FOODSTUFFS: S/RES/661 (1990), paragraph 3 (c) (S/AC.25/1990/COMM.11 and S/AC.25/1990/COMM.12)

The CHAIRMAN drew the Committee's attention to two letters dated 7 September 1990 from the Permanent Representatives of India and the Philippines to the United Nations (S/AC.25/1990/COMM.11) and from the Permanent Representative of Sri Lanka to the United Nations (S/AC.25/1990/COMM.12) addressed to the President of the Security Council. The representatives of those States had expressed the wish to be heard by the Committee on an urgent basis, in view of which she suggested that they be invited to make a brief statement during the meeting and then reply to questions.

It was so decided.

At the invitation of the Chairman, Mr. Gharekhan (India) and Mr. Ordoñez (Philippines) took a place at the Committee table.

Mr. GHAREKHAN (India) said that he was gratified that the Committee had decided so quickly to review the situation of foreign communities in Iraq and Kuwait. He assured the Committee once again that his country was committed to the full implementation of Security Council resolution 661 (1990), and referred to the extreme gravity of the situation and, in particular, the difficulties faced by the many Indians in Kuwait (170,000) and Iraq (10,000). The Indian Government, despite a remarkable effort, had been able to evacuate only some 20,000. After having contributed to the development of the two countries in which they were working, the Indians in question had not only lost everything, but were struggling simply to survive. Whether or not there were stocks of food in Iraq, it was undeniable that innocent foreigners were being denied foodstuffs and medical supplies and, in Kuwait, even fresh water, as several foreign diplomats in the area had confirmed.

The Security Council could not wait for sanctions to have an impact on the Iraqis and Kuwaitis before acting. Hundreds of thousands of lives were in danger,

and the peoples of the countries concerned did not understand why the Council was not acting with the speed it had shown in adopting resolutions at the beginning of August. The Chairman of ICRC, in referring to the situation, had spoken of a major humanitarian problem. It was thus imperative for the Security Council to take urgent and far-reaching steps to remedy the shortage of foodstuffs being experienced by foreign communities.

Mr. RAZALI (Malaysia) said that it was his understanding that the Indian Government was ready to send ships loaded with foodstuffs and medical supplies to the Gulf, and asked how the Indian authorities intended to proceed and how much time they estimated remained before the situation of foreign nationals became desperate.

Mr. GHAREKHAN (India) said that an Indian vessel loaded with 10,000 tons of foodstuffs and medical supplies was simply awaiting authorization by the Security Council before sailing. He urged the Council to give such authorization in accordance with the exemptions provided for in Security Council resolution 661 (1990), paragraph 3 (c), while reaffirming that his country had no intention whatsoever of violating the embargo. As for the second point, it was difficult to give a precise reply, but there was no doubt that a severe shortage of foodstuffs was a reality for foreigners.

Mr. ORDÓÑEZ (Philippines) thanked the representative of India for his eloquent account of the dramatic situation of Indians and Filipinos in Iraq and Kuwait. When the crisis had erupted, there had been 60,000 Filipinos in Kuwait and 5,000 in Iraq. The abrupt drying up of funds from those nationals would have extremely harmful repercussions on the Philippine economy. But the most serious aspect was that thousands of people were likely to die of hunger very soon. Because of its economic difficulties and the fact that most of the aircraft flown by its airline were operated under lease contracts and could not, for insurance reasons, be sent into conflict zones, the Philippines had no means of supplying or repatriating its nationals (only 5,567 had been evacuated to date). The Philippines was willing to entrust responsibility for distributing foodstuffs to international agencies, such as ICRC, present in the area.

The representatives of the Philippines, India and Sri Lanka had raised the question with the President of the Security Council, who had assured them that it would be duly considered. It was important for the Security Council's attention to be drawn not only to its responsibility, but also to its authority under Article 50 of the Charter: the authority, in the circumstances, to meet the needs of those trapped in the Gulf region.

Mr. RICHARDSON (United Kingdom) said that the fate of foreigners, in particular Asians, in Iraq and Kuwait, and that of refugees were of increasing

concern to the Government of the United Kingdom, to which he would communicate the latest information provided to the Committee without delay. He had never before seen any Member State display so much indifference, inhumanity, brutality and willingness to blackmail. It was not a question of whether or not there were foodstuffs in Iraq, the problem was that that country had stated that it would not make foodstuffs available to foreigners. His delegation wished to know whether the Iraqi authorities had provided the Missions of India and the Philippines with assurances that any foodstuffs imported for nationals of those two countries would actually reach the people for whom they were intended and would not be diverted to the Iraqi army.

Mr. ALARCON de QUESADA (Cuba) assured the representatives of India and of the Philippines of Cuba's solidarity in the face of the dramatic fate experienced by their nationals in Iraq and Kuwait. He stressed the seriousness of the situation, and endorsed the Indian call for the Security Council to meet urgently to consider the question; the Council should be willing to meet at the weekend or very late in the evening if necessary, as it had at the beginning of August.

There was no doubt that foodstuffs could be supplied where justified by humanitarian circumstances. It was to be hoped that the information received by the Committee would enable it to make progress in its work and to determine when those circumstances obtained. In any event it would be inadmissible not to include any circumstance in which individuals were dying of hunger, since the right to basic sustenance was a fundamental right of all human beings. The question put by the representatives of India and the Philippines was thus very simple, they were asking for confirmation that they could send foodstuffs to their nationals in Kuwait and Iraq.

With reference to paragraph 3 of the letter from India and the Philippines (S/AC.25/1990/COMM.11), his delegation wished the representatives of those countries to clarify the reference in the third paragraph to an international effort, since Cuba's view was that responsibility for relief should not rest solely on the countries concerned. His delegation would also welcome their comments on how medical supplies, which were clearly excluded from the embargo under paragraph 3 (c) of Security Council resolution 661 (1990), should be sent.

Mr. AL-ASHTAL (Yemen) said that no one could remain indifferent to the suffering described by the representative of India in speaking of the foreign nationals in the Gulf region, among whom were some 25,000 Yemenites. In anticipation of such suffering, Yemen had always interpreted paragraph 3 (c) of Security Council resolution 661 (1990) as meaning that foodstuffs were excluded from the embargo. The Committee was now confronted by an extremely serious humanitarian problem, and the attention of the entire world was focused on the

Committee and the Council and the slowness with which they were reacting to the consequences of the crisis.

In conclusion, he asked the Chairman of the Committee, and, through her, the Secretary-General, to provide figures on the numbers of people affected by food shortages.

Mr. GHAREKHAN (India), in response to the question of whether assistance would reach the intended recipients, noted that the matter was of concern to a good number of countries, as well as to the media. That notwithstanding, the Council must first recognize that a humanitarian problem existed, and then raise the legitimate question of means to be employed, it being understood that India did not wish to diminish the impact of sanctions on the Iraqi Government. India could thus understand that some countries refused to see foodstuffs supplied to Kuwaitis or Iraqis, even on humanitarian grounds, a position which India did not share but nevertheless respected.

At the conclusion of their meeting at Helsinki, on 9 September 1990, the Presidents of the United States and the Soviet Union had issued a joint communiqué recognizing that Security Council resolution 661 (1990) authorized, where justified by humanitarian circumstances, the importing of foodstuffs under the supervision of appropriate international agencies. India was perfectly willing to abide by the procedure proposed by the United States and the Soviet Union and to conduct its relief operations in association with international agencies, which had been identified in general terms only. On arrival, the distribution of relief would be the responsibility of Indian diplomatic and consular officials, who had already organized soup kitchens, which, however, had had to be closed owing to a lack of food.

He was convinced that the agencies designated by the United States and the Soviet Union would be in a position to guarantee that assistance would go to those entitled to receive it and stated that his country was willing to consider any proposal, recommendation or procedure emanating from the Security Council, which bore particular responsibility in any resolution of the matter.

In reply to the questions raised by the representative of Cuba, he said that it was essentially the task of the Security Council to determine the measures to be taken at the international level. Thus, the Council could request the Secretary-General to contact the authorities in Baghdad in order to reach agreement with them on the speedy shipment of food supplies by the international institutions referred to in the Helsinki communiqué. The Secretary-General could also appoint a special co-ordinator or convene a pledging conference; in any case, the Committee and the Council were sufficiently apprised of the question in order to formulate proposals. With regard to medical supplies, which did not fall within the purview



of Security Council resolution 661 (1990), he said that more than 70 tons of medicine and foodstuffs had already been shipped to refugees in Jordan.

He officially requested an emergency meeting of the Security Council in order to consider the recommendations which the Committee would draw up at the current meeting and hoped to be invited to address the Council on that occasion in order to urge it to take effective measures immediately.

Mr. ORDÓÑEZ (Philippines) provided further information on the Philippine nationals in the Gulf region: 10,256 of them had taken refuge in camps in Iraq; 3,210 in the Philippine embassy in Amman; 269 in the Philippine embassy in Riyadh and 43 in a school in Saudi Arabia. There were 1,500 persons at the Jordanian-Iraqi border and 764 others had left Kuwait for Baghdad and were still en route. Those figures had been obtained by the Philippine Minister for Foreign Affairs during a mission to Baghdad. Lastly, he stressed once again the desperate situation of the Gulf refugees who were suffering from starvation.

Mr. Gharekhan (India) and Mr. Ordoñez (Philippines) withdrew.

At the invitation of the Chairman, Mr. Perera (Sri Lanka) took a place at the Committee table.

Mr. PERERA (Sri Lanka) drew attention to document S/AC.25/1990/COMM.12, which described the very serious situation of the Sri Lankan nationals in the Gulf region and said that it was necessary to take immediate measures to prevent a human disaster. Ninety per cent of the persons concerned were women; most of them lacked food, water and basic infrastructures and sometimes had no shelter. Cases of dehydration and diarrhoea and the death of a Sri Lankan from starvation had been reported. Further delays in the shipment of food and medicine would aggravate the situation. Although the Sri Lankan Government was making every effort to repatriate its nationals, its resources were limited and, to date, only 3,700 persons had been able to return to their country. It was all the more difficult for Sri Lanka to provide assistance because there were already 900,000 refugees in its territory. The scope of the problem was such that no third world country was able to help its nationals on its own. It was necessary to take co-ordinated measures at the international level and ensure the participation of United Nations agencies and other multilateral organizations and non-governmental organizations. In that regard, his Government welcomed the Helsinki communiqué in which the United States and the Soviet Union recognized that Security Council resolution 661 (1990) authorized the shipment of foodstuffs to Iraq and Kuwait in cases where it was justified in humanitarian circumstances. Sri Lanka requested the Committee to consider that matter immediately and, in view of the grave situation of the Sri Lankan nationals in the Gulf region, to recommend that the Council should take immediate measures to provide them with food, water, medicine and shelter. Sri Lanka furthermore requested a level of assistance commensurate

with the number of Sri Lankan workers situated in the Gulf region in order to organize their repatriation as speedily as possible. It should be noted in that connection that the Sri Lankan workers represented the second largest Asian community in the region. He hoped that the Council would take the appropriate measures in order to carry out its responsibility and alleviate the suffering of the innocent victims of a conflict in which they were not involved.

Mr. ALARCON de QUESADA (Cuba) said that he fully shared the view expressed by Sri Lanka concerning the special responsibility of the Security Council and the need to act immediately. The Sri Lankan case was all the more dramatic in view of the very large proportion of women among the persons affected. He requested further information on the ability of Sri Lanka to undertake on its own the repatriation of its nationals in case the Council did not act or was slow to act. He supported the request by Sri Lanka to take concrete measures to provide international assistance.

Mr. PERERA (Sri Lanka) said that the national airline did not have aircraft that it could use in order to repatriate Sri Lankan nationals and that some available vessels had already been mobilized for humanitarian activities within the country.

As could be seen from the letter that had already been submitted to the Council in accordance with Article 50 of the Charter (S/21710), the very survival of Sri Lanka was at stake. Its democratically elected Government and its unity, sovereignty and independence were threatened. Furthermore, the Sri Lankan nationals in the Gulf region were among the most disadvantaged groups of workers in the region. Their fate had become not only a humanitarian problem, but also an internal policy problem because Sri Lankan public opinion expected the Government to take measures to ensure their repatriation.

Mr. Perera (Sri Lanka) withdrew.

Mr. ROCHEREAU DE LA SABLIERE (France), said that he was concerned at the slow progress made in defining situations that justified waiving the embargo on foodstuffs for humanitarian reasons. Accordingly, the Chairman should perhaps make a statement to the press on that question summarizing the points on which agreement had been achieved within the Committee. Those points of agreement were the following: first, there was no ambiguity concerning the scope of Security Council resolution 661 (1990). Second, it was necessary to obtain accurate and impartial information on the food supplies in Iraq and Kuwait. Third, particular attention should be given to certain population groups such as children, pregnant women and nursing women. It was also necessary to remind Iraq of its responsibility to ensure the health and safety of the nationals of third countries.

Once the information requested had been obtained, the Committee should be able to assess the situation and immediately put forward recommendations which would

take account in particular of the need to ensure that the foodstuffs were distributed to those for whom they were really intended.

Mr. KIRSCH (Canada) said that several delegations, including his own, had, for more than a week, been strongly emphasizing the need to set up mechanisms in order to achieve basically two objectives, namely defining the circumstances which constituted a humanitarian problem and then determining the way in which solutions could be brought about. In that regard, mention should be made of the role of the international humanitarian organizations which would have the task of ensuring that the intended persons received the food supplies that were delivered.

Unfortunately, there had been opposition to those two proposals within the Committee, with the result that some countries which were particularly affected were forced to point out the need for immediately setting up mechanisms to deal with situations of a humanitarian nature. The Committee therefore should overcome the deadlock and immediately resume consideration of those proposals in order to establish effective mechanisms for that purpose. His delegation also wished to know when the Committee expected to receive the information on the food situation in Iraq and Kuwait that the Chairman had requested from the Secretary-General in the letter that she had sent to him on 7 September 1990 (S/AC.25/1990/NOTE.8).

Mr. GOSHU (Ethiopia) said that he was seriously concerned about the tragic situation of the nationals of third countries in Kuwait and Iraq. It was urgent for the Committee to take measures to provide food assistance to those nationals in a co-ordinated manner that did not give the impression that the sanctions were being circumvented. In that connection, his delegation unreservedly supported the approach proposed in the joint communiqué issued by the Presidents of the United States and the Soviet Union in Helsinki on 9 September 1990. Accordingly, the Committee should first of all determine that nationals of third countries were suffering from serious food shortages because the modalities for distributing food and medical supplies were a logistical matter to be dealt with by experts.

Mr. RAZALI (Malaysia) said that he supported the views expressed by the representatives of France, Canada and Ethiopia and felt that it was no longer a question of wondering whether humanitarian circumstances justified the sending of foodstuffs to Iraq and Kuwait or not because there was no longer any doubt about the existence of a humanitarian problem in those two countries. Furthermore, the Committee should consider the question of the nationals of third countries outside the context of paragraph 3 (c) of Security Council resolution 661 (1990) and would thus no longer need to determine whether, in the case in point, humanitarian circumstances justified the sending of foodstuffs.

Furthermore, the Committee should try to solve the problems one after the other. For example, it could decide first whether India could or could not send a

vessel with food supplies for its nationals. It could then determine whether there were international organizations on the spot which could distribute food and medical supplies to the persons who were supposed to receive them. Although it would probably be impossible to prevent part of those shipments from being diverted for the benefit of the Iraqi authorities, there was no sufficient reason for doing nothing and letting human beings die of hunger.

The Committee could perhaps also consider referring the question of the nationals of third countries directly to the Security Council if that approach could expedite work in that regard.

Mr. PEÑALOSA (Colombia) proposed that the Committee should consider and approve at the current meeting the proposal by the representative of India to authorize his Government to deliver foodstuffs to its nationals in Iraq and Kuwait. Even if part of the shipments did not reach the persons for whom they were intended, that risk should be taken in order to alleviate the suffering of innocent victims in a conflict that did not involve them and thus show that the Committee was not indefinitely postponing the solution of the serious and urgent problems that had been brought to its attention.

Mr. YU Mengjia (China) said that, on the one hand, it was necessary to observe strictly the provisions of Security Council resolution 661 (1990) and impose sanctions. On the other hand, the problems affecting the innocent nationals of third countries who required the assistance of the international community must be solved immediately. In particular, it was necessary to ensure that the food supplies shipped to Iraq and Kuwait were not diverted to persons other than those for whom they were intended. In any case, the Committee should refrain from engaging in sterile and endless discussions because there was little time and it was necessary to act quickly. In that regard, his delegation supported the views expressed by the representative of Malaysia.

Mr. WILKINSON (United States of America) said that, instead of taking extraordinary measures to deal with particular aspects of the problem, the Committee should fulfil its responsibility of submitting to the Security Council recommendations concerning the definition of cases in which humanitarian circumstances justified the supply of foodstuffs and the establishment of the necessary machinery for shipping them, as provided in the joint Helsinki communiqué. It was to be hoped that, to that end, the Secretary-General would soon transmit the information he had been requested to provide, with recommendations or comments, where appropriate.

Steps should also be taken to ensure the implementation by Iraq of Security Council resolution 664 (1990), paragraphs 1 and 2, and to remind Iraq that it must remove all obstacles that it had placed in the way of the delivery of foodstuffs to the nationals of third States.

Mr. AL-ASHTAL (Yemen) said that he very much doubted that prohibiting food shipments to over 1.5 million innocent nationals of third world countries would enable the Committee to attain its goal of forcing the Iraqi Government to comply with Security Council resolution 661 (1990). All States wished to assist their nationals, and some States were authorizing Iraqi aircraft to land at their airports, in violation of the embargo. That was a legitimate course of action, motivated by the desire to safeguard their nationals. However, the nationals of third world countries must be given the same protection as those of other countries, and must therefore be excluded from the embargo on foodstuffs, as proposed by the representative of Malaysia.

Mr. KIBIDI NGOVUKA (Zaire) said that most third world countries did not have the means to assist their nationals in Iraq and Kuwait. In view of the seriousness of the situation in the two countries, immediate steps must be taken to set up international machinery to save lives. In that connection, his delegation welcomed the agreement reached between the United States and the Soviet Union at Helsinki concerning the provision of food aid, which, in its view, should be comprehensive and should not be restricted to certain population groups.

Mr. ALARCON de QUESADA (Cuba) said that it was inappropriate at the current time to embark on major philosophical treatises on hunger issues and the definition of situations giving rise to humanitarian problems. The Committee, and the Security Council itself even more so, had to deal with a very specific situation. The issue before them was simple: on 7 September 1990, the Permanent Representatives of India and the Philippines had sent a communication to the President of the Security Council requesting authorization to arrange for the provision of foodstuffs to their respective communities in Kuwait and Iraq, and also requesting him to give them a reply on an urgent basis, a reply that they were still awaiting.

The Security Council had shown much more diligence when it had been a question of imposing sanctions or drawing attention to the situation of some nationals of certain States, as it had in resolution 664 (1990). It was unjustifiable that after three days the Committee was still unable to provide the response requested, particularly since giving the authorization in question seemed to be the only logical response. It would be most regrettable if the Committee decided to do nothing at the current meeting and to continue consultations, since such an approach would delay the Security Council's work on an issue of indisputable urgency.

Mrs. KABA (Côte d'Ivoire) said that she was very moved by the description given by the representatives of India and the Philippines of the tragic situation in which their nationals found themselves in Iraq and Kuwait. Those individuals clearly expected very swift action on the part of the Security Council. Steps

should therefore be taken immediately to ensure that foreign nationals in Iraq and Kuwait were provided with food, and that arrangements were made for their repatriation and their reception in their countries of origin. All such operations could be entrusted to humanitarian agencies.

Mr. RICHARDSON (United Kingdom) said that he believed, as previous speakers did, that the Committee was facing an immediate problem that called for an immediate solution. In the coming 24 hours the Committee should set up a structure such as that referred to by the representatives of Canada, France and China, to name just a few; the structure in question must enable the Committee in the future to depoliticize its discussions somewhat, to adopt the necessary decisions rapidly on the basis of the soundest information possible, and to focus, without constantly having to return to the issue of foodstuffs, on the many other issues on which it must reach decisions. The Committee should break off its work for the moment, so that delegations might obtain instructions from their Governments and consult with one another on the way forward. He hoped that it would be thus possible the following day, either in the morning or in the afternoon, to produce a text that could command general support.

The CHAIRMAN drew attention to document S/AC.25/1990/NOTE/8, containing the text of the letter dated 7 September 1990 that she had addressed to the Secretary-General in accordance with a decision taken by the Committee at its previous meeting, on the question of obtaining information on the actual situation in Iraq and Kuwait with regard to foodstuffs. She would continue her consultations with Committee members on how to proceed further with the issue of foodstuffs. Moreover, if the Committee wished her to do so, she was willing to continue consultations on the urgent appeals made by the representatives of India, Sri Lanka and the Philippines. However, she was convinced that the Committee could adopt a decision on the particular aspect of the situation regarding foodstuffs constituted by the situation of nationals of third States. She therefore wished to invite Committee members to consider making known their views to the representative of India at the current meeting. She wished to know whether there was any objection to the proposal put forward by the representative of Malaysia, which had been supported by a number of other Committee members.

Mr. WILKINSON (United States of America) said that he appreciated the seriousness of the circumstances that had given rise to the proposal, and he had been very impressed by the presentations made at the current meeting. However, the decision to be taken must be placed on the soundest foundation possible. He therefore supported the United Kingdom's proposal that delegations should be given time to consult their Governments, in the hope that the matter could be settled within 24 hours.

Mr. AL-ASHTAL (Yemen) said that he did not believe that within 24 hours, or even 48 hours or a week, the Committee would be able, as if by magic, to solve all the complex problems before it. It could perhaps agree on a procedure for the foodstuffs issue, but it could not settle all problems simultaneously. It should therefore immediately adopt a decision on the groups of individuals who were likely to starve. He wished to make a formal proposal that the Committee should authorize the Indian vessel to sail for Kuwait and await, on the high seas, off Kuwait, the authorization to dock. It would be difficult to explain to journalists that the Committee had still not adopted a decision. The Committee must therefore adopt a decision on the draft recommendation on Jordan at the current meeting.

The CHAIRMAN asked whether she might take it that the Committee was of the view that the shipment of foodstuffs and medical supplies, in the circumstances indicated by the representative of India, would not constitute a violation of Security Council resolution 661 (1990).

Mr. ROCHEREAU DE LA SABLIERE (France) said that he too wished the Committee to act expeditiously. However, he believed, as the representative of the United Kingdom did, that the Committee should break off its work so that delegations wishing to obtain instructions would be able to do so.

The CHAIRMAN suggested that the Committee should take up consideration of agenda item 4, and that in the mean time delegations should request instructions from their Governments on the question just discussed.

Mr. ROCHEREAU DE LA SABLIERE (France), said that he did not object to the Chairman's suggestion. However, he might all the same be obliged to request once again that the Committee should break off its work. He was not sure that he would be able to obtain in time the guidance needed in order to answer the question she had just put to Committee members.

The CHAIRMAN urged Committee members to try to obtain instructions as soon as possible.

CONSULTATIONS UNDER ARTICLE 50 OF THE CHARTER (S/AC.25/1990/WP.1/Rev.2)

The CHAIRMAN said that Committee members had received copies of document S/AC.25/1990/WP.1/Rev.2, which contained the revised draft of the working paper proposed by her in consultation with members of the Committee. She hoped that the Committee could take a decision on the matter at the current meeting, with a view to submitting a recommendation to the Security Council.

Mr. AL-ASHTAL (Yemen) said that it was urgent for the Committee to adopt a decision on the draft declaration on Jordan. The Committee ought to be able to do so without any difficulty, since it had decided that the deadline for the submission of amendments should be the preceding Friday, at 1 p.m. By adopting the draft, it would be demonstrating to international public opinion its concern about all aspects of the crisis. More particularly, it would be demonstrating its

concern at the difficulties experienced by the countries upon which the implementation of Security Council resolution 661 (1990) was having the greatest repercussions, as a result of their observance of international law.

Mr. PEÑALOSA (Colombia) endorsed the statement just made by the representative of Yemen. The Committee should adopt the draft recommendation and transmit it to the Security Council for immediate adoption. He wished to commend the Chairman for her productive endeavour to incorporate the comments made into the text now before the Committee.

Mr. ALARCON de QUESADA (Cuba) endorsed the statements just made by the representatives of Yemen and Colombia. The Security Council should meet as soon as possible to adopt the draft recommendation formally, since the situation was urgent and Jordan had submitted its request some time earlier.

Mr. WILKINSON (United States of America) said that he appreciated that the Committee had already had Jordan's request for assistance before it for several days. It had, however, proved difficult to find words that precisely captured the necessary consensus. The Friday deadline had made it possible to speed up the submission of suggestions that had been, and continued to be, the subject of intensive consultations in order to achieve the right results. The situation in Jordan was both urgent and complex. There should be no delay in providing humanitarian assistance to refugees and displaced persons, and both Governments and a number of multilateral and non-governmental organizations had taken emergency measures to that end. The assistance in question must be continued.

The draft before the Committee, which was an excellent starting-point, dealt with a wide range of complex issues. Among other things, it involved a sum of \$1 billion to \$2 billion, and such amounts were not easy to raise. It was also a question of energy supplies in a very complex international situation. There were also such issues to be faced as debt relief, which involved not only Governments but also international financial institutions. Tackling such broad issues in a manner that would be valid in both the medium and the long term called for careful consideration; the United States, for its part, had continued its contacts throughout the weekend and was actively continuing to endeavour to obtain positive results, taking into account the wide range of problems confronting the United States Government and the Governments of other countries. He regretted that he had been unable to submit a further revised version at the current meeting, but he hoped to be able to do so in the near future.

Mr. KIRSCH (Canada) said that his delegation had hoped that the Committee would be able to adopt the draft recommendation at the current meeting. He understood the distinction made by the representative of the United States between humanitarian needs which must be met immediately and long-term concerns, but he was



not quite sure what the time-frame was. A week earlier, it had been agreed that assistance to Jordan under Article 50 of the Charter was an urgent matter. Since it now appeared that there were two sides to the issue, he wished to have more information on the kind of problems raised by the draft recommendation - which had been drawn up in fairly general terms - as well as on the proposed time-frame.

Mr. GOSHU (Ethiopia) said that his delegation associated itself with those delegations which had supported the draft recommendation contained in document S/AC.25/1990/WP.1/Rev.2 and believed that the Committee should take a decision on it at the current session.

Mr. AL-ASHTAL (Yemen) proposed that the Committee should agree to submit the draft recommendation to the Security Council while reserving the right of each delegation to express its position at later meetings of the Council. That, at least, would speed things up.

Mr. ALARCON de QUESADA (Cuba) fully supported the proposal made by the representative of Yemen. He wished, further, to stress that the Committee would give the deplorable impression that it was dragging its feet if it allowed new amendments to be made to the draft recommendation after it had agreed that the deadline for introducing amendments was the previous Friday at 1 p.m. However, nothing prevented the Security Council from amending the recommendation once the Council had received it from the Committee.

Mr. PEÑALOSA (Colombia) said that, since certain members of the Committee were trying to paralyse the Committee's work by taking advantage of the need for a consensus, direct recourse should be had to the Security Council where, at least, meetings were public and each member must assume his responsibilities. In the specific case of Jordan, his delegation reserved the right to request a meeting of the Council in order to introduce the draft resolution currently before the Committee. Moreover, Council resolution 661 (1990) did not contain any provision which gave the Committee a mandate to consider requests for assistance submitted under Article 50 of the Charter, and he wondered whether the Committee was not overstepping the bounds of its competence by wishing to deal with problems of unprecedented complexity and scope which required a detailed analysis by the international community. The adoption of resolutions - assuming that that point was reached - which did not lead to specific measures would give rise to hopes which were likely to be frustrated.

The CHAIRMAN said that the Committee had decided two weeks earlier that Jordan was a special case. The Committee should be able to proceed as quickly as possible. It had been given a mandate by the Security Council to draft a recommendation on Jordan and, thereafter, on a number of countries which had already invoked Article 50 of the Charter. She hoped that the Committee would be able to submit a unanimous recommendation to the Council. A second solution would

be for the Committee to transmit the draft recommendation to the Council without having adopted it unanimously and for the members of the Committee to continue to consult one another during the consultations which the Council would hold on the draft. For her part, she was inclined to continue consultations in order to arrive at the first solution.

The members of the Committee were agreed that all the issues before them were urgent. It therefore behoved them to agree on the substance of those issues.

Ms. KALKKU (Finland) suggested that, if no agreement could be reached at the current session, the Committee should at least agree to meet the following morning to adopt the draft recommendation on Jordan. She hoped that by that time the consultations would be concluded.

Mr. ROSENSTOCK (United States of America) said that, with regard to the question of foodstuffs, the patience shown by those who, at the beginning, had wished to follow the simplest and most direct line of action suggested by the representative of Canada would no doubt be rewarded since a first step in the right direction had finally been made. While an agreement had not yet been reached on the question of Jordan, it appeared that the Committee was approaching one. It therefore seemed worthwhile to endeavour to overcome remaining differences during the next day and to come up with a text which could meet with general support and which could be adopted very quickly by the Security Council, instead of transmitting a non-consensus recommendation to the Council and being faced with the same difficulties in another body.

Mr. KIRSCH (Canada) said that after hearing the optimistic statement by the representative of the United States, he was prepared to agree that the Committee should perhaps be given another chance to reach unanimous agreement on the draft recommendation. However, the Committee must also expedite its work. He wished to suggest therefore that the Committee should meet no later than the following morning, by which time delegations which still had difficulties with the present text would hopefully have met and managed to come up with an acceptable text.

The CHAIRMAN said that she was prepared to pursue consultations on the basis of the text distributed in document S/AC.25/1990/WP.1/Rev.2. If she heard no objection, she would take it that the Committee wished to meet at 11 a.m. the following morning.

It was so decided.

Mr. AL-ASHTAL (Yemen) read out a letter addressed to the Secretary-General by the Yemeni Minister for Foreign Affairs, which was accompanied by a memorandum describing the economic and financial impact on Yemen of the implementation of resolution 661 (1990).

In his letter, the Minister drew attention to the special economic problems that Yemen would face as a result of the implementation of resolution 661 (1990). While the Yemeni Government was determined to fulfil its obligations under the Charter in good faith, it was officially requesting that the Security Council enter into consultations immediately with a view to finding a solution to its problems.

The memorandum described the economic losses which Yemen had suffered and would continue to suffer as a result of the restrictions imposed on its trade with Iraq and Kuwait.

Firstly, Yemen had concluded contracts with Kuwait and Iraq for refining part of their petroleum. The losses resulting from suspension of those activities would be tremendous: in the order of \$US 39,994,675 for the remainder of 1990 and \$US 219,663,000 in 1991.

Second, Yemen had been receiving annual grants from Iraq and Kuwait. Of the \$50 million allocated by Iraq for 1990, only \$25 million had been received so far. If the situation continued, there would be a further loss of \$50 million in 1991.

Grants from Kuwait totalled \$18,336,203 a year and went mainly to support university-level and general education services and health care. The grants usually increased as the cost of such services rose.

Third, Iraq and Kuwait had given Yemen assistance and donations annually for the funding of various projects. Iraq had pledged \$US 70 million for the building of a convention centre, a five-star hotel and large meeting halls. Kuwait was funding the modernization of a number of hospitals, at a cost of \$US 8,643,555.

Fourth, Yemen had expected to export non-petroleum commodities worth over \$100 million or roughly a third of its total exports, to Iraq and Kuwait in 1990 and it had been anticipated that such exports would increase at a rate of 15 to 20 per cent in 1991. Anticipated losses for 1990 were estimated at \$42 million. The sharp drop in the volume of exports would have an impact on the balance of trade and on economic activity in general, and unemployment, which was already very high, would increase with the mass influx of Yemeni workers returning from Kuwait.

Fifth, concessional loans granted to Yemen by the Arab Fund and the Kuwaiti Fund for different ongoing projects totalled \$396,450,000. Since most of the projects were being co-financed from other sources, the loss of financing from the two Funds might result in the withdrawal of other financing. The figure given also did not include other funding arrangements agreed to by the two Funds, some of which had been in the final stages of approval.

Sixth, the national economy would be affected by the suspension of remittances amounting to some \$250 million from Yemeni expatriates working in Kuwait. Reductions in remittances from Yemenis living in other Gulf countries could also lead to the loss of at least another \$150 million.

Seventh, the compulsory repatriation of most of the 35,000 Yemenis working in Kuwait was imposing a heavy burden on the Government. Having paid for their homeward travel, it now had to reintegrate them and give them assistance, since most of them had lost all their savings.

In light of the foregoing, the implementation of resolution 661 (1990) would cost Yemen at least \$1.384 billion. In addition, the indirect costs (slowdown of economic activity, balance-of-payments difficulties, increasing unemployment, delays in project delivery and increases in project costs, budgetary problems and reduced trade with neighbouring countries) were estimated at \$300 million.

Accordingly, the Republic of Yemen was requesting: (1) the crude oil necessary to ensure the functioning of the Aden refinery on the same terms as previously; (2) petroleum for domestic consumption on preferential terms; (3) grants to compensate for those previously provided by Iraq and Kuwait; (4) long-term concessional loans to ensure the implementation of projects thus far funded by the Arab Fund and the Kuwaiti Fund; (5) concessional loans; and (6) access to other sources of financing in order both to overcome difficulties arising from the sharp reduction in remittances by Yemeni expatriates and from the drop in exports and to curtail the negative impact of all the above-mentioned factors on the overall performance of the national economy.

The CHAIRMAN said she had been informed that intensive informal consultations were going on concerning the question of foodstuffs and that some members of the Committee needed to obtain instructions overnight from their Governments. There were some encouraging signs that by the next day the Committee might be in a position to take a decision on the question and on the draft recommendation concerning Jordan. She would be pursuing her own consultations on the two issues.

#### **H. Provisional Summary Record of the 8th Meeting (closed), 11 September 1990**

*Source: S/AC.25/SR.8, 28 September 1990*

Chairman:

Ms. RASI

(Finland)

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Adoption of the agenda

Foodstuffs and delivery of foodstuffs: S/RES/661 (1990), paragraph 3 (c)

Consultations under Article 50 of the Charter

## ADOPTION OF THE AGENDA

The agenda was adopted.

FOODSTUFFS AND DELIVERY OF FOODSTUFFS: S/RES/661 (1990), paragraph 3 (c)  
(S/AC.25/1990/WP.3)

Mr. BLANC (France) introduced, for adoption by the Committee, a draft declaration (S/AC.25/1990/WP.3) formulated and generally accepted by the five permanent members of the Security Council. The text took account of the lively Committee discussions the previous day on the definition of the humanitarian circumstances that would justify the delivery of foodstuffs to the civilian populations in Iraq and Kuwait. It also reflected the information that had been provided to the Committee and the need both to respect the provisions of Security Council resolution 661 (1990) and to respond to emergency situations as they arose. The establishment, as proposed, of a mechanism for the delivery of foodstuffs on the basis of impartial information would be an important step that would satisfy both public opinion and the expectations of the international community.

Rather than single out any particular cases, the text established a policy and a procedure designed to cover all cases and thus to avoid delays, from which those at the mercy of Iraq would suffer the most. The five permanent members believed that the rules they had outlined would enable India to take immediate action on the very serious matter which it had brought before the Committee at the previous meeting. In accordance with paragraph 6 of resolution 661 (1990), the Committee could, if it so decided, transmit the declaration that very day to the President of the Security Council for immediate transmittal to the Secretary-General.

Mr. LUKABU KHABOUJI N'ZAJI (Zaire), speaking on behalf of the non-aligned caucus of the Security Council, introduced the following draft decision for adoption by the Committee:

"The Committee considered the appeals made by the ambassadors of India, the Philippines and Sri Lanka seeking international relief efforts to assist thousands of their nationals stranded in Kuwait and Iraq. The Committee, recognizing the exceptional circumstances involved, agrees to allow one Indian ship carrying foodstuffs to be sent to Kuwait to meet the immediate needs of Indian nationals there, and for foodstuff and relief assistance to be provided on an urgent basis to foreign nationals in Kuwait and Iraq with the assistance of United Nations and other humanitarian agencies operating in the region. In this connection, the Committee expects Iraq to co-operate in facilitating the relief operations by humanitarian agencies in accordance with its obligations under Security Council resolution 664 (1990)."

Although his delegation in principle supported the concerns and solutions put forward in the draft declaration submitted by the five permanent members, it felt

that it did not specifically address the appeal by India for urgent assistance to the Indian community in Kuwait and Iraq. The Committee should not leave itself open to the accusation that it did not care enough about the poor, about persons who had lost their means of livelihood and their homes and whose needs would not be met by either Iraq or Kuwait. It should be noted that the situation addressed by the proposed draft decision concerned also Sri Lankans and Filipinos.

The Indian request to be allowed to deliver foodstuffs in no way violated the United Nations embargo, any more than had recent efforts by other nations to evacuate their nationals from Iraq or Kuwait. The proposed draft decision did not encroach on the text submitted by the five permanent members and he asked them to be receptive to it and allow a Member State to aid its nationals.

Mr. KIRSCH (Canada) said that the draft declaration submitted by the five permanent members seemed generally to meet an urgent need and reflected Canada's position regarding the request to the Secretary-General for information and the sending of food via humanitarian organizations. India, Sri Lanka and the Philippines should provide specific suggestions as to how the needs of third-country nationals should be met.

Since the time factor was of great concern to the non-aligned caucus, an urgent appeal to the Secretary-General for an immediate response should be included in the proposed draft declaration. Canada would be ready to work immediately on the few drafting changes required, either in the Committee or in informal consultations in the course of the day.

One point should not be lost sight of: the current difficulty - the lack of food - was an artificial creation of the Government of Iraq. Iraq had never said that food was not available but rather that it would not be made available to foreigners in Iraq and Kuwait, and that was the root of the problem.

Mr. ALARCON de QUESADA (Cuba) observed that it was unusual but courteous of the five permanent members to submit to the Committee a draft declaration that was as yet only "generally accepted" by them, presumably in order to invite comments by the other members before the text was finalized.

However, the Committee had decided at the previous meeting - in order to satisfy certain permanent members - to allow time for consultations and for communication with capitals on two points: the request from India regarding the Indian, Philippine and Sri Lankan communities in Kuwait and Iraq, and the text of a draft resolution regarding the situation in Jordan. The Committee should keep to the agreed agenda. To adopt the draft just submitted by the five permanent members would be to put off urgently needed action on a humanitarian matter and to shirk responsibilities.

Mr. PEÑALOSA (Colombia) endorsed Cuba's suggestion as to how to proceed. He agreed with Canada that the draft declaration submitted by the five

permanent members did cover the essential points. That document could be made the next item of discussion.

Mr. ANET (Côte d'Ivoire) said that the draft declaration was acceptable, provided that it remained objective and endeavoured to ensure that emergency food relief reached all foreign persons held in Iraq and Kuwait. He supported Canada's proposal that a drafting committee should work on the declaration, with a view to incorporating in it the text of the draft decision by the non-aligned caucus.

Mr. GHAZZALI (Malaysia) said that there was no apparent contradiction between the ideas in the draft declaration submitted by the five permanent members and those in the draft decision submitted by the non-aligned caucus: the former would introduce a general mechanism to deal with the problem, while the latter confronted the immediate problem of relief assistance urgently needed by foreign nationals in Iraq and Kuwait. He proposed that the text of the draft decision should be incorporated into the draft declaration as its last paragraph.

Mr. AL-ASHTAL (Yemen) urged the Committee to accept the draft decision presented by Zaire as it tackled an immediate and urgent problem and would be a sign to the world that the Committee was taking purposeful action. With regard to the draft declaration submitted by the five permanent members, which proposed a general framework for dealing with the problem, he said that time was needed to study it further in the light of recommendations from the Secretary-General. Some States, including Yemen, had not found it easy to agree on a comprehensive interpretation of paragraph 3 of resolution 661 (1990), and he repeated the reservations regarding the provisions of that paragraph which Yemen had expressed to the Security Council at the time of acceptance of the resolution.

The CHAIRMAN said that there were three possible courses of action the Committee could take. First, consultations could continue on the text of the draft declaration submitted by the five permanent members; secondly, the text of the draft decision submitted by the non-aligned caucus could be incorporated into the draft declaration; and thirdly, and in the interests of time, the Committee could decide on the draft decision before proceeding to consider the draft declaration.

Mr. PICKERING (United States of America) said that while there was an urgent need for food and other emergency supplies to be sent to the various beleaguered communities, such as the Indian nationals, an overall framework was needed to provide for the many other communities in the same situation. He proposed that a drafting group be set up to examine both texts, and to consider ways of amalgamating them such as the way proposed by Malaysia. It was important to safeguard the needs of all the endangered communities. In view of the time that a ship with relief supplies would take to reach the region, it could set sail without further delay and in the mean time guidance would be urgently sought from the Secretary-General. The draft declaration proposed by the five permanent

members, with the possible incorporation of the draft decision submitted by the non-aligned caucus, would provide a useful framework within which the Committee, in co-operation with the Secretary-General and humanitarian agencies, could assist other distressed communities in the region.

Mr. PEÑALOSA (Colombia) said that the draft decision submitted by the non-aligned caucus did not need to be put before a drafting group, as it raised no question of policy. If the Committee approved the idea of sending a ship, then no time should be lost and the decision should be taken immediately. The draft declaration submitted by the five permanent members was, however, a question of policy, and the drafting group could proceed to consider its text.

Mr. RICHARDSON (United Kingdom) supported the idea of setting up a drafting group to examine both the texts, as an acceptable general framework was urgently needed to process appeals for emergency aid to be sent to innocent civilians, third-State nationals, caught up in the conflict. The time taken by the ship to bring relief supplies to Kuwait could be used by the drafting committee to finalize the text of that framework. He also stressed the importance of putting pressure on Iraq to admit the Red Cross or other humanitarian agencies into Iraq and Kuwait.

Mr. LUKABU KHABOUJI N'ZAJI (Zaire) agreed that the draft declaration submitted by the five permanent members provided a broad general framework and required close scrutiny. The draft decision submitted by the non-aligned caucus and presented by his delegation, on the other hand, was focused on a specific emergency. It was therefore not possible to amalgamate the two texts, since the draft declaration was concerned with resolution 661 (1990), paragraph 3 (c), as a matter of policy, while the draft decision dealt with a specific emergency, on which a decision had to be reached in the course of that day. He therefore proposed that the Committee should reconvene that afternoon to consider the request from India, and that the text of the draft declaration submitted by the five permanent members should be considered at a later stage. If necessary, the Under-Secretary-General for Legal Affairs could be consulted on the political implications of the draft declaration. If the two texts were amalgamated, as Malaysia had proposed, the emergency would be disregarded and for that reason he urged Malaysia to drop its proposal.

Mr. ALARCON de QUESADA (Cuba) said that he was in full agreement with the representative of Zaire. It was urgent for the Committee to take action on the Indian request. What was involved was the specific question of whether an Indian ship should be authorized to transport foodstuffs to Iraq and Kuwait; it had nothing to do with defining general criteria. The Committee should return to its consideration of the draft decision submitted by the non-aligned caucus and establish a drafting committee.



Mr. GEBREMEDHIN (Ethiopia) said that there was general agreement as to the urgency of the situation facing Indian nationals in Iraq and Kuwait. The proposal put forward by the non-aligned caucus addressed that problem. It would therefore be prudent to take action on that proposal, and then to proceed swiftly to the draft declaration proposed by the five permanent members of the Security Council, which was of a more general and comprehensive nature.

Mr. GHAZZALI (Malaysia) said that the Committee should not defer action on the appeals made by India, Sri Lanka and the Philippines.

Mr. YU Mengjia (China) said that the draft declaration provided some mechanisms to facilitate the settlement of the numerous humanitarian issues with which the Committee was confronted. Further improvements to the draft would be welcome. The draft decision submitted by the non-aligned caucus was in keeping with paragraph 3 (c) of Security Council resolution 661 (1990), which authorized the importation of foodstuffs to Iraq and Kuwait in humanitarian circumstances. In response to the concern expressed by some delegations that the Committee might be setting a precedent by adopting the draft decision, he suggested the insertion of a statement to the effect that the Committee was in the process of establishing a framework for the importation of foodstuffs on humanitarian grounds. With that addition, the draft decision could be adopted.

Ms. KALKKU (Finland) said that the draft declaration responded to the concerns with regard to the difficult situation of foreigners trapped in Iraq and Kuwait. In that context, it would be useful to continue the discussion of the draft decision submitted by the non-aligned caucus. If no agreement could be reached with regard to an overall approach, then a decision could be taken on the problem at hand on the basis of the procedure described in the draft declaration.

The CHAIRMAN said that it was clear from the discussion that the Committee would not be able to take a decision on either of the draft texts at the current meeting. She therefore supported the idea of establishing a working group either to consider the possibility of combining the two texts or to take a decision on the draft decision submitted by the non-aligned caucus within the framework outlined by the representative of the United States. The Committee could then meet again when the working group had reached a consensus.

Mr. PEÑALOSA (Colombia) said that the Committee was becoming bogged down in a drafting debate. The task which lay before the Committee was to decide whether or not India should be allowed to deliver foodstuffs.

Mr. LUKABU KHABOUJI N'ZAJI (Zaire) said that the statement made by the Chinese representative was worthy of consideration. The two draft texts should be dealt with separately. The draft declaration contained political elements which required more careful study, while the draft decision contained only factual elements. In view of the urgency of the situation, which no delegation denied, the

Committee should adopt the draft decision with the addition proposed by the representative of China.

Mr. BLANC (France) said that all members of the Committee were in agreement with regard to the urgency of the situation and the need to take a decision. It was clear, however, that such a decision could only be approached on the basis of a general policy. He urged the Committee to speed up its consideration of both texts with a view to adopting them at a later meeting.

Mr. ALARCON de QUESADA (Cuba) said that he agreed with the comments made by the representatives of Colombia and Zaire. It was to be hoped that the Committee could take a decision on the Jordanian request at the current meeting. He opposed the idea of subsuming the Indian request under the question of a general policy. If the Committee did not act soon, his delegation would have little choice but to turn to the Security Council and request it to take a decision publicly.

Mr. KIRSCH (Canada) said that, while no delegation had objected to the substance of the draft decision submitted by the non-aligned caucus, it was also clear that some countries wished to establish a link between that proposal and a more general framework. It was therefore necessary to establish a working group.

The CHAIRMAN suggested that an open-ended drafting group should be set up and that it should be chaired by the representative of Canada. The Committee would hold another meeting as soon as it received the signal to proceed from the drafting group.

It was so decided.

#### CONSULTATIONS UNDER ARTICLE 50 OF THE CHARTER (S/AC.25/1990/WP.1/Rev.2)

The CHAIRMAN drew attention to document S/AC.25/1990/WP.1/Rev.2, which contained the revised draft of the working paper which she had put forward in consultation with members of the Committee. It was her intention that the Committee should take a decision on the matter at the current meeting, with a view to submitting a recommendation to the Security Council.

Mr. BLANC (France), introducing document S/AC.25/1990/WP.1/Rev.2, said that, in order to overcome the difficulties which had arisen, the five permanent members of the Security Council had prepared a text which differed slightly from the draft which had been circulated by the Chairman; nonetheless, they found the substance of that text to be acceptable.

Mr. PICKERING (United States of America) said that the revised draft dealt with the two sides of the problem facing Jordan: the question of the refugees and displaced persons, and the economic consequences of Jordan's implementation of the sanctions. Those aspects were reflected in paragraphs 2 and 3 of the revised draft. Paragraphs 4 and 5 requested the Secretary-General to undertake an assessment of the problems and appealed to all States to provide assistance to Jordan. Paragraph 6 requested the Secretary-General to take the

necessary steps, on the basis of his report, to secure the support of States for alleviating the longer-term hardships confronting Jordan. Paragraph 7 sought to involve all the organizations of the United Nations system in responding to Jordan's needs. Paragraph 8 provided for the necessary co-ordination, taking into account the bilateral assistance being provided by States to Jordan. He proposed that the Committee should inform the President of the Security Council, and through him, the Secretary-General, of the Committee's adoption of the decision, so as to enable the Secretary-General to carry out his duties in that regard.

Mr. AL-ASHTAL (Yemen) urged the members of the Committee to take a decision on the revised draft soon as possible. Although his delegation would need time to study the revised draft more thoroughly, it was inclined to support it.

### I. Provisional Summary Record of the 9th Meeting (closed), 12 September 1990

*Source: S/AC.25/SR.9, 28 September 1990*

Chairman: Ms. RASI (Finland)

#### CONTENTS

Adoption of the agenda

Foodstuffs and delivery of foodstuffs: S/RES/661 (1990), paragraph 3 (c)

Consultations under Article 50 of the Charter

#### ADOPTION OF THE AGENDA

The agenda was adopted.

FOODSTUFFS AND DELIVERY OF FOODSTUFFS: S/RES/661(1990), PARAGRAPH 3 (c)

The CHAIRMAN drew the Committee's attention to document S/AC.25/1990/COMM.13, containing the reply of the Secretary-General to her letter of 7 September 1990. She would discuss the matter with the Secretary-General later in the day.

At its 8th meeting, the Committee had established a Drafting Group to consider the draft declaration discussed and generally accepted by the five permanent members of the Security Council (S/AC.25/1990/WP.3) and the Working Paper submitted by the Non-Aligned caucus (S/AC.25/1990/WP.4). Committee members had before them documents S/AC.25/1990/WP.6, containing the text of the Working Paper of the Drafting Group on the draft declaration, and S/AC.25/1990/WP.7, containing the Working Paper by the Drafting Group on the Working Paper submitted by the Non-Aligned caucus. She wished to express her appreciation to the Drafting Group for its long hours of work the night before, and, in particular, to its Chairman.

Mr. KIRSCH (Canada), speaking as Chairman of the Drafting Group, reported that, from the outset, certain delegations had indicated that they would not join a

consensus on the non-aligned working paper unless there was also a consensus on a comprehensive framework for the provision of foodstuffs to Iraq and Kuwait, which was the subject of the draft declaration. The Drafting Group had carefully considered the provisions of the working papers on that understanding. Many amendments and proposals had been put forward with a view to reaching a compromise.

He wished to draw the Committee's attention to the fact that, with one exception - paragraph 3 - every paragraph of document S/AC.25/1990/WP.6 was in brackets. The working paper contained in S/AC.25/1990/WP.7 was a substantially modified version of the non-aligned working paper originally submitted. The Drafting Group had agreed on all the provisions contained in S/AC.25/1990/WP.7, with the major exception of one sentence between brackets on the manner in which foodstuffs should be distributed. Considerable efforts to reconcile differences of opinion on that issue had failed. Given the urgency of the situation, an alternative approach was absolutely necessary.

The CHAIRMAN noted that the Committee was deadlocked. In view of the urgency of the matter, she would propose referring the draft declaration discussed and generally accepted by the Five to the Security Council for its consideration.

Mr. PICKERING (United States of America, said his delegation was also disappointed that more progress had not been made on a framework for the provision of foodstuffs and medicine. From private discussions, it had seemed that consensus was near, but certain delegations had then used dilatory tactics in the Drafting Group.

In view of the impasse, his delegation welcomed the Chairman's proposal to refer the matter to the Security Council, where the balance of interests was perhaps slightly different.

While his delegation was committed to taking action on the non-aligned working paper as rapidly as possible, it did not seem advisable to adopt it separately when such fundamental disagreements persisted in the Drafting Group. In that context, the work of the Security Council might be expedited if the five permanent members were given time to recast their draft declaration on a framework in resolution form. Alternatively, his delegation would seek co-sponsors to such a resolution so that it could be adopted urgently.

The CHAIRMAN acknowledged the linkage between the framework and non-aligned working papers. She would therefore propose referring both the draft declaration and the non-aligned working paper to the Security Council.

Mr. RAZALI (Malaysia) expressed his delegation's support for the Chairman's proposal. Any resolution adopted by the Security Council should also contain an appeal for emergency assistance in the repatriation of South Asian nationals stranded in Kuwait.

Mr. LUKABU KHABOUJI N'ZAJI (Zaire) expressed disappointment that the Drafting Group had been unable to reach agreement. His delegation endorsed the Chairman's proposal, but wondered whether the form the draft declaration would ultimately take - resolution, decision, etc. - had been determined, since that might need to be taken into account in revising the text of the non-aligned working paper as well.

The CHAIRMAN said it was her understanding that the Security Council would decide whether to issue a resolution or a statement by the President.

Mr. PICKERING (United States of America) clarified that he had proposed submitting a draft resolution on a framework for the provision of foodstuffs because that had clearly become a matter which the Security Council alone could decide. However, it appeared very likely that the Committee itself might reach an agreement on the non-aligned working paper.

The CHAIRMAN said that she would convey the remarks made by the United States representative to the President of the Security Council. If she heard no objection, she would take it that the Committee wished to refer to the Security Council the question of a framework for determining the existence of humanitarian circumstances in accordance with paragraph 3 (c) of Council resolution 661 (1990) and the question of the appeals made by India, the Philippines and Sri Lanka seeking international relief for their nationals stranded in Kuwait and Iraq.

It was so decided.

CONSULTATIONS UNDER ARTICLE 50 OF THE CHARTER (S/AC.25/1990/WP.1/Rev.2 and S/AC.25/1990/WP.5)

The CHAIRMAN said that she would continue the initial phase of consulting with delegations individually and that the question would be taken up at the 10th meeting of the Committee.

## **J. Provisional Summary Record of the 10th Meeting (closed), 14 September 1990**

*Source: S/AC.25/SR.10, 28 September 1990*

Chairman:

Ms. RASI

(Finland)

### CONTENTS

Adoption of the agenda

Foodstuffs and delivery of foodstuffs: S/RES/661 (1990), paragraph 3 (c)

### ADOPTION OF THE AGENDA

The agenda was adopted.

FOODSTUFFS AND DELIVERY OF FOODSTUFFS: S/RES/661 (1990), paragraph 3 (c)

The CHAIRMAN drew the Committee's attention to the working paper by the Non-Aligned caucus, as revised, contained in document S/AC.25/1990/WP.9, concerning emergency international relief to assist Asian and other foreign nationals stranded in Kuwait and Iraq. If she heard no objection, she would take it that the Committee wished to adopt document S/AC.25/1990/WP.9.

It was so decided.

The CHAIRMAN drew the Committee's attention to the letter to be addressed by the Chairman of the Committee to the Permanent Representative of India to the United Nations, with the following text:

"14 September 1990

"Sir,

"I have the honour to refer to the letter submitted by you and the Permanent Representative of the Philippines to the United Nations dated 7 September 1990 addressed to the President of the Security Council, which, at the request of the President of the Council, has been considered by the Security Council Committee established by resolution 661 (1990) concerning the situation between Iraq and Kuwait. The Committee has also heard the additional information provided by you and the Permanent Representative of the Philippines to the United Nations at its 7th meeting, on 10 September 1990. In those statements, you and the Permanent Representative of the Philippines reiterated the full compliance of your Government and the Government of the Philippines with the provisions of resolution 661 (1990).

"Having regard to Security Council resolution 666 (1990) of 13 September 1990, and on the basis of the information provided, the Committee, with reference to the statement made by the Chairman on behalf of the Committee, a copy of which is attached hereto, authorizes the Indian authorities to send one Indian ship to carry foodstuffs to Iraq and Kuwait to meet the immediate needs of Indian nationals there and the distribution of foodstuffs to be carried out as provided for in the relevant Security Council resolutions.

"Accept, Sir, the assurances of my highest consideration."

If she heard no objection, she would take it that the Committee wished to adopt the text of the letter to be addressed to the Permanent Representative of India to the United Nations.

It was so decided.

Mr. PEÑALOSA (Colombia) noted that political and other circumstances had made it necessary to adopt the letter under a special procedure. However, it was his delegation's understanding that, in future, the Committee Chairman would be able to send letters at her discretion, in accordance with ordinary procedure.

Mr. LUKABU KHABOUJI N'ZAJI (Zaire), speaking on behalf of the Non-Aligned caucus, expressed gratitude to the Chairman and to the representative of Canada, who had served as Chairman of the Drafting Group. Their tireless efforts had led to the adoption of the letter and the Non-Aligned working paper, as revised.

Mr. ALARCON DE QUESADA (Cuba) reiterated that, as it had indicated at the time of the vote in the Security Council, his delegation disagreed with certain aspects of the letter and working paper. However, it supported the statement by the representative of Colombia and shared the hope that neither the Committee nor the Security Council would again be confronted by a similar situation.

Mr. AL-ALFI (Yemen) said that he wished to confirm his delegation's well-known position on certain paragraphs of the letter. That position would not change even if the letter was transmitted. His delegation hoped that the action taken would relieve human suffering in Iraq and Kuwait.

Mr. AUST (United Kingdom) requested confirmation that copies of the Chairman's letter and its enclosure would be forwarded to the President of the Security Council and the Secretary-General.

The CHAIRMAN said that the Permanent Representative of India to the United Nations wished to address the Committee.

At the invitation of the Chairman, Mr. Gharekhan (India) took a place at the Committee table.

Mr. GHAREKHAN (India) expressed appreciation to the Committee for giving urgent attention to his delegation's request.

## K. Provisional Summary Record of the 11th Meeting (closed), 17 September 1990

*Source: S/AC.25/SR.11, 28 September 1990*

Chairman: Ms. RASI (Finland)

### CONTENTS

1. Adoption of the agenda
2. Review of the implementation of resolution 661 (1990)
3. Consultations under Article 50 of the Charter
4. Other matters

#### ADOPTION OF THE AGENDA

The agenda was adopted.

#### REVIEW OF THE IMPLEMENTATION OF RESOLUTION 661 (1990)

The CHAIRMAN said that the Committee had received additional replies to

the Secretary-General's note verbale of 8 August 1990 and his reminder of 27 August 1990 from 13 States, Thailand (S/21733), Pakistan (S/21734), Australia (S/21735), Lebanon (S/21737), Ecuador (S/21738), Grenada (S/21740), Bulgaria (S/21741), Kenya (S/21744), Byelorussian Soviet Socialist Republic (S/21746), Yemen (S/21748), Czechoslovakia (S/21750) and Italy (S/21754). She also drew attention to document S/AC.25/1990/WP.2/Rev.1, relating to the questionnaire which the Committee wished to address to States on national measures taken in implementation of resolution 661 (1990), which took into account comments received from members of the Committee.

Mr. RICHARDSON (United Kingdom) said that the revised version of the working paper covered the points regarded as important by the United Kingdom; however, Committee members would need 24 hours to review the text before approving it, possibly by the "no objection" procedure.

The CHAIRMAN said that, if she heard no objection, she would take it that the Committee agreed to postpone consideration of the revised working paper to its next meeting, with a view to taking a decision on it at that time.

It was so decided.

#### CONSULTATIONS UNDER ARTICLE 50 OF THE CHARTER

The CHAIRMAN said that Committee members had received copies of a letter to its Chairman from the Permanent Representative of Yemen (S/AC.25/1990/COMM.16), concerning the special economic problems faced by Yemen in connection with the implementation of resolution 661 (1990), and letters from the Permanent Representatives of Czechoslovakia (S/21750) and of Uruguay and Pakistan (to be issued as documents S/21775 and S/21776, respectively), which referred to Article 50 of the Charter.

In addition, the Committee had before it document S/AC.25/1990/WP.10, containing its observations and recommendations regarding the question of assistance to Jordan under Article 50. There appeared to be agreement in substance on the text of that document, and she took it that the Committee agreed to submit the document to the Security Council.

She drew attention to a draft report, document S/AC.25/1990/WP.11, prepared by the Secretariat on the Committee's observations and recommendations on the special economic problems faced by Jordan in implementing resolution 661 (1990). She invited comments from members before the report was transmitted to the Security Council.

Mr. ALARCON DE QUESADA (Cuba) said that the first two pages of the document appeared to be factual, but that Cuba could not accept the wording of paragraph 2. Only one case had been considered by the Committee, that of Jordan, and the Security Council had not asked the Committee to consider all requests from States experiencing difficulties arising from the implementation of resolution



661 (1990). The wording should be corrected so as to reflect the real situation.

Mr. PICKERING (United States) said he seemed to recall that a letter from Bulgaria had also been referred for consideration by the Committee, in addition to that from Jordan.

Mr. PEÑALOSA (Colombia) agreed with the representative of Cuba that paragraph 2 was not an accurate record. As the Security Council had met in informal consultations, the text should read not "the Security Council requested", but "the members of the Security Council requested".

The CHAIRMAN said, by way of clarification, that the representative of the United Kingdom had asked the Committee to make recommendations and observations concerning countries which had invoked Article 50 and the President of the Security Council had invited the Committee to make its recommendations to the Security Council concerning such countries, which had not been as many in number at that time. She understood that the President of the Security Council might wish to seek further clarifications of the issue in future consultations. However, since the Committee had agreed in substance on its recommendations concerning Jordan, it could now proceed with those recommendations.

Mr. PICKERING (United States) said that his delegation would accept the amended wording "the members of the Security Council requested the Security Council Committee".

The CHAIRMAN said that if she heard no objection she would take it that the Committee approved the text of the draft as thus amended.

It was so decided.

#### OTHER MATTERS

The CHAIRMAN drew attention to documents S/AC.25/1990/COMM.14 and Add.1, containing the text of letters addressed to her by the Permanent Representative of Cuba concerning the supply of sugar to Jordan. While that was not prohibited under resolution 661 (1990), any transshipment to Iraq would raise issues covered by Security Council resolution 666 (1990). She asked whether the Committee wished to inform the Permanent Representative of Cuba to the United Nations accordingly.

Mr. RICHARDSON (United Kingdom) said that his delegation was puzzled by the letter, as a consignment to Jordan was not affected by the provisions of resolution 661 (1990). The necessary assurances had, he assumed, been given that there would be no transshipment of the sugar to Iraq: if that was the case, the United Kingdom concurred with the proposal by the Chairman.

Mr. ALARCON DE QUESADA (Cuba) said that Cuba was fully aware that the consignment was not affected by the provisions of resolution 661 (1990), but merely wished to inform the Committee about the consignment lest members of the Committee were to have doubts about the shipment or, perhaps, to confuse it with military manoeuvres in the Gulf of Aqaba. Once Cuba had handed over the consignment, it

would have no further powers over its fate, which would be entirely in the hands of Jordan.

Mr. AL-ASHTAL (Yemen) said his delegation feared that the letter from Cuba might set a precedent, causing the Committee to be asked to clear further consignments of goods to Jordan. The provisions of resolution 661 (1990) did not cover exports to Jordan, and Jordan was responsible for the application of those provisions to transshipments from its territory to Iraq.

The CHAIRMAN drew the Committee's attention to document S/AC.25/1990/COMM.15, containing the text of a letter from Turkey to the Committee. If she heard no objection, she would take it that the Committee wished to take note of the letter.

It was so decided.

The CHAIRMAN recalled to the Committee's attention a number of matters pending, concerning communications from Turkey and Yugoslavia (S/AC.25/1990/NOTE/3), Yemen (S/AC.25/1990/NOTE/4), Bulgaria (S/AC.25/1990/COMM.8) and Malta (S/AC.25/1990/NOTE/7).

Document S/AC.25/1990/NOTE/3 contained two letters from Turkey and one from Yugoslavia. The first letter from Turkey concerned the freezing of the accounts of the Turkish company Kuveyt-Turk Evkaf Finans Kurumu A.S., and gave notification of necessary action being taken bilaterally between the Turkish Government and the countries concerned. If she heard no objection, she would take it that no action was required by the Committee regarding that letter.

It was so decided.

The CHAIRMAN suggested that the second letter from Turkey, which required clarification on five points relating to foodstuffs, should be examined by the Committee at its next meeting in the light of the adoption of resolution 666 (1990).

It was so decided.

The CHAIRMAN said that the letter from Yugoslavia contained in S/AC.25/1990/NOTE/3 related to the shipment of food supplies through Turkey to Yugoslav workers in Iraq. She suggested that the Committee revert to the matter at its next meeting for decision in the light of resolution 666 (1990).

It was so decided.

The CHAIRMAN said that document S/AC.25/1990/NOTE/4, which related to the letter from Yemen (S/AC.25/1990/COMM.5), raised a legal question, and she therefore suggested that the Committee should decide to refer the matter to the Legal Counsel for advice.

Mr. PICKERING (United States) said that, after giving the matter the serious and urgent consideration it merited, his delegation believed that it had been adequately covered by the Legal Counsel's response to a question from the Netherlands, to the effect that services which promoted or were calculated to

of promote exports to or imports from Iraq or Kuwait were covered by the embargo. By the same token, services to commercial vessels flying the Iraqi flag were also covered. The United States felt, therefore, that the question had already been adequately answered, and that there was no need to refer to the Legal Counsel the question raised in the letter from Yemen.

d Mr. AL-ASHTAL (Yemen) noted that, once again, an objection had been raised to the mere submission of a request to the Legal Counsel. Indeed, except in the case of the question by the Netherlands, it had proved difficult for Committee members to seek a legal opinion - and that hardly facilitated the Committee's work. Even assuming that both of Yemen's questions had been answered in the reply to the Committee's inquiry regarding the question by the Netherlands, it was difficult to understand why the United States delegation should oppose another request for a legal opinion. An unbiased legal opinion was, after all, different from an opinion by a Committee member. His delegation objected in principle to preventing any delegation or Committee member from seeking a legal opinion.

) Concerning the second question in its letter (S/AC.25/1990/COMM.5), his delegation was entitled to a clarification regarding the differing interpretations of "humanitarian circumstances". Moreover, the adoption of Security Council resolution 666 (1990) did not constitute grounds for not seeking a reply to the first question in the Yemeni letter. Yemen was called on daily to provide what it viewed as humanitarian services to ships in the port of Aden. As his delegation's interpretation of humanitarian services differed from that of the Powers enforcing the Security Council resolutions, it wished to avoid problems in that connection. If a legal opinion could not be obtained urgently, a delegation would enter a reservation on that issue.

of f ed 0). Mr. WILKINSON (United States) said that Security Council resolution 661 (1990) and the situation in the Persian Gulf were largely unprecedented. It would be difficult to formulate a legal opinion based on parallels and analogies with past resolutions. Since Committee members, who were concurrently members of the Security Council, had drafted the resolution, they should be the first to respond to questions concerning its underlying intention. It had not been his delegation's aim to impose a unilateral interpretation of the resolution. It would be prepared to address the first question in the Yemeni letter, and to consider written interpretations of the resolution in consultation with other Committee members.

at he re el Mr. PEÑALOSA (Colombia) agreed with the representative of the United States that there were no precedents for the implementation of Security Council resolution 661 (1990). As it was difficult to anticipate fully the consequences of implementing the resolution, a certain degree of flexibility was important. For that reason, his delegation had already suggested establishing rules of procedure

for the Committee. It seemed pointless to engage in lengthy procedural discussions when the matter could be easily resolved by specifying the Committee's mandate in a resolution.

Mr. GOSHU (Ethiopia) said that certain concepts were more political than legal in nature. "Humanitarian circumstances" was one such concept. While the question of "services" had indeed been addressed in the reply to the Netherlands, if a delegation sought a legal opinion, its request should be granted. The Committee must be certain that it was functioning within a legal framework.

Mr. KIRSCH (Canada) said that even before the adoption of Security Council resolution 666 (1990), his delegation had believed that the interpretation of humanitarian circumstances should be based on the actual situation in Iraq and Kuwait, rather than on a legal opinion. With the adoption of Security Council resolution 666 (1990), setting forth mechanisms for the determination of humanitarian circumstances, the usefulness of a legal opinion seemed even more doubtful. It appeared that services, such as water supplies and fuel, were covered by the embargo, in accordance with paragraphs 3 (c), 3 (b) and 4 of Security Council resolution 661 (1990), concerning the export or transshipment of commodities or products and the transfer of funds. However, his delegation was also concerned about the effect of procedural discussions on the work of the Committee, and did not object in principle to providing a Committee member with a legal opinion.

Mr. REDZUAN (Malaysia) supported the statements by the Ethiopian and Canadian representatives. Earlier, his delegation had expressed the view that a Committee member should not be impeded from seeking a legal opinion.

Mr. LUKABU KHABOUJI N'ZAJI (Zaire) said it was his delegation's understanding that questions concerning resolutions would be considered initially by Committee members and that, subsequently, the Committee Chairman could seek an opinion from the Legal Counsel on questions of a strictly legal nature. The situation was somewhat ambiguous, for, as sponsors of Security Council resolution 661 (1990), Committee members had presumably had an opportunity to contemplate its implications. However, as the Colombian representative had indicated, all consequences of the resolution could have not been fully apparent at the outset. His delegation agreed with the representative of Canada that Security Council resolution 666 (1990) clarified the questions raised by Yemen concerning paragraphs 3 (c) and 4 of resolution 661 (1990). However, if the delegation of the Netherlands was entitled to a legal opinion concerning services, the delegation of Yemen should be entitled to one as well.

Mr. ALARCON DE QUESADA (Cuba) expressed surprise that a very common procedure in the Organization had become such a matter of principle and was complicating the work of the Committee. There was no reason why any delegation

wishing a legal opinion could not seek one, especially since the Committee would not be bound by that opinion.

Mr. DELON (France) said that a legal opinion would be entirely appropriate on the first question in the Yemeni letter, as it differed slightly from the inquiry concerning services by the Netherlands. Regarding the second question, however, the adoption of Security Council resolution 666 (1990) seemed to eliminate the need for a legal opinion. His delegation agreed with the representative of Canada that the Committee should not spend an excessive amount of time on procedural questions and that any reasonable request for a legal opinion should be acceded to.

Mr. AL-ASHTAL (Yemen) noted that the majority of Committee members had no objection to his delegation's request. It was regrettable that the discussion had lasted more than one hour. As other delegations - for example the delegation of Singapore - had also requested legal opinions, it might expedite the Committee's work if it were agreed that the Chairman could refer such requests to the Legal Counsel whenever she deemed it appropriate.

The CHAIRMAN said that she had intended to make an identical proposal. Therefore, if she heard no objection, she would take it that the Committee members agreed to the following procedure: Whenever the Chairman received a letter from a Member State requesting an opinion on strictly legal aspects of a question, she would have the authority to refer the request to the Legal Counsel, on the understanding that the Committee would then decide whether the information provided by the Legal Counsel should be conveyed to the State or entity concerned.

Mr. WILKINSON (United States) said that the Committee already had procedural guidelines in writing, and the Chairman's suggestion constituted an amendment to those guidelines. His delegation was not prepared to support such an amendment at the present juncture, but would give further consideration to a proposal submitted in writing.

The CHAIRMAN said that she would circulate her proposal in writing at the earliest possible date.

The second question contained in the Yemeni letter would have to be decided in the context of Security Council resolution 666 (1990). Accordingly, she suggested that the Committee should take a decision on the matter at its 12th meeting.

It was so decided.

The CHAIRMAN drew the Committee's attention to document S/AC.25/1990/COMM.8, which contained the text of a note verbale dated 4 September from the Permanent Mission of Bulgaria to the United Nations, concerning the shipment of baby food on board the Iraqi ship "Belkis" from Varna, Bulgaria, to Iraq. She suggested that the Committee should take up the matter at its

12th meeting for decision in the light of Security Council resolution 666 (1990).

It was so decided.

The CHAIRMAN drew the Committee's attention to document S/AC.25/1990/NOTE/7 relating to the letter dated 5 September 1990 from the Permanent Representative of Malta to the United Nations (S/AC.25/1990/COMM.9). The communication raised the matter of the Malta flag vessel "M.V. Sea Music II", which, according to the letter, was loaded with sulphur bound for Morocco and was stranded in Shuaiba, Kuwait. It appeared to her that further clarification should be sought from Malta concerning the origin of the sulphur and that, upon receipt of that information, the Committee could take a decision on the question of referring the matter to the Legal Counsel.

It was so decided.

The CHAIRMAN drew the Committee's attention to document S/AC.25/1990/COMM.17, which contained a letter dated 13 September 1990 from the Permanent Representative of Singapore to the United Nations concerning the impact of the sanctions imposed under Security Council resolution 661 (1990) on vessels flying the Kuwaiti flag. It appeared to her that the matter was legal in nature, and she would propose in writing that the Committee should decide to refer the question to the Legal Counsel for advice.

It was so decided.

The CHAIRMAN said that the Committee must take a decision on the treatment of communications from non-governmental organizations (NGOs) on matters falling within the Committee's purview. One such communication had already come to the Chairman's attention. One possible course of action would be to circulate communications received from NGOs to all Committee members under an NGO document series. Thereafter, the Committee could, if warranted, take up the matters raised in such communications under the agenda item "Other matters", or even as a separate agenda item at a subsequent meeting, if one or more members of the Committee so requested.

Mr. DELON (France) requested additional information on communications from NGOs. Specifically, it would be useful to know whether such communications were essential to the Committee's work, and whether they would require Secretariat services, which would incur expenses for the Organization.

The CHAIRMAN said that she had received only one such communication from the organization Feed the Children.

After the meeting, she would contact members of the Secretariat for clarification on arrangements for the distribution of foodstuffs by United Nations agencies in accordance with the provisions of Security Council resolution 666 (1990). She would report on the matter at the Committee's 12th meeting.

**L. Provisional Summary Record of the 12th Meeting (closed), 21 September 1990***Source: S/AC.25/SR.12, 2 October 1990*Chairman:

Ms. RASI

(Finland)

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## ADOPTION OF THE AGENDA

The agenda was adopted.

## REVIEW OF THE IMPLEMENTATION OF SECURITY COUNCIL RESOLUTION 661 (1990)

The CHAIRMAN drew attention to documents S/21779, S/21782, S/21785, S/21789 and S/21791 containing replies to the Secretary-General's note verbale of 8 August 1990, and his reminder of 27 August 1990, from Jamaica, Panama, the Libyan Arab Jamahiriya, Mauritania and Argentina, respectively.

Mr. RICHARDSON (United Kingdom) drew attention to the final paragraph on page 2 of the communication from the Libyan Arab Jamahiriya (S/21785), and pointed out that the question referred to had already been clarified by resolution 666 (1990). He proposed, therefore, on a matter of procedure, that the Chairman should draw the attention of the Permanent Representative of the Libyan Arab Jamahiriya to resolution 666 (1990).

Mr. KIRSCH (Canada) supported the proposal.

The CHAIRMAN said that, if she heard no objection, she would take it that the Committee authorized her to write to the Libyan Arab Jamahiriya, drawing to its attention the provisions of resolution 666 (1990).

It was so decided.

The CHAIRMAN drew attention to document S/AC.25/1990/WP/2/Rev.2, containing the text of the revised working paper submitted by the Chairman on the proposed questionnaire concerning national measures taken in implementation of resolution 661 (1990), and pointed out that the document contained one addition, the penultimate sentence in the first paragraph.

Mr. RICHARDSON (United Kingdom) said that his delegation was, in general, very happy with the questionnaire and hoped that a decision would be reached as soon as possible. However, he was concerned that the new sentence might provide a loophole enabling entrepreneurs to use small States as vehicles for sanctions

evasion. There was a danger that a large number of States would respond stating that they had virtually no economic, commercial or financial contacts with Iraq, and he felt that it was necessary to ensure that such States would none the less give some indication of the legislation they had enacted in implementation of the provisions of resolution 661 (1990).

Mr. KIRSCH (Canada) said that the concerns covered by the new sentence and those of the United Kingdom could perhaps be satisfied by deleting the sentence in question and adding the words "to the extent that they apply to these States" to the end of the last sentence.

Mr. WILKINSON (United States of America) supported the proposal.

Mr. RICHARDSON (United Kingdom) welcomed the proposal and suggested that the first four words of the last sentence, "as regards other States", could also be deleted as unnecessary.

Mr. KIRSCH (Canada) said that the words "from States" should be inserted after the word "requested" for the sake of full clarity.

The CHAIRMAN said that, if she heard no objection, she would take it that the Committee wished to delete the penultimate sentence and to amend the last sentence of the first paragraph to read: "Information is requested from States on the following items to the full extent that they apply to them."

It was so decided.

FOODSTUFFS AND DELIVERY OF FOODSTUFFS: SECURITY COUNCIL RESOLUTIONS 661 (1990), PARAGRAPH 3 (C) AND 666 (1990)

The CHAIRMAN said that, in pursuance of the Committee's decision to request the Secretary-General to follow up the emergency international relief efforts, she had met with senior members of the Office of the Secretary-General on 18 September 1990. She had later been informed by the Secretary-General that he had communicated the text of resolution 666 (1990) to a number of United Nations and other humanitarian agencies requesting them to provide him, urgently, and to the extent possible, with information relevant to the resolution.

The Food and Agriculture Organization of the United Nations (FAO) had indicated that Iraq depended on imports for considerably more than half of its cereal supplies and an even higher proportion of some other principal foodstuffs.

The International Committee of the Red Cross (ICRC) had indicated in its reply that its President's mission to Baghdad, undertaken in order to enable that organization to discharge its humanitarian mandate in favour of all the persons in need of protection and assistance in both Kuwait and Iraq, had not been successful, and it was thus unable to assess the nutritional and medical needs of the civilian populations in those countries. ICRC fully shared the Secretary-General's concern and alarm about the food situation of certain vulnerable groups of civilians stranded in those countries and it would spare no efforts in pursuing its



discussions with all the concerned parties. Other replies were awaited by Secretary-General.

Recalling that the United Nations did not have, at that time, an international presence in Iraq or Kuwait with the necessary expertise to verify the food situation in those countries, she said that she had been informed by the Secretary-General that he had requested the Government of Iraq to provide him urgently, and on a continuing basis, with information about the availability of food in Iraq and Kuwait, particularly with respect to children under 15 years of age, expectant mothers, maternity cases and the sick and the elderly. He had also requested that the United Nations and other humanitarian agencies should be given the necessary co-operation to enable them to carry out their responsibilities under resolution 666 (1990)

With regard to the Indian ship that had been authorized by the Committee to convey foodstuffs to Iraq and Kuwait for Indian nationals, the Secretary-General had met the Permanent Representative of India to the United Nations on 18 September 1990 and had asked him to ascertain whether, in accordance with paragraph 6 of resolution 666 (1990), his Government would allow the presence of a United Nations official on the Indian ship. She herself had asked him to ascertain from his Government whether ICRC personnel could travel on the vessel and be present at the distribution of the foodstuffs. She had also asked the Permanent Representative of Iraq to find out whether the Iraqi authorities would permit ICRC personnel to travel on the vessel and to be present at the distribution of foodstuffs. She awaited the advice of the Committee on any further action to be taken.

Mr. RICHARDSON (United Kingdom) said that the United Kingdom regarded the presence of ICRC personnel on the Indian ship as most important, as it would otherwise be very difficult to deal satisfactorily with future cases of the same nature.

With reference to paragraph 6 of resolution 666 (1990), which called for the direct involvement of the United Nations in the provision of foodstuffs, he regretted that no firm assurances had yet been given. He consequently proposed that the Committee should convey to India its wish that an ICRC official should travel on the vessel; the ICRC official could, if necessary, join it at a fuelling stop in the Gulf.

With regard to the question of United Nations involvement, the Secretary-General could designate the ICRC representative as the United Nations representative, or could establish a linkage between them to be elaborated at a later stage.

Mrs. CASTAÑO (Colombia) suggested that the Indian authorities should be asked to inform the Committee which Indian Red Cross officials were already present

on the ship. If such officials were of a sufficiently high rank they could be recognized internationally and the United Kingdom proposal would therefore no longer be applicable.

Ms. KALKKU (Finland) said that there were two aspects to the problem: first, which officials would be on board the vessel, and, secondly, how the food would be unloaded and distributed. The Committee should endeavour to ascertain whether the Indian Red Cross officials could control the distribution of foodstuffs on the ground.

Mr. WILKINSON (United States of America) said that the position was rendered more difficult and unpredictable by the failure of the Iraqi authorities to accept the provisions of the relevant resolutions and the representations made by the Chairman of the Committee and the Secretary-General. It was important to support the efforts of the Secretary-General and ICRC to implement resolution 666 (1990) as effectively and directly as possible. His delegation therefore supported the United Kingdom proposal. The Committee should keep the situation under constant review, taking into account further developments as the vessel neared its port of destination in Iraq.

Mr. MORENO FERNANDEZ (Cuba) supported the Colombian proposal and proposed that the Committee should take a decision on it.

Mr. GOSHU (Ethiopia) said that particular care should be taken with the present case, as it could set a precedent. He agreed with the representative of the United Kingdom that the Committee must impress upon India the necessity to comply with the provisions of resolution 666 (1990). India should not be deterred by the obduracy displayed by Iraq.

Mr. KIRSCH (Canada) agreed that the Indian ship was an important test case. While he concurred with the Colombian suggestion that information should be sought on the functions and rank of the Indian Red Cross officials on the ship, he also stressed the importance of observing the specific terms of resolutions 661 (1990) and 666 (1990). While it was important not to exclude alternative mechanisms for distribution, he felt that the United Kingdom proposal came as close as was possible to ensuring full respect for the terms of the resolutions.

Mr. YU Mengjia (China) said that urgent relief measures were needed to alleviate the plight of the Indians in Iraq and Kuwait and that these must be consistent with the provisions of resolution 666 (1990). China, therefore, supported the suggestion by Colombia and proposed, furthermore, that the ICRC should be asked whether Indian Red Cross officials could act as its representatives.

The meeting was suspended at 11.35 a.m. and resumed at 11.40 a.m.

Mr. RICHARDSON (United Kingdom) said that he saw no difficulty whatsoever about seeking information on the Indian Red Cross officials who he understood were

on board the ship. His concern was that that course of action did not really provide a solution in itself. The difficulties were twofold: firstly, once the officials concerned reached Iraqi territory, they would no longer be masters of their own destiny; secondly, the Committee was dealing with an important test case. The Committee's actions might place countries more vulnerable than India in a difficult and embarrassing position in the future. In any event, whatever action was taken must be taken through the United Nations, in some form of communication, either through the Secretary-General or through the Committee.

The United Kingdom had seen the presence of an ICRC representative on board the ship, which he understood was still technically feasible, as an additional reinforcement for, and a help to, the Indian authorities.

The CHAIRMAN said that during the suspension of the meeting she had been informed by the Permanent Representative of Iraq by telephone that the distribution of the foodstuffs would take place only on the basis of bilateral arrangements between India and Iraq.

Mr. POLETTI (France) said that the foodstuffs must be distributed in accordance with the relevant Security Council resolutions, that was to say, in the presence of a Red Cross representative and, if possible, in the presence of a Secretariat official.

The announcement just made by the Chairman showed that Iraq was taking an altogether regrettable approach to the matter, thus considerably complicating the situation. France entirely supported the United Kingdom's suggestion that an ICRC representative should be present. The Committee needed to clarify whether the ICRC could be represented by the Indian Red Cross team on the ship. If the Indian Red Cross was entrusted with the task of representing the ICRC, it would have to be made completely clear that that was the case.

The CHAIRMAN said that ICRC representatives both in New York and in Geneva had informed her that such a mandate for the Indian Red Cross must be acceptable to all the parties concerned.

Mrs. KABA (Côte d'Ivoire) said that her delegation supported the views expressed by the United Kingdom, Ethiopia and France concerning the implementation of the relevant Security Council resolutions. The nationality of the Red Cross representative should not be an issue.

Mr. REDZUAN (Malaysia) said that the Committee should take account of the views expressed by Côte d'Ivoire, China and Colombia. Moreover, it should invite the Permanent Representative of India to consult with it.

Mr. WILKINSON (United States of America) said that his delegation was dismayed to hear the Chairman's report on her conversation with the Permanent Representative of Iraq. He supported the comments made by earlier speakers concerning Iraq's obduracy and the need for the Committee to proceed to the extent

possible on the basis of agreed decisions and the relevant Security Council resolutions. The Committee certainly should continue to seek information on a continuing basis from the Permanent Representative of India and from the Indian authorities on their personnel aboard their ship. It should, however, also proceed with its efforts to engage the Secretary-General and the ICRC as the time for the docking of the ship approached.

The CHAIRMAN said that she was willing to invite the Permanent Representative of India to address the Committee. Moreover, she needed the Committee to authorize her to contact the Secretary-General in order to emphasize to him how urgent it was that the matter before the Committee should be taken up with the authorities concerned. The Committee must maintain close contact with both the Secretary-General and the Permanent Representative of India.

Mr. RICHARDSON (United Kingdom) fully endorsed the Chairman's suggestion that she should be authorized by the Committee to contact the Secretary-General urgently.

He had no objection whatsoever to the suggestion that the Chairman should invite the Permanent Representative of India to address the Committee. However, since time was getting very short, the best approach might be for the Chairman and the other officers of the Committee to hold urgent consultations with the Permanent Representative of India.

Mr. ILITCHEV (Union of Soviet Socialist Republics) supported the Chairman's suggestion concerning urgent consultations with the Secretary-General and the Permanent Representative of India. While it was clear that the Committee was dealing with a critical situation, he wished to stress that the Iraqi authorities did not, in principle, reject aid to the people in question. It would therefore be appropriate to seek the views of the Secretary-General and the Permanent Representative of India on the implementation of Security Council resolution 661 (1990).

Mr. FLOREAN (Romania) said that his Government was concerned that the humanitarian assistance in question should reach its destination as soon as possible. He endorsed the Chairman's suggestion, and drew attention to the importance of paragraph 7 of Security Council resolution 666 (1990), which referred to the Secretary-General's good offices.

The CHAIRMAN said that, if she heard no objection, she would take it that Committee members wished her, firstly, to convey their views to the Secretary-General as soon as possible and, secondly, to convene a meeting of the Committee's officers, to which the Permanent Representative of India should be invited.

It was so decided.

The CHAIRMAN drew attention to a letter from the Permanent Representative of Sri Lanka to the United Nations addressed to her (S/AC.25/1990/COMM.20). The letter contained a request that was similar to the one made in the Indian case. She invited comments on whether the Committee should authorize the Sri Lankan authorities to send a ship on the same basis as in the Indian case.

Mr. WILKINSON (United States of America) said that his delegation was quite favourably disposed in principle to shipments to meet the food needs of foreigners in Iraq and Kuwait who did not have, or continued to be denied, access to food supplies. The United States hoped to see a shipment such as the one in question go forward. However, in the light of the prior discussion and the continuing difficulty that the Committee faced in connection with the Indian shipment, he suggested that the Committee should first of all assure itself of the outcome of the Indian case before giving its final approval in the Sri Lankan case.

Mr. REDZUAN (Malaysia) said that he understood the concern expressed by the United States delegation. However, he stressed that about 90 per cent of the approximate total of 100,000 Sri Lankans stranded in Kuwait were women. The Permanent Representative of Sri Lanka should be invited to describe the situation confronting the Sri Lankan nationals in Kuwait to the Committee's officers.

Mr. MORENO FERNANDEZ (Cuba) endorsed the proposal.

The CHAIRMAN said that, although the Committee had already heard the Permanent Representative of Sri Lanka, it could of course hear him again.

Mr. YU Mengjia (China) said that he, too, supported Malaysia's proposal. The Committee should proceed as it had in the Indian case; in other words, it should agree to the departure of the ship from Sri Lanka and continue to seek a solution to the various pending problems.

Mr. GOSHU (Ethiopia) likewise endorsed the Malaysian proposal. In view of the amount of time that would elapse between authorization, shipment and unloading, there would be ample time to deal with the concerns expressed by the United States.

Mr. WILKINSON (United States of America) reaffirmed that in principle his delegation was favourably disposed to the provision of a shipment. However, he noted that the letter gave no indication of the time of the ship's departure and did not provide any information on the steps that the Sri Lankan authorities proposed to take in order to meet the terms of Security Council resolution 666 (1990). It would be appropriate, in that connection, to obtain information on the Sri Lankan authorities' intentions with respect to the evacuation of Sri Lankan citizens and on any proposals or efforts Sri Lanka had made or might be making in that regard. Having said that, he believed that it would be quite appropriate for the Committee's officers to meet expeditiously, as had been suggested, with the representatives of Sri Lanka in order to obtain further information on the proposed

shipment. They should then report back to the Committee, so that it might give its approval on the basis of more specific information.

Mr. REDZUAN (Malaysia) said that he had been requested to inform the Committee that the Permanent Representative of Sri Lanka was ready to provide forthwith any additional information that might be required.

Mrs. CASTAÑO (Colombia) and Mr. RICHARDSON (United Kingdom) said that it would be very desirable to hear the Permanent Representative of Sri Lanka.

The CHAIRMAN said that, if she heard no objection, she would take it that the Committee wished its officers to meet that afternoon to hear the Permanent Representative of Sri Lanka, as well as the Permanent Representative of India, and to report back to it thereon.

It was so decided.

The CHAIRMAN said that it had been agreed at the preceding meeting that the Committee might wish to take a decision at the current meeting on the letter dated 22 August 1990 from the Permanent Representative of Turkey to the United Nations addressed to her (S/AC.25/1990/COMM.2, second letter), in the context of Security Council resolution 666 (1990). However, before the Committee took up the substance of that letter, she would like to draw attention to the text of a note verbale dated 20 September 1990 from the Permanent Mission of Turkey to the United Nations addressed to the Secretary-General, regarding measures taken by Turkey in connection with the transit to Iraq and Kuwait of foodstuffs and supplies intended strictly for medical purposes (S/21806).

If she heard no objection, she would take it that, in the light of the latest communication from Turkey, the Committee wished to defer its consideration of the matter to its following meeting.

It was so decided.

The CHAIRMAN drew attention to two letters dated 27 August and 17 September 1990 from the Permanent Representative of Yugoslavia to the United Nations addressed to the Chairman (S/AC.25/1990/COMM.3 and 19). As agreed at the previous meeting, the Committee might wish to take a decision on the matter at the current meeting in the context of Security Council resolution 666 (1990).

Mrs. CASTAÑO (Colombia) said that her delegation believed that the case of Yugoslavia was similar to those of India and Sri Lanka, and the Committee should examine together with the Permanent Representative of Yugoslavia, ways of drawing attention to the plight of Yugoslav nationals in Iraq and Kuwait and of finding a solution to the problem.

Mr. WILKINSON (United States of America) said that the most recent letter from the Permanent Representative of Yugoslavia (S/AC.25/1990/COMM.19) gave rise to a number of questions. In particular, it would be useful to obtain information on how Yugoslavia intended to submit its shipment of provisions to its workers in Iraq

to the control of international humanitarian and similar organizations and to send them through the International Committee of the Red Cross. Furthermore, both letters from the Permanent Representative of Yugoslavia seemed to imply that there were Yugoslav nationals who were likely to remain in Iraq indefinitely as construction workers. His delegation was uneasy at the notion of providing food to construction workers on an indefinite basis, especially since the activities of such Yugoslav nationals might be contrary to Security Council resolution 661 (1990).

His delegation fully understood the plight of Yugoslav nationals who appeared to be having difficulty in obtaining exit visas and whose food and medical supplies were running out. The Bureau might therefore wish to request further information from the Permanent Representative of Yugoslavia concerning the arrangements which the Yugoslav authorities were making to implement their declared intention regarding the method of shipment of food and medical supplies, with the involvement of the International Committee of the Red Cross, and to achieve a solution by accelerating the evacuation of Yugoslav workers from Iraq.

The CHAIRMAN said that it was her intention to add the name of the Permanent Representative of Yugoslavia to the list of the permanent representatives to be invited to a meeting of the Bureau. If she heard no objection, she would take it that the Committee agreed to that procedure.

It was so decided.

The CHAIRMAN drew attention to the text of a note verbale dated 4 September 1990 from the Permanent Representative of Bulgaria to the United Nations addressed to the Chairman (S/AC.25/1990/COMM.8). The Committee might wish to approach the matter by dealing first with the question of whether the shipping of baby food was allowed under Security Council resolutions 661 (1990) and 666 (1990). In the case that such shipments were allowed, the Committee should consider the mode of transportation.

Mr. MORENO FERNANDEZ (Cuba) said that, in view of the humanitarian situations referred to in Security Council resolution 661 (1990) and the measures indicated in Council resolution 666 (1990), the shipment of baby food to Iraq was completely justified.

Mr. KIRSCH (Canada) said that the criteria for determining whether humanitarian circumstances applied to the shipment of baby food to Iraq should be not only the nature of the goods to be delivered but also the existence of a need for such goods. His delegation would not be able to take a final position on the issue until the Bulgarian authorities explained why humanitarian circumstances applied in the case in question.

Mr. WILKINSON (United States of America) said that his delegation associated itself fully with the statement by the representative of Canada and believed that the Committee should request further information from the Permanent

Mission of Bulgaria. His delegation deplored the failure of the Government of Iraq to co-operate with the United Nations, the Secretary-General or relief agencies which could provide the kind of information which would enable the Committee to take a confident decision.

The CHAIRMAN said that, if she heard no objection, she would take it that the Committee agreed that she should address a letter to the Permanent Mission of Bulgaria asking why it believed that humanitarian circumstances in Iraq necessitated the delivery of baby food to that country. She would report to the Committee regarding the reply received from the Permanent Mission of Bulgaria.

It was so decided.

#### OTHER MATTERS

The CHAIRMAN drew attention to the text of a letter dated 18 September 1990 from the Secretary of the Committee addressed to the Chairman on behalf of the Secretary-General, transmitting to the Committee a communication from the Director-General of the International Atomic Energy Agency addressed to the Secretary-General (S/AC.25/1990/COMM.18). She suggested that the Committee might wish to refer the letter to the Legal Counsel for his advice.

Mr. WILKINSON (United States of America) said that his delegation wished to have more time to consider the matter but it would have no objection if the Chairman prepared a contingency letter of referral indicating a deadline of 12 p.m., Monday, 24 September 1990. In the mean time, his delegation would consider how it would be willing to proceed on the matter.

Mr. RICHARDSON (United Kingdom) said that Article 48, paragraph 2, of the Charter of the United Nations was fairly conclusive with regard to the substance of the matter. At a time when States Members of the United Nations were bound by the provisions of mandatory Security Council resolutions, it would be absurd if some Member States, acting in a different international organization, were to take a contrary view.

The CHAIRMAN said that, if she heard no objection, she would take it that the Committee agreed that she should prepare a letter indicating a deadline for the submission of the special request to the Legal Counsel some time on Monday, 24 September 1990.

It was so decided.

The CHAIRMAN drew attention to the text of a letter dated 14 September 1990 from Dr. Larry Jones of Feed the Children, addressed to the Chairman (S/AC.25/1990/NGO/1). At its previous meeting, the Committee had decided to circulate, where warranted, communications from non-governmental organizations for the information of the members of the Committee. That decision was in keeping with the procedure of the Security Council itself, as indicated in the appendix to the provisional rules of procedure of the Council. She suggested that the



Committee should take a further decision on how it should deal with communications received from non-governmental organizations.

Non-governmental organizations functioned under the jurisdiction of the State in which they operated. Bearing in mind that the responsibility for the implementation of Security Council resolution 661 (1990) rested with States, the Committee might wish to agree on the text of a standard letter to be sent in reply to non-governmental organizations which wrote to the Committee, explaining that their proposals and requests for clarification should be addressed to the Government of the State in which they operated. She said that, if she heard no objection, she would take it that the Committee agreed that she should prepare a draft text of such a standard letter for consideration by the Committee.

It was so decided.

### M. Provisional Summary Record of the 13th Meeting (closed), 22 September 1990

*Source: S/AC.25/SR.13, 4 October 1990*

Chairman: Ms. RASI (Finland)

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ADOPTION OF THE AGENDA

The agenda was adopted.

FOODSTUFFS AND DELIVERY OF FOODSTUFFS: SECURITY COUNCIL RESOLUTIONS 661 (1990), PARAGRAPH 3 (c), AND 666 (1990)

The CHAIRMAN said that, at its 12th meeting, the Committee had authorized the Chairman and other officers to take a number of measures on behalf of the Committee in connection with the item under consideration. Specifically, with respect to the Indian ship, it had been decided that the Chairman would contact the Secretary-General or his Chef de Cabinet to inform them that, in the Committee's view, it was urgent that a solution should be found to the problem of ensuring that the foodstuffs were distributed in accordance with the relevant provisions of the Security Council resolutions.

The Committee's officers had also been asked to hold consultations with the Permanent Representatives of India and Yugoslavia and with the Acting Permanent Representative of Sri Lanka to clarify certain matters. Accordingly, the officers had met with those individuals the preceding day, and she wished to report on the conversations held.

Conversation with the Permanent Representative of India

The CHAIRMAN reported that the Permanent Representative of India had said that the Indian ship which was transporting roughly 100 tons of foodstuffs and medicines would reach Iraq within 48 hours. The ship had already been inspected in the zone by United States naval forces, which had allowed it to continue on its way. India shared the Committee's concern that the foodstuffs should reach the intended recipients and believed there was reason to hope that that would happen. India was also prepared to share the foodstuffs with nationals of other Asian countries, specifically Sri Lanka, the Philippines and Bangladesh, if so requested.

Travelling on board the vessel was the Secretary-General of the Indian Red Cross, accompanied by a group of officials of that organization. The Indian Red Cross would distribute the foodstuffs with the help of staff from the Embassy of India and Indian organizations (there were 16 Indian organizations in Kuwait which were already involved to some extent in the distribution of foodstuffs). To that end, distribution channels from the ports to food distribution centres would be set up. India wished to have a United Nations agency or the International Committee of the Red Cross (ICRC) participate in the distribution of foodstuffs, but the Government of Iraq would not accept the presence of the United Nations. India had contacted the League of Red Cross and Red Crescent Societies, which had agreed that the foodstuffs would be distributed by the Indian Red Cross. If a problem arose, India would report immediately to the Security Council. Once the operation was under way, India would gladly provide the Committee with a progress report. The Permanent Representative of India believed that everything was being carried out in accordance with Security Council resolution 666 (1990), which provided for co-operation with the International Committee of the Red Cross or other humanitarian organizations, as he considered the Indian Red Cross more than qualified as a "humanitarian organization".

As to whether India would agree to an ICRC presence on board the ship if the distribution and delivery of the cargo was entrusted to that organization, the Ambassador had replied that, from a logistical point of view, there was no space on the ship; however, India had no difficulty with ICRC awaiting the arrival of the ship in the Iraqi port, contacting the Indian authorities and thenceforth working with them to distribute the foodstuffs. Iraq, however, was not prepared to accept ICRC involvement.

As to whether it would be possible to designate the Indian Red Cross official travelling on board the vessel as the representative of ICRC, the Permanent Representative of India had said he would have to request instructions from his Government on the matter. The distribution and delivery of foodstuffs had consistently been carried out in accordance with the stipulations of the Security Council and the Committee and with the letter and spirit of Council resolution

666 (1990). The Government of India could ask the Indian Red Cross to report to the United Nations through the Permanent Mission of India to the United Nations.

She suggested that the Committee should hold a brief meeting on 24 September and invite the Permanent Representative of India to report to it on the initial stages of the foodstuff distribution and delivery operation.

Mr. ALARCON de QUESADA (Cuba) said that the decision to allow an Indian ship to bring foodstuffs to tens of thousands of persons in need had been taken on 13 September under circumstances that were familiar to everyone. Authorization for the Indian ship to do what it was doing had been given in terms which had had to be discussed and negotiated following new procedures, and his delegation had agreed to the adoption of Security Council resolution 666 (1990) on condition that the ship should be allowed to deliver foodstuffs. The agreement had been clear, and Cuba was not prepared to allow any change in it. Once the ship reached its destination and distributed the foodstuffs, that is, once that which had been agreed so that resolution 666 (1990) could be adopted was done, the Committee might hear the Permanent Representative of India; until that time, however, Cuba was not prepared to entertain any idea involving a modification of the agreement which had been reached on 13 September.

Mr. KIRSCH (Canada) agreed to a certain extent with the representative of Cuba with regard to the delivery of foodstuffs to Indian nationals and the fact that no amendments should be introduced to resolution 666 (1990) as adopted. However, he recalled that India had been given authorization on condition that the distribution should be carried out in accordance with the provisions of Security Council resolutions; the Chairman's suggestion had been intended to ensure that the distribution was carried out as agreed. Accordingly, he supported that suggestion.

Mrs. CASTAÑO (Colombia) was pleased that the request she had made at the 12th meeting to invite the Ambassador of India to report on the distribution of foodstuffs had been heeded; she was confident that, once that information was available, the need for distribution to be made in accordance with the Security Council resolution would no longer be an issue.

Mr. AL-SAIDI (Yemen) said that India was prepared to report to the Committee if any violation of the conditions imposed on the entry of foodstuffs occurred; however, holding a meeting before such a violation took place would be equivalent to questioning India's ability to carry out its task in accordance with the Council's decisions.

Mr. RICHARDSON (United Kingdom) said it was important to remember why so much time was being devoted to the question: the explanation lay in Iraq's refusal to accept the presence of the United Nations and the International Committee of the Red Cross. Consequently, he supported the representatives of Canada and Colombia and the suggestion made by the Chairman: it was important to know how the

unloading and distribution of foodstuffs and medicines were being carried out.

Mr. DELON (France) agreed that the Committee had authorized the delivery of foodstuffs to Indian refugees in Iraq and Kuwait. There would have been no need to revert to that decision, which had been adopted in clear terms, if reference had not also been made to resolution 666 (1990). Given that that resolution stipulated the conditions that had to obtain for the operation to be carried out, his delegation supported the proposal that the Ambassador of India should give the Committee a progress report on the operation.

Mr. GOSHU (Ethiopia), Mrs. KABA (Côte d'Ivoire), Mr. WILKINSON (United States of America), Mr. REDZUAN (Malaysia), Mr. YU Mengjia (China) and Mr. ILITCHEV (Union of Soviet Socialist Republics) agreed that the operation must be carried out in accordance with Security Council resolutions 661 (1990) and, especially, 666 (1990); they also supported the Chairman's suggestion.

Mr. ALARCON de QUESADA (Cuba) insisted that his delegation would not even consider anything that might imply a modification of the agreement reached on the night of 13 September. The text adopted at that time authorizing the dispatch of the Indian ship had been the product of a long debate, and it contained no indication that the Committee would be called upon to review the situation later if no violation of resolution 661 (1990) was denounced. He recalled that the Committee had at one point authorized the United Kingdom to take measures for the dispatch of aircraft to Iraq, yet no report on the implementation of that decision had been heard thus far; he would be interested to have the representative of the United Kingdom present a report on that matter.

If a precedent was set of receiving reports on the implementation of every decision adopted by the Committee, even though no violation of the Council's decisions had been claimed, the Committee's work would be endless. Already dozens of requests from Member States had gone unheard for lack of time, and they would have to be given priority.

He was not opposed to the hearing of a report, once the decision had been implemented, if a violation was believed to have occurred or if additional information was received.

The CHAIRMAN read out the second part of the letter addressed to the Permanent Representative of India, authorizing the dispatch to Iraq of a boat with food for Indian citizens (S/AC.25/1990/NOTE/10).

Mr. DELON (France) said that he inferred from the information given by the Chairman at the beginning of the meeting that the Permanent Representative of India proposed to inform the Committee about the distribution of food to Indian citizens in Kuwait. He would be most surprised if any member of the Committee intended to deny the Permanent Representative his right to submit a report to that Committee. He therefore agreed with the Chairman that the report of the Permanent

Representative of India should be heard, either at the next meeting of the Committee, if he was in a position to submit his report on that occasion, or at a later date.

Mr. RICHARDSON (United Kingdom) agreed with the remarks of the Chairman and the representative of France and said that the Chairman's letter made it perfectly clear that the food was to be distributed in accordance with the provisions of the relevant resolutions. He would therefore be interested to hear the information on the operation provided by the Permanent Representative of India.

He regretted that the Permanent Representative of Cuba had tried to distract attention by referring to a request made by the Government of the United Kingdom some time ago. He recalled that, at a meeting held two or three days before his Government made that request, when a letter from the Permanent Representative of Jordan was under consideration, he had clearly expressed his surprise that the Government of Jordan should believe that special authorization was required for refugees to leave Iraq and travel to Jordan. No provision was made in Security Council resolution 661 (1990) to prohibit such movements, especially with respect to the movements of refugees and persons displaced from one country to another.

He wished to state for the record that he did not accept the linkage which the representative of Cuba appeared to seek to establish between the United Kingdom's request and the supervision of food distribution, which was a much more difficult and complex question.

Mr. LUKABU KHABOUJI N'ZAJI (Zaire) expressed his interest in hearing the report of the Permanent Representative of India, but said he thought it should not be submitted on the basis of a request by the Committee, since such action would be justified only if it was thought that the food might not be distributed in accordance with the provisions of the pertinent resolution. The Permanent Representative of India could not be required to inform the Committee, but he should be heard if he wished to report on his own initiative.

In his capacity as representative of the Movement of Non-Aligned Countries, he noted that the Movement's members planned to hold a long meeting on Monday, 24 September, and hoped that the Secretariat would bear that in mind when fixing the date of the Committee's next meeting.

The CHAIRMAN said that the Permanent Representative of India had expressed his intention, at the meeting with members of the Bureau held the previous day, to keep the Committee informed about the distribution of food. At the Chairman's meeting with the Secretary-General, the latter had confirmed the Permanent Representative of India's interest in keeping the Committee informed.

Mr. MORENO FERNANDEZ (Cuba) repeated the remarks previously made by his country's delegation.

Mr. KIRSCH (Canada), supported by Mr. LUKABU KHABOUJI N'ZAJI (Zaire), said that, when the Committee considered the application of Security Council resolution 666 (1990) - and particularly of paragraph 6 - at its previous meeting, his and other delegations had been expecting both the United Nations and the International Committee of the Red Cross (ICRC) to take part. However, at the meeting with members of the Bureau, the Permanent Representative of India had apparently informed them that, due to opposition on the part of Iraq, the United Nations and ICRC would not be able to participate in the distribution of food to Indian citizens. India had therefore proposed that another mechanism be employed one which was not ideal from Canada's point of view - since no other alternative was available in the circumstances. Because that mechanism raised certain problems, the Permanent Representative of India had volunteered to inform the Committee, and the fact that a delegation should oppose such an intervention appeared to him to constitute an extremely negative precedent.

Mr. LUKABU KHABOUJI N'ZAJI (Zaire) said he failed to understand how the Committee could prevent the Permanent Representative of India from keeping it informed.

The CHAIRMAN said that various Member States had asked to be allowed to address the Committee and that members of the Committee had always been prepared to hear them. She therefore called on the representative of Cuba to change his mind and allow the Permanent Representative of India to address the Committee.

Mrs. CASTAÑO (Colombia), recalling the representative of China's statement that a report could be submitted when any problem arose, as well as the representative of Zaire's comment to the effect that the Committee did not need to be kept informed on a constant basis, proposed that the Permanent Representative of India be asked to inform the Committee once the operation was over, i.e. not necessarily at the meeting on Monday, 24 September.

Mr. RICHARDSON (United Kingdom) read out paragraph 6 (b) of Security Council resolution 661 (1990), which contained one of the two most important provisions concerning the Committee's work. He believed that the Permanent Representative of India should not be prevented from informing the Committee, but that his doing so should not set any precedent.

Mr. ALARCON de QUESADA (Cuba) thanked the delegation of Colombia and recalled that the Committee had, on more than one occasion, refrained from adopting a decision for some weeks just because of the opposition of some delegations. That was what had repeatedly happened in the case of the request submitted by Yugoslavia some time ago.

He repeated that his delegation rejected any amendment to the authorization granted on 13 September but would not object if the Permanent Representative of India informed the Committee after Monday, 24 September.

Mr. DINU (Romania) said he agreed with the Chairman that the Permanent Representative of India should be allowed to report to the Committee.

Mr. GOSHU (Ethiopia) asked what the Committee would do when it had to consider more substantive items if it was unable now to reach agreement on the submission of a report. Since the present method of adopting decisions tended to induce paralysis, it would probably be necessary to reconsider the Committee's consensus decision method.

Mr. LUKABU KHABOUJI N'ZAJI (Zaire) said that, since the delegation of Colombia had seen fit to interpret one of his statements, he wished to make it clear that the idea of the Committee's summoning the Permanent Representative of India on the basis of paragraph 2 of the letter read out by the Chairman was unacceptable to his country, because no infringement of the resolution providing for food distribution had yet been committed. However, as the Permanent Representative of India had himself offered to inform the Committee, he could not be prevented from doing so, since such action could set a precedent. He therefore urged those who opposed the submission of a report by the Permanent Representative of India to reconsider their position.

Mr. ALARCON de QUESADA (Cuba) said that there were countless issues which the Committee had not yet considered. It should consider them as soon as possible if it really wished to make the best use of its time. The Committee should therefore move directly on to the next agenda item. To hear the Permanent Representative of India on 24 September would mean a failure to comply with the agreement of 13 September 1990, whereby the adoption of Security Council resolution 666 (1990) was linked to the Indian vessel's voyage to Iraq. His country insisted that the agreement be fulfilled first; only then could the Committee revert to consideration of the Permanent Representative of India's offer to provide information. More specifically, he proposed that the Committee should on 24 September consider the possibility of hearing the Permanent Representative of India, once the food had been transported and delivered from India to Iraq.

Mr. DELON (France) said that he had listened attentively to the statement by the representative of Ethiopia and was sure that what he had said about the way in which the Committee operated reflected the opinion of many Committee members. When the Committee's rules of procedure had been adopted, France had indicated that it regarded them as provisional and reserved the right to raise objections to them if necessary. For the time being, France was simply recalling its statement.

The Committee should not repeatedly defer completing consideration of the issues before it. Accordingly, it must adopt a decision on the proposal put forward by the Permanent Representative of India. It seemed to be close to a consensus on that issue, which was actually quite simple. The Permanent Representative of India could not be told that the Committee was not prepared to

hear him on 24 September, or that it wished to wait until 24 September to decide whether or not it was prepared to hear him. No one had said at the current meeting that the decision adopted by the Committee on 13 September must be amended. That decision had been quite clear and had been adopted unanimously.

The urgent need for some States to assist their nationals in Iraq was a matter of great concern; he feared that the difficulties that the Committee was encountering at the current meeting might recur in the course of consideration of other requests regarding assistance, and might thus delay the provision of assistance as a matter of urgency to foreigners in Iraq. He supported the Chairman's appeal to deal swiftly with the Indian issue so that the other requests regarding assistance could be considered immediately.

The CHAIRMAN said that she was most concerned about the Committee's methods of work, which would have to be reviewed in the near future. Moreover, it would be very embarrassing for her to have to inform the Permanent Representative of India that the Committee had not yet decided whether or not it would hear him. She wondered whether she should tell him why the Committee could not take a decision on the subject. She agreed with the representative of France that virtually all members were in favour of inviting the Permanent Representative of India to address the Committee. She therefore once again requested Cuba to reconsider its position and to agree that the Committee should invite the Permanent Representative of India to address it on 24 September. The Indian Government wished to keep both the Secretary-General and the Security Council informed on the shipment and delivery of foodstuffs by India to its nationals in Iraq.

Mr. ALARCON de QUESADA (Cuba) said that he wished to thank the Chairman for reiterating her request that Cuba should reconsider its position. He had been tempted to suggest that the Legal Counsel should be asked whether inviting the Permanent Representative of India at the current meeting to address the Committee on 24 September would constitute an amendment to the agreement reached on 13 September. However, if he asked the Legal Counsel for an opinion, one of the English-speaking delegations would immediately raise an objection and reject the request. He saw no reason why the Chairman should not tell the Permanent Representative of India that Cuba had not agreed that he should address the Committee on 24 September. He would himself explain to the Permanent Representative of India why Cuba disagreed. Cuba was not against hearing the Permanent Representative at any time that the Committee considered appropriate, provided that India's shipment and delivery of foodstuffs to Iraq had been completed. It did not believe that the Committee should adopt a further decision on the shipment of foodstuffs before the planned shipment had actually been made. It could not accept the introduction of elements other than those upon which agreement had been reached. Instead of engaging in the current debate, it would



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have been easier for the members of the Committee to ask the Legal Counsel for his opinion, just as it would have been much easier to adopt a decision on Jordan, an issue on which the Committee had already delayed taking a decision for a month, even though virtually all the members of the Committee agreed, because one delegation did not agree to something. He was willing to consider early on 24 September whether the Permanent Representative of India should address the Committee, and would welcome it if the Permanent Representative of India was invited to do so. What he could not accept was the failure to meet the condition laid down for the adoption of resolution 666 (1990) on 13 September, namely, that the Indian vessel should deliver foodstuffs to Indian nationals in Iraq. Adopting a decision before the vessel had delivered the foodstuffs to Iraq would be a failure to abide by an agreement, which Cuba could not accept.

MR. WILKINSON (United States of America) said that the accusations made distorted the United States position on the highly complex situation in Jordan. The United States had agreed to at least two requests to the Legal Counsel for opinions. It was thus not entirely against asking the Legal Counsel for an opinion. He could not understand the logic on which Cuba's position was based. As he saw it, no amendment had been put forward to the very clear decision adopted on 13 September concerning the Indian vessel. If the vessel reached Iraq on 23 September as scheduled, information would no doubt be available on the delivery of foodstuffs on 24 September. Perhaps Cuba would not object if the Permanent Representative of India addressed the Committee on 24 September, but would object if the Committee offered him an opportunity to address it before the vessel's arrival. If that was the case, the United States would be in agreement with Cuba.

MR. KIRSCH (Canada) said that he agreed with the representative of Cuba that the Committee was not working swiftly enough. He also agreed with the representatives of France and Ethiopia, as well as the Chairman, that the Committee's methods of work must be changed. It ought to have been possible to settle a number of issues some time earlier.

No delegation had in fact objected to Cuba's wish that the Legal Counsel should be asked whether the decision to invite the Permanent Representative of India to address the Committee on 24 September would constitute an amendment to the Committee's decision of 13 September. In any event, Canada would not object if the Legal Counsel provided an opinion on the subject.

The CHAIRMAN requested the Cuban representative to ask the Legal Counsel for an opinion, on the understanding that Cuba would agree that the Permanent Representative of India should be invited to address the Committee on 24 September if the Legal Counsel was of the view that such an invitation would not constitute an amendment to the decision adopted on 13 September.

Mr. ALARCON de QUESADA (Cuba) asked the Legal Counsel whether a decision taken by the Committee that day to hear a report from India on 24 September on the shipment and delivery of foodstuffs to Indian nationals in Iraq would constitute an amendment to the decision adopted on 13 September.

Mr. FLEISCHHAUER (Legal Counsel) said that the Permanent Representative of India had offered to attend a Committee meeting in order to report on India's implementation of the decision adopted by the Committee on 13 September. In his view, accepting that offer, which was entirely voluntary and had as such not been made in response to a request by the Committee, would in no way modify the decision adopted on 13 September.

Mr. ALARCON de QUESADA (Cuba) said that Cuba endorsed the proposal that the Permanent Representative of India should be invited to address the Committee on 24 September. Moreover, he requested that the Committee should reproduce in full the statement made by the Legal Counsel, which was a landmark event, as that was the first time for a very long time that it had been possible to hear his opinion.

The CHAIRMAN requested the Legal Counsel to transmit his opinion in writing to the members of the Committee. If she heard no objection, she would take it that the Committee wished to hear a report from the Permanent Representative of India on 24 September on the delivery of foodstuffs by an Indian vessel to Indians in Iraq.

It was so decided.

#### Consultations with the Permanent Representative of Yugoslavia

The CHAIRMAN said that she had recently met with the Permanent Representative of Yugoslavia, who had informed her that, as at 2 August 1990, there had been 7,500 Yugoslav nationals working for Yugoslav construction companies in Iraq. The companies concerned had begun to evacuate their workers, in co-operation with the Yugoslav Government, which had ordered that the construction projects in question should be terminated.

In a letter dated 27 August 1990, the Permanent Representative of Yugoslavia had indicated that 6,000 Yugoslav workers remained in Iraq; however, according to more recent information, only around 3,000 workers currently remained in that country, especially at construction sites, and Yugoslavia was pursuing its efforts to evacuate them. Nevertheless, the Permanent Representative had explained to the Chairman that some workers would have to remain in Iraq, since Yugoslav companies were reluctant to evacuate all their personnel because of a legal dispute with the Iraqi authorities regarding Yugoslav property in that country. It was therefore essential for Yugoslavia to provide its nationals with food and medicine until they were repatriated. Yugoslavia was prepared to permit international supervision of its deliveries. The problem was whether the Iraqi authorities would accept such supervision. The Permanent Representative of Yugoslavia could not foresee a

situation in which the Iraqi authorities would not be able to take part in an agreement on the matter. The Red Cross of Yugoslavia or ICRC could be requested to accompany a convoy of trucks which would deliver medicine and food directly to the places where Yugoslav nationals lived. Replying to a question, the Permanent Representative of Yugoslavia had told the Chairman that, as far as he knew, there had been no direct contact with ICRC in that regard. The problem for Yugoslavia was to manage to get its trucks through Turkey and across the border and to make arrangements with Iraq for the provision of foodstuffs to the persons for whom they were intended.

Conversation with the Acting Permanent Representative of Sri Lanka

The CHAIRMAN said that the Acting Permanent Representative of Sri Lanka had informed her that the situation in Iraq and Kuwait affected 100,000 Sri Lankan nationals, about 9,000 to 10,000 of whom had already been evacuated to Jordan. Eighty-nine thousand Sri Lankans remained in Kuwait, 90 per cent of whom were women who were employed in domestic service. A number of employees of the Embassy of Sri Lanka and two doctors to treat the sick also remained in Kuwait. Following the decision of the Government of Sri Lanka to assist its nationals, the Minister of Labour had made a study in the region on the basis of which the Government of Sri Lanka had set up a sub-committee to send foodstuffs to its nationals in a ship which, on its return trip to Sri Lanka, would repatriate all the nationals which it could accommodate on board. In accordance with those decisions, on 27 September 1990 the Permanent Representative had sent a letter to the Chairman of the Committee in which he had requested permission to send a ship loaded with some 2,000 tons of rice, lentils and dried fish. Ten Red Cross officials and five doctors would be on board the ship. In view of the country's meagre resources, the Government of Sri Lanka was concerned that the foodstuffs should be delivered to its nationals. The ship would leave Sri Lanka on 26 September and would arrive in Iraq in seven to 10 days. Sri Lanka wished to send two or three more ships and was ready to comply strictly with the provisions of the Security Council resolutions. It had not yet established direct contact with ICRC but was prepared to do so if the Committee so requested. Sri Lanka had held conversations in Colombo with Iraqi authorities with a view to requesting their assistance in carrying out the operation with the aid of the United Nations and ICRC, in accordance with Security Council resolution 666 (1990). For the time being its request had been neither rejected nor expressly accepted, and Sri Lanka had been unofficially informed that any arrangement would have to be bilateral.

Mr. GOSHU (Ethiopia), Mr. REDZUAN (Malaysia), Mr. LUKABU KHABOUJI N'ZAJI (Zaire), Mr. ALARCON de QUESADA (Cuba), Mr. YU Mengjia (China), Mrs. KABA (Côte d'Ivoire), Mrs. CASTAÑO (Colombia) and Mr. AL-SAIDI (Yemen) said that they hoped that the Committee would respond favourably to Sri Lanka's request to send the

ship, provided that the delivery was made in conformity with the provisions of Security Council resolution 666 (1990).

Mr. WILKINSON (United States of America) regretted that Sri Lankan nationals were caught in a situation in which they required urgent assistance. However, he believed that, in order to authorize Sri Lanka to send the ship containing foodstuffs, more guarantees were required that the delivery would be made in co-operation with ICRC and the United Nations.

Mr. DELON (France) supported the representative of the United States. He had no objection to allowing Sri Lanka to send a ship with foodstuffs which, on its return journey, would repatriate Sri Lankan nationals. However, in order to give final approval for the sending of that ship, it was necessary to receive more guarantees that the operation would be carried out in strict conformity with the provisions of Security Council resolutions 661 (1990) and 666 (1990). He was not questioning the goodwill of Sri Lanka but that of Iraq.

Mr. KIRSCH (Canada) and Mr. RICHARDSON (United Kingdom) supported the representative of France.

Mr. ALARCON de QUESADA (Cuba) said that the matter was extremely urgent and should be resolved without further delay. He proposed that, at the next meeting of the Committee, the Committee should hear not only the Permanent Representative of India but also the Permanent Representative of Sri Lanka, who should be invited to participate in the Committee's deliberations. At the same meeting, the Committee should consider the urgent request of Sri Lanka and take a decision.

Mr. REDZUAN (Malaysia) and Mr. DELON (France) supported the representative of Cuba.

Mr. ILITCHEV (Union of Soviet Socialist Republics) also supported Cuba and said that it might be appropriate to inform the Ambassador of Sri Lanka that, in principle, all the members of the Committee were in favour of his request.

Mrs. CASTAÑO (Colombia) said that, in view of the fact that Sri Lanka had already made all the preparations for sending the ship, perhaps the Legal Counsel should be asked to clarify at the next meeting what was meant by complying with paragraph 6 of Security Council resolution 666 (1990), since that seemed to be a matter of concern to a number of delegations and there appeared to be various interpretations of what was meant by United Nations participation.

The CHAIRMAN said that, if she heard no objection, she would take it that the Committee agreed to authorize her to establish contact with the Permanent Representative of Sri Lanka and to inform him that, in principle, the Committee agreed to allow Sri Lanka to send the ship.

It was so decided.

The CHAIRMAN said that, at the meeting which she had had with the Secretary-General the previous day, the possibility had been considered that the Secretary-General would try once again to contact the Iraqi authorities in order to consider their refusal to allow United Nations representatives to be present during the distribution of foodstuffs. The initial response from the Iraqi authorities had been so clear that the Secretary-General had not considered it necessary to renew his request. Nevertheless, he was prepared to raise that question again in future, if necessary.

Mr. GOSHU (Ethiopia) asked whether it was known what quantity of foodstuffs the Government of Yugoslavia wished to send to its nationals, and also whether it was seeking an unrestricted authorization to send foodstuffs with a view to doing so periodically, or whether it had requested merely to be allowed to do so once.

The CHAIRMAN said that she did not have precise figures on the quantity of food involved, but that the Permanent Representative of Yugoslavia had stated that two trucks would be dispatched to distribute foodstuffs to the Yugoslav workers still in the area. The planned shipment had to be proportional to the needs prevailing in the area.

Replying to a question put by the representative of Canada, she explained that the Committee did not have a great deal of time to meet on Monday, 24 September, as Security Council consultations were planned for that day. She proposed that at the next meeting the Permanent Representative of India should present his report; that the request from Sri Lanka for authorization to send a ship carrying foodstuffs should be considered and approved; and that the Legal Counsel should respond to the question raised by Colombia. If there was insufficient time, the Legal Counsel could respond to that question at the following meeting.

Mr. ILITCHEV (Union of Soviet Socialist Republics) asked for information on the situation with respect to Yugoslavia's request, and whether the fact that no statement had been made since the Chairman had raised the subject meant that all the members of the Committee agreed to approve the request.

The CHAIRMAN said that, as there had been no comments, she would take it that the Committee wished to consider the subject at its next meeting or the following one.

Ms. KALKKU (Finland), supported by Mr. KIRSCH (Canada), asked that the Permanent Representative of Yugoslavia be requested to state clearly that his country's intention was to send foodstuffs.

Mr. ALARCON de QUESADA (Cuba) said that since the subject of the request from Yugoslavia had been constantly on the agenda and various delegations had indicated that they needed more time to hold consultations, which had not happened

at the current meeting, he supposed that the members of the Committee were now in a position to approve the request.

Mr. KIRSCH (Canada) agreed with Cuba and said that, even if the Committee was not yet in a position to approve Yugoslavia's request, his delegation considered it essential that it should immediately set a date on which that decision would be taken, that being the most fundamental duty of the Committee. He therefore proposed that consideration of Yugoslavia's request should be included in the agenda of the meeting to be held on Monday, 24 September, and that the Permanent Representative of Yugoslavia should be invited to take part in the discussions and respond to some of the questions and doubts which had arisen.

Mr. RICHARDSON (United Kingdom) felt that more specific information should be requested from the Permanent Representative of Yugoslavia, in particular with respect to the transportation of foodstuffs across Turkey and the supervision of the convoy on its long journey from the border with Turkey to Baghdad, or to wherever in Iraq the Yugoslav nationals were located. He also asked whether the request referred to a single shipment of foodstuffs or whether the Government of Yugoslavia had the intention to send such shipments to its nationals periodically. He was surprised by the Chairman's comment as to the difficulty which Yugoslav workers were encountering in leaving the country, since that changed the tone of the discussion from what it had been in the case of nationals of Sri Lanka and India.

Mr. DELON (France) agreed that at the meeting on Monday, 24 September, the Committee should consider the request of Yugoslavia in detail, and should approve that request if, on the basis of the explanations given by the Permanent Representative of Yugoslavia, it was considered that the request was justified and could be approved within the context of Security Council resolutions 661 (1990) and 666 (1990).

In his view, the most sensible course of action would be to inform the Permanent Representative of Yugoslavia that the Committee proposed to hear his statements at its next meeting, at which time it would request more information on the aid which the Government of Yugoslavia wished to send.

Mr. WILKINSON (United States of America) said that the Committee needed specific information in order to take a decision. For that reason he would be very interested to hear the statement of the Permanent Representative of Yugoslavia. He did not consider it appropriate to approve requests of a general nature; only specific requests should be approved, since to do otherwise would mean that decisions were being taken merely out of a desire to do so.

The CHAIRMAN said that in addition to the items that were already on the agenda of the following meeting, the Committee would discuss taking a decision on the dispatch of foodstuffs to Yugoslav workers in Iraq. Since she heard no

objection, she would take it that all the members of the Committee were in agreement that the Permanent Representative of Yugoslavia should be invited to attend the next meeting of the Committee.

It was so decided.

The CHAIRMAN, replying to a question put by the representative of Cuba, confirmed that the Permanent Representative of Sri Lanka would also be invited to attend the next meeting of the Committee.

#### N. Provisional Summary Record of the 14th Meeting (closed), 27 September 1990

*Source: S/AC.25/SR.14, 5 October 1990*

Chairman: Ms. RASI (Finland)

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#### ADOPTION OF THE AGENDA

The agenda was adopted.

#### REVIEW OF THE IMPLEMENTATION OF SECURITY COUNCIL RESOLUTION 661 (1990)

The CHAIRMAN said that since the Committee's previous meeting additional replies to the Secretary-General's note verbale of 8 August 1990, and his reminder of 27 August 1990, had been received from: Turkey (S/21806), Poland (S/21808), Viet Nam (S/21810), Mauritania (S/21818), Viet Nam (S/21821) and the United Republic of Tanzania (S/21829).

She recalled that at its 12th meeting, the Committee had approved the text of a questionnaire to be addressed to States in connection with the measures taken to implement Security Council resolution 661 (1990). She suggested that a deadline of 31 October 1990 should be established for replies.

It was so decided.

#### FOODSTUFFS AND DELIVERY OF FOODSTUFFS: SECURITY COUNCIL RESOLUTIONS 661 (1990), PARAGRAPH 3 (c), AND 666 (1990)

The CHAIRMAN recalled that at its previous meeting the Committee had

decided to accept the offer of the Permanent Representative of India to keep the Committee informed about the progress made in the delivery and distribution of foodstuffs from the Indian vessel, as authorized by the Committee to meet the immediate needs of Indian nationals in Iraq and Kuwait, it having been agreed that the foodstuffs should be distributed as provided in the relevant Security Council resolutions, and to invite him to address the Committee in that regard. At the same meeting, the Committee had also decided to invite the Deputy Permanent Representative of Sri Lanka and the Permanent Representative of Yugoslavia to address the Committee with a view to clarifying their requests to the Committee in connection with the situation facing their nationals in Iraq and Kuwait.

The Permanent Representative of India had informed her that he was not yet in a position to report to the Committee, as the foodstuffs had not yet been unloaded, but that he would do so at the appropriate time. The Permanent Representative of India had assured her that the Indian authorities were prepared to share the foodstuffs on board the vessel with other Asian nationals trapped in Iraq and Kuwait if the need arose.

The Permanent Representative of Yugoslavia, the Deputy Permanent Representative of Sri Lanka and the Permanent Representative of Viet Nam had each requested the opportunity to address the Committee at a later meeting. If she heard no objection, she would take it that the Committee agreed to those requests.

It was so decided.

The CHAIRMAN drew attention to document S/AC.25/1990/COMM.22, containing a letter from the Permanent Observer of Palestine, transmitted to her by the Secretary-General, concerning the situation of Palestinians in Kuwait. If she heard no objection, she would take it that the Committee decided to ask for further clarification of that request.

It was so decided.

The CHAIRMAN drew attention to document S/AC.25/1990/COMM.23, containing a letter dated 24 September 1990 from the Permanent Representative of Bulgaria, transmitted to her by the President of the Security Council, concerning the situation of Bulgarian nationals in Iraq.

Mr. RICHARDSON (United Kingdom) said that it appeared from the document in question that Bulgarian nationals were being detained in Iraq, which raised some major problems. It was one thing for the Committee to authorize the sending of foodstuffs on a temporary basis to foreign nationals pending their departure, but it was quite a different matter to authorize continuing deliveries to people who would not be allowed to leave. He urged the Chairman to seek clarification of the matter from the Permanent Mission of Bulgaria.



The CHAIRMAN suggested that the Permanent Representative of Bulgaria should be invited to address the Committee at a later meeting.

It was so decided.

The CHAIRMAN drew attention to document S/AC.25/1990/NGO/1, containing a letter from the President of Feed the Children, an international relief agency. She recalled that at its 12th meeting the Committee had decided on the procedure to be followed with regard to communications from non-governmental organizations, namely, that proposals and requests for clarification should be addressed to the Government of the State in which the organizations operated. If she heard no objection, she would take it that the Committee authorized her to reply to the organization in question in accordance with that procedure.

It was so decided.

The CHAIRMAN suggested that the Committee should hear the reply by the Legal Counsel to the question raised by the representative of Colombia at the Committee's 13th meeting.

Mr. WILKINSON (United States of America) said that it had been agreed that the Colombian delegation should submit its question in writing. He had hoped that the text of the question would have been circulated to other delegations before it was referred to the Legal Counsel.

Mrs. CASTAÑO (Colombia) said that at the previous meeting, held five days earlier, no member of the Committee had objected to the question which her delegation had addressed to the Legal Counsel, nor had any objections been raised when the Legal Counsel had requested that the question should be submitted in writing. Her delegation had complied with that request on the day of the meeting, and had expected that a reply would be forthcoming at the Committee's next meeting, which had been scheduled for 24 September 1990. Accordingly, while she had no objection to circulating the text of the question in its original language, Spanish, she would insist on hearing the reply by the Legal Counsel at the current meeting.

All delegations had equal rights on the Committee. If one delegation were to change its position on a matter on which it had expressed no reservations only five days earlier, that would imply a lack of serious intent. In view of the major problems requiring action by the Committee, it was not appropriate for any delegation to impede the Committee's work. At the previous meeting, the Cuban delegation had repeatedly been requested to reconsider its position so that the Committee could hear the Permanent Representative of India. In a similar vein, she respectfully informed the United States representative that her delegation would insist on having its question answered at the current meeting.

Mr. WILKINSON (United States of America) said that the current discussion appeared to involve a misunderstanding rather than a change of views. According to his recollection of the previous meeting, the Legal Counsel had requested that the question should be submitted in writing and it had been agreed that that should be done. His delegation had assumed that once the question was in written form, the other members of the Committee would be given an opportunity to examine it. It was the Committee's responsibility to deal with questions and communications, and it could not do so unless they were put in writing and circulated in all the working languages.

Mr. ALARCON de QUESADA (Cuba), supporting the statement made by the representative of Colombia, said that according to his recollection of the previous meeting, it had been agreed that the Committee, at its next meeting, would hear the Permanent Representative of India, the Deputy Permanent Representative of Sri Lanka, the Permanent Representative of Yugoslavia and the reply by the Legal Counsel to the question raised by Colombia. There had not been any disagreement on that agenda. He hoped that the Committee was not going to waste time resuming consideration of decisions which had already been taken. The question was whether there was indeed a consensus in the Committee on the agreement reached at its previous meeting. If the Committee required that the question addressed to the Legal Counsel should be put in writing, it would first have to withdraw its earlier decision.

Mrs. CASTAÑO (Colombia) said that it had not been agreed at the previous meeting that the text of her delegation's question should be circulated to the members of the Committee, but that it should be submitted to the Office of Legal Affairs.

Mr. WILKINSON (United States of America) said that there were differing assumptions with regard to the appropriate action to be taken. The discussion at the previous meeting had been deferred so that the Committee could ascertain the exact nature of the Colombian question and then either consider it or refer it to the Legal Counsel. He disagreed with the Cuban representative's view that the Committee had agreed to hear a reply at its next meeting, since the question itself had not been clear.

Mr. AL-ALFI (Yemen) said that the question facing the Committee was whether the Chairman had fully understood the decision reached at the previous meeting. The Legal Counsel had been prepared to answer the question, and the decision had been perfectly clear at the time.

Mr. GOSHU (Ethiopia) suggested, with a view to breaking the impasse, that the United States delegation should be given an opportunity to examine the question

which had been submitted in writing to the Legal Counsel, and that further consideration of the matter should be deferred to a later meeting.

Mr. REDZUAN (Malaysia) said that he supported the Colombian interpretation of the decision taken at the previous meeting. Moreover, his delegation had long been concerned at the way in which the consensus rule was being used to impede the Committee's work. Unless there was an agreement to allow perfectly clear questions to be referred to the Legal Counsel, it would be necessary to re-examine the Committee's rules of procedure.

Mr. DELON (France) suggested that the Colombian representative should be invited to read out the Spanish text of the letter which had been sent to the Legal Counsel. The text would then be interpreted into all the working languages so that the Committee could decide how to deal with it.

Mr. YU Mengjia (China) said that in view of the important tasks facing the Committee maximum efficiency must be ensured in its deliberations. While the Committee had provisionally agreed to act on the basis of consensus, it must be prudent in applying that rule. He endorsed the comments made in that connection by the representative of Malaysia.

The CHAIRMAN invited the representative of Colombia to read out the text of the question which had been submitted to the Legal Counsel.

Mrs. CASTAÑO (Colombia) said that she would be pleased to read out the question and also to circulate it, provided that, having done so, she could hear the reply by the Legal Counsel.

Mr. WILKINSON (United States of America) said that that procedure was not acceptable. It was the Committee's responsibility to ensure the implementation of the relevant Security Council resolutions. In that process, various questions would arise. Political questions and questions concerning general policy and application could properly be referred to the Legal Counsel. However, questions relating to implementation should be considered by the Committee.

Mr. ALARCON de QUESADA (Cuba) said that the Committee found itself in an absurd situation. Having agreed at its previous meeting to request the Legal Counsel to give his opinion, which would not be binding on the Committee but would merely serve as a basis for discussion, the Committee was now deciding whether or not he should be allowed to speak.

The CHAIRMAN said that at the previous meeting no member of the Committee had objected to the question which the representative of Colombia had addressed to the Legal Counsel. The proposal to have the question put in writing had not originated with the Committee. It had been the Legal Counsel who had wished to have the question in written form to facilitate his drafting of a reply. No delegation had raised any objection to that decision. She therefore repeated the

suggestion that the representative of Colombia should read out her delegation's question.

Mr. WILKINSON (United States of America) said that the proper procedure was for the Committee to submit to the Legal Counsel all questions requiring legal interpretation. The Chairman was taking the fact that no objections had been raised at the previous meeting as implying consent to the procedure suggested by the representative of Colombia.

Mrs. CASTAÑO (Colombia) said that she would read the letter from the Permanent Representative of Colombia to the Legal Counsel and requested that the text of the letter, in Spanish, should be circulated to the members of the Committee. In the letter Colombia requested the Legal Counsel, in accordance with the agreement reached at the Committee's 13th meeting, to give his opinion on the conditions that countries had to meet to comply with paragraph 6 of resolution 666 (1990), when authorizing the provision and distribution of foodstuffs to Iraq and Kuwait in humanitarian circumstances. The Legal Counsel was asked to refer in his reply to the case of the Indian ship, and in particular to indicate whether the Indian Red Cross was considered a competent humanitarian organization under resolution 666 (1990), and whether the requirement laid down in paragraph 6 of that resolution that foodstuffs should be provided "through the United Nations", was met by India's request to the Committee, by the Committee's authorization, and by the prompt submission of reports from the Indian Red Cross to the United Nations.

The CHAIRMAN said that the original question submitted by Colombia had not been so detailed. She therefore asked whether the Committee wished the text of the question in its new form to be circulated for consideration at the following meeting.

Mr. RICHARDSON (United Kingdom) said that his delegation was disturbed to find that the question contained far more detail than that submitted at the previous meeting and discussed briefly by the Committee. He stressed that all questions to the Legal Counsel should be put in writing and circulated to Committee members in accordance with the procedure agreed on by the Committee.

As he saw it, the Colombian question raised two distinct points: firstly, a general query about the provisions of paragraph 6 of resolution 666; secondly, a particular question about the compliance with that resolution of a specific operation authorized by the Committee on a one-off basis, namely the Indian vessel. He believed that more thought should be given to the question from Colombia.

The CHAIRMAN said that, while she also recalled the Committee's decision that questions put to the Legal Counsel should be circulated to members in writing,

a separate decision had been taken at the 13th meeting to submit the Colombian question to the Legal Counsel. As the question had been reformulated in more detail, however, she asked the representative of Colombia to have the new text circulated in all working languages to the members of the Committee to enable them to give it due consideration.

Mrs. CASTAÑO (Colombia) said that her delegation respected the agreement that questions to the Office of Legal Affairs should be put in writing. The Colombian delegation had acted as it had in order to obtain a reply at the current meeting. The question raised at the previous meeting was set out in the second paragraph of the Colombian letter. The example of the Indian vessel had merely been included to obtain further clarification. She regretted that so much time was being spent on the matter, but her delegation insisted on obtaining a response from the Legal Counsel as had been agreed at the previous meeting. Colombia would be glad to submit the text of the letter for circulation, but could not understand the fear which some members seemed to have of the Legal Counsel's opinion. His opinion would merely assist the Committee in its deliberations. The fear of the Legal Counsel's opinion to which she had referred was an indication of the weakness of one particular delegation and, by extension, of the weakness of the Committee itself. If her delegation could not obtain a reply from the Legal Counsel at the current meeting, it would be forced to reconsider its role on the Committee.

The CHAIRMAN said that the Committee faced a deadlock. Since the text of the letter differed substantially from the text presented at the Committee's 13th meeting, she wished to suggest that the Committee should defer consideration of the matter to its following meeting so that the members could study the text of the letter.

Mrs. CASTAÑO (Colombia) said that she did not understand why the Legal Counsel could not give his answer at the current meeting, as agreed by the Committee at its previous meeting. The Legal Counsel could respond both to the question submitted in writing and to the points raised in the course of the discussion in the Committee.

Mr. ANET (Côte d'Ivoire) said that he wished to appeal to the representative of Colombia to accept the Chairman's suggestion to defer consideration of the matter to the following meeting to give the members the benefit of seeing the fuller question in writing. The question put by Colombia at the previous meeting had been very precise and, while the Legal Counsel might be in a position to respond to the full text of the letter, there was a danger that the ensuing discussion would be merely a dialogue between the Legal Counsel and the representative of Colombia, as the other members of the Committee had not been able to acquaint themselves with the text.

Mr. ALARCON de QUESADA (Cuba) said that it would be more appropriate to appeal, not to Colombia, but to the Committee members who wanted to change the decision taken at the previous meeting. The Legal Counsel was present and prepared to speak, and the Committee should hear his opinion.

The CHAIRMAN said that the Committee was not changing the decision made at the previous meeting. It had decided to refer Colombia's question to the Legal Counsel, but the question submitted at the current meeting was more detailed and more complex. The members of the Committee might therefore wish to see the question in all the working languages.

Mrs. CASTAÑO (Colombia) said that her delegation was prepared to submit the letter to the Secretariat for circulation. However, the text was basically the same as that submitted at the previous meeting. She wished to stress that the Committee had already decided to hear the Legal Counsel's reply. Unfortunately, one delegation seemed determined to override that decision. If the Committee did not implement the decision, Colombia would be forced to withdraw from the meeting.

The CHAIRMAN suggested that the meeting should be suspended briefly to enable the members of the Committee to find a way out of the impasse.

The meeting was suspended at 5.20 p.m. and resumed at 5.30 p.m.

The CHAIRMAN asked the representative of Colombia to read out her question to the Legal Counsel as it had been formulated at the previous meeting.

Mrs. CASTAÑO (Colombia) said that her delegation sought the Legal Counsel's opinion on the requirements for compliance with paragraph 6 of resolution 666 (1990). In particular, it wished to know what was understood by the term "through the United Nations".

Mr. FLEISCHHAUER (Under-Secretary-General, The Legal Counsel) said, in reply to the question asked, that he would like, first of all, to recall that decisions of the Committee taken pursuant to paragraph 6 of Security Council resolution 666 (1990) were predicated on determinations by the Committee that circumstances had arisen in which there was an urgent humanitarian need to supply foodstuffs to Iraq or Kuwait in order to relieve human suffering, determinations which had to be made under paragraph 5 of the resolution. Paragraph 6 of the resolution dealt with two subject-matters which arose once the determination under paragraph 5 had been made, namely, the provision of foodstuffs and their distribution.

With respect to the provision of foodstuffs, paragraph 6 stipulated that they "should be provided through the United Nations in co-operation with the International Committee of the Red Cross or other appropriate humanitarian agencies". Paragraph 6 did not provide a more specific indication of what was meant by such terms as "provided through the United Nations" or "co-operation", nor

did it define the precise meaning of "other appropriate humanitarian agencies". It was clear, however, that emphasis was placed on an international action which physically involved the United Nations and the International Committee of the Red Cross (ICRC) or other appropriate humanitarian agencies which would collect, assemble and transport the food.

From a legal point of view, paragraph 6 of resolution 666, by not circumscribing, as he had said, in a clear fashion, the notion "appropriate humanitarian agencies" did not exclude the designation of national humanitarian institutions which were well-organized, competent and experienced and were willing to keep the United Nations informed either through the Committee or through the Secretary-General. Furthermore, the terms "through the United Nations" and "in co-operation" were not so narrow, either in their ordinary meaning or in the light of the objectives and purposes of paragraph 6, as to prevent the Committee from defining the United Nations role as that of providing a broad chapeau through the authorization of a national agency and by accepting that the United Nations should be regularly informed about the progress of the operation so as to be in a position to consider it again if that was deemed necessary.

He was, however, not in a position to go further and to draw general conclusions on what conditions Member States must comply with when the determination of the sending of foodstuffs through national agencies was at stake. Paragraph 6 aimed primarily at an international solution, but if such a solution was not attainable, the Committee could not, from a legal point of view, restrict the interpretation of paragraph 6 to the extent that national institutions were totally excluded. On the other hand, it would run counter to the objectives and purposes of paragraph 6 if the United Nations limited its role to that of merely rubber-stamping the intentions of national humanitarian agencies to provide food. But the area in between those parameters had to be filled by the members of the Security Council, acting in the Committee or in the Council, as the authors of resolution 666. Strictly legal methods of interpretation could not lead the United Nations further.

With respect to the second subject-matter covered in paragraph 6, namely the distribution of food, the emphasis was again placed on international action. Paragraph 6 determined that the food had to be "distributed by them", i.e. the United Nations, the ICRC and/or "appropriate humanitarian agencies", or "under their supervision". While the aim of the operation was clearly stated, namely, in order to ensure that they (i.e. "foodstuffs") reached the intended beneficiaries, there was again no definition of the terms "appropriate humanitarian agencies" or "by them" and, above all, no definition of "supervision".

From a legal point of view, the acceptance of the distribution of the food through a national humanitarian agency must be based on the trustworthiness of the institution in question, but also on the preparations which had been made by that institution for the distribution of the food, preparations which must be made precisely in order to ensure, as paragraph 6 stated, that the food reached the intended beneficiaries.

The supervision by the United Nations must be safeguarded through reporting to the Committee or the Secretary-General, to which the national institution must agree, and which would give the Committee the opportunity to follow the progress of the operation and to consider it anew if that was deemed necessary. As in the case of the provision of foodstuffs, he was not in a position to go further and lay down, from a legal point of view, general rules on how paragraph 6 might be implemented. It would again be for the members of the Committee, acting in the Council or in the Committee, to develop the interpretation and application of paragraph 6 further, always bearing in mind that primarily a true international action was desired as well as the legal limitations following from the text: such interpretations could not go so far as to exclude national organizations completely, and it would be equally wrong to transform the supervisory role of the United Nations into a mere exercise of rubber-stamping.

#### CONSULTATIONS UNDER ARTICLE 50 OF THE CHARTER OF THE UNITED NATIONS

The CHAIRMAN, referring to resolution 669 (1990), whereby the Council entrusted the Committee with examining requests for assistance under Article 50 of the Charter, said that there were many requests pending. She suggested that a working group should be set up to study the cases in question and to advise the Committee on appropriate action.

Mr. ALARCON de QUESADA (Cuba) said that his delegation supported the Chairman's suggestion. Since the issue in question was a source of great concern to a number of States, the Committee should take a decision on the establishment of the working group at the current meeting.

Mr. RICHARDSON (United Kingdom) said that his delegation supported the establishment of an open-ended working group, with the possible inclusion of other members of missions who had economic expertise. However, the decision on the working group should perhaps be deferred to a later meeting, as more time was needed to give careful consideration to the group's terms of reference. While a precedent had been set with the case of Jordan, the large number of applications pending concerned a wide range of different problems.

Since important meetings of the International Monetary Fund and the World Bank to consider means of helping States affected by the Gulf crisis were currently under way in Washington, a linkage should be established between the Committee and



those two organizations. Such a linkage would help the Committee in its work and would also avoid duplication of effort: in particular, the financial assistance raised from bilateral donors and international financial institutions by those organizations would far outstrip any such assistance that the United Nations could muster from its own sources.

Mr. DELON (France) supported the proposal by the United Kingdom. The Committee faced a growing volume of work, and decisions taken under resolution 669 (1990) fell outside its own terms of reference, rendering it useful to have a separate working group to make appropriate recommendations. He also agreed with the representative of the United Kingdom that economic experts from the missions should be allowed to join the working group, which should be open-ended. The Committee could take a decision on the working group in principle at its current meeting, and the Chairman could give further guidance at a later stage.

Mr. GOSHU (Ethiopia) said that he supported the proposal to establish a working group. While his delegation was prepared to decide on the working group at the current meeting, it was aware that some delegations might need more time. As many urgent requests were pending, however, he stressed the importance of prompt action.

The CHAIRMAN said that, if she heard no objection, she would take it that the Committee wished in principle to establish a working group.

It was so decided.

The CHAIRMAN suggested that delegations should make the necessary preparations for the establishment of the working group, without delay.

#### IMPLEMENTATION OF SECURITY COUNCIL RESOLUTION 670 (1990)

The CHAIRMAN recalled that the Committee had certain responsibilities under paragraphs 3, 4 and 6 of resolution 670 (1990). She drew attention to document S/AC.25/1990/NOTE/15, containing the text of letters sent by her to the Permanent Representatives of Brazil and Morocco, and of the Syrian Arab Republic, Cyprus, Greece, Italy, Malta, Tunisia, Algeria and Senegal, and to document S/AC.25/1990/COMM.24, containing a letter from the Permanent Representative of Greece stating that the Greek authorities had granted overflight permission to the flight from Baghdad to Brazil through Greek airspace. It was the view of the Committee that paragraph 4 of resolution 670 (1990) did not apply to the flight to Brazil, as the aircraft was not landing in Iraq or Kuwait, but did apply to the return flight to Iraq or Kuwait, an issue which had been raised by Morocco in a note verbale. She suggested that the Committee should approve the return flight, assuming that the aircraft would follow the same route, as specified by Morocco and Brazil, and on the understanding that the Brazilian and Moroccan authorities would

inspect the aircraft and certify that there was no contravention of resolution 661 (1990).

Mr. DELON (France) said that his delegation had no objection to the procedure suggested by the Chairman. However, the legal basis for the decisions in question should be further clarified. The provisions of paragraph 4 (b) of resolution 670 (1990) were being applied, but it was also possible for action to be taken without seeking the Committee's approval, under paragraph 4 (a) of the resolution. However, paragraph 4 (a) should be interpreted in the light of paragraph 7 of the resolution, which called upon all States to co-operate in taking such measures as might be necessary. It was possible, therefore, for the aircraft to land in only one of the States overflown, which would carry out the inspection on behalf of all the States overflown. There would be no need to obtain the Committee's permission in order to take such action. Paragraph 3 also applied to the case of Morocco. While he had no objection to the procedure question, he wished to stress that the resolution allowed such cases to be dealt with in other ways and the Committee's approval did not have to be sought in every case.

Mr. AUST (United Kingdom) said that his delegation was in general agreement with the points raised by the representative of France. As the return flight from Brazil fell within the terms of paragraph 4 (a) of resolution 670 (1990), there was no need for the Committee's approval to be sought. In all such cases, the States overflown should agree among themselves on a suitable landing place where inspection could take place. Under the resolution many such cases could be dealt with adequately without referral to the Committee, which would lose valuable time if it had to consider each case.

Mrs. CASTAÑO (Colombia) said that she endorsed the statements made by the previous speakers. The Committee needed, without creating a precedent, to clarify the procedure for implementing Security Council resolution 670 (1990) for the benefit of the various countries that might be involved in the future in the type of case under consideration. The Committee might thus be able to ensure that it would not have to authorize each flight and approve each individual request.

The CHAIRMAN asked whether the Committee wished, in the specific case under consideration and in any future cases in which requests were submitted to it, simply to refer to Security Council resolution 670 (1990), particularly the relevant paragraph, without specifically authorizing the flights concerned.

Mr. ROSENSTOCK (United States of America) said that an appropriate way of handling the matter under consideration might be for the Committee to draft a response to the specific letters containing requests that it had received, indicating that there was no problem with the procedure suggested in the letters, since it was in fact fully in accordance with Security Council resolution

670 (1990), and therefore did not actually require either any communication with or any action by the Committee. In such an answer, a draft of which could perhaps be informally circulated to Committee members, the Committee could convey the necessary message. It would thus perhaps be able to avoid receiving a large number of such requests and rubber-stamping them. A rubber-stamping procedure would mean that the Committee would be seen as approving requests without actually having looked into them.

Mr. DELON (France) said that he entirely supported the statement just made by the representative of the United States.

With regard to the point raised by the representative of Colombia, it was for the State of registration, or the State from whose territory the aircraft took off, to contact the competent civil aviation authorities of the territories to be overflown in order to inform them that the aircraft was going to overfly those territories, and in order to ascertain that those authorities were willing to authorize it to enter their airspace. The standard civil aviation procedure could be followed in the specific cases with which the Committee would be dealing.

Mr. AUST (United Kingdom) said that unless there was a formal request from Brazil, or any other State, there was no need to take any formal action at all on the return flight. The Chairman had made the position quite clear in her letter to the Permanent Representative of Brazil. The Committee should not anticipate requests.

The CHAIRMAN said that there was a possibility that the Committee would have to deal with such requests in the future, and it needed to work out what approach it should take to them.

She asked whether the Committee wished to follow the procedure suggested by the representative of the United States.

Mr. AL-ALFI (Yemen) said that he would like to see the proposal under consideration in writing.

The CHAIRMAN said that she would draft an appropriate text setting out the procedure that the Committee might wish to follow, which she would circulate to Committee members as soon as possible.

#### OTHER MATTERS

The CHAIRMAN drew attention to document S/AC.25/1990/NOTE/14, containing the text of a communication received on 14 September 1990 from the International Atomic Energy Agency (IAEA) and a draft letter to the Legal Counsel. One member of the Committee had objected to referring the matter to the Legal Counsel. She understood that the Secretary-General had received further information from IAEA.

Mr. SCHLITTLER (Secretary of the Committee) read out the following

communication from the Director General of IAEA, as well as the annex thereto, on behalf of the Secretary-General:

"In my message of 14 September, I asked you to be so kind as to seek the view of the Sanctions Committee on the applicability of Security Council resolution 661 to the IAEA Technical Assistance Programme.

At their meeting on 24 September the IAEA Board of Governors passed a resolution on this subject by 33 votes to 1 (Iraq), with one abstention (Philippines). The text of the resolution is attached.

I would be grateful if you could inform the Sanctions Committee of this Development.

#### RESOLUTION

#### SANCTIONS TAKEN BY THE DIRECTOR GENERAL PURSUANT TO SECURITY COUNCIL RESOLUTION 661

##### The Board of Governors

Underlines the obligation of the Director General to take such measures as may be necessary to give effect to Security Council resolution 661 and all Security Council resolutions having relevance to this matter as well as the guidelines of the Sanctions Committee, established pursuant to Security Council resolution 661.

Requests the Director General to consult and inform the Board as appropriate."

The two texts that he had just read out would be circulated to the members of the Committee.

The CHAIRMAN said that she believed that the earlier request made by IAEA to the Committee had thus been met.

Mr. REDZUAN (Malaysia), referring to the serious procedural difficulties encountered by the Committee, such as the difficulties encountered earlier at the current meeting, said that the issue was really that legal problems could be addressed to the Legal Counsel only if there was a consensus in the Committee, and not simply, for example, at the Chairman's discretion. He failed to understand why a simple matter of referring legal matters to the Legal Counsel, whose views were not binding on the Committee, should pose such a problem. The basic problem was the ruling on consensus, which in fact gave veto powers to all Committee members and had on many occasions been an impediment to the Committee. The Committee needed to review the provisional ruling governing its work. He therefore wished the points that he had just raised to be considered at the Committee's following meeting.

Mr. ROSENSTOCK (United States of America) said that only the Committee could request an opinion from the Legal Counsel. When it was a question of whether or not to request such an opinion, an exchange of views in the Committee was

required. Many of those who were most interested in requesting opinions from the Legal Counsel had been least interested in making an effort to find common ground in the Committee. It was for the members of the Security Council to interpret Security Council resolutions. Except in extraordinary circumstances, it was not necessary to consult a Secretariat official on how Security Council resolutions should be interpreted. In most cases, the issues that arose could be settled by means of discussion among members of the Committee.

If, however, there were cases in which there was a decision to request an opinion from the Legal Counsel, that was not a question of procedure. A departure from the provisionally adopted rules of procedure would not entirely simplify all issues that gave rise to difficulties. He appealed to the Malaysian delegation to consider carefully whether it was necessary to take the approach it was adopting.

Mrs. CASTAÑO (Colombia) said that her delegation supported Malaysia's proposal that at its following meeting the Committee should review its provisional rules of procedure and also consider the issue of requests for an opinion from the Legal Counsel when necessary, in the light of what had been happening for the past one and a half months. It was important that the members of the Committee should act responsibly if they each had a veto. A responsible approach would be to discuss the issues that arose adequately. The United States was of the view that issues should be discussed among the members of the Committee themselves. However, in her delegation's view, when Committee members believed that an issue required clarification the Committee could consult the Legal Counsel on the matter. In such cases, it might become apparent in the course of discussions in the Committee that it would be desirable to do so, or the Chairman herself could decide to consult the Legal Counsel, at her own discretion.

Mr. AL-ALFI (Yemen) said that he supported the proposal put forward by Malaysia. No member of the Committee should be able to impose its own interpretation of Security Council resolutions on the other members of the Committee.

Mr. DELON (France) said that the issue raised by Malaysia was an important one. The Chairman might wish to hold bilateral consultations with other delegations in order to prepare the way for consideration of the matter in the Committee.

The CHAIRMAN said that she would gladly hold bilateral consultations with delegations, as proposed by France. She suggested that the issues referred to by the representatives of Malaysia, Colombia and Yemen should be discussed at either the following meeting or the meeting after that.

**O. Provisional Summary Record of the 15th Meeting (closed), 3 October 1990***Source: S/AC.25/SR.15, 12 October 1990*Chairman:

Ms. RASI

(Finland)

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## ADOPTION OF THE AGENDA

The agenda was adopted.

FOODSTUFFS AND DELIVERY OF FOODSTUFFS: SECURITY COUNCIL RESOLUTIONS 661 (1990), paragraph 3 (c), and 666 (1990) (S/21810 and 21821; S/AC.25/1990/COMM.3, 12, 19, 20, 21, 23 and 25)

At the invitation of the Chairman, Mr. Gotzev (Bulgaria) took a place at the Committee table.

Mr. GOTZEV (Bulgaria) said that Bulgaria had taken all necessary measures to apply Security Council resolutions 661 (1990) and 666 (1990), but strict implementation of the sanctions had had an enormous impact on its economy. Those economic problems, which were endangering Bulgaria's transition towards democracy, had been described more fully in document S/21573 and in the address delivered by Mr. Zhelev, the President of Bulgaria to the General Assembly the day before. By the end of 1990, Bulgarian State and public companies were expected to incur losses of \$1.4 billion. The figure was even more alarming when considered in terms of per capita income. Bulgarian exports had been further affected by the impact of the sanctions on its economic relations with other Arab countries. Lastly, the loss of more than 3 million tons of oil, which Bulgaria could not afford to purchase from other sources, could spell disaster if the winter proved to be harsh.

Regrettably, no action had been taken as yet on Bulgaria's urgent appeal to the Security Council. Bulgaria was seeking assistance, under Article 49 of the Charter in identifying alternative oil suppliers. It was also seeking direct financial assistance as compensation for its losses; the rescheduling and alleviation of its foreign debt; and other forms of support from its creditors and international monetary and financial institutions.

Of even greater urgency was the fate of Bulgarians, including diplomats, held hostage in Kuwait as a result of Bulgaria's position on the Iraqi occupation. The

exit of 694 Bulgarian nationals still in Kuwait, several of them in poor health, was being prevented. Their food supplies were depleted, there was a shortage of drinking water, and the Iraqi authorities had warned that food rations to Bulgarians would be cut off as of 1 October.

In Bulgaria, there was growing public concern over the fate of the hostages. The Government was being accused of indifference to their plight, and questions were arising with regard to the sanctions and the proposed dispatch of a limited Bulgarian contingent to the Persian Gulf. The economic and psychological effects on Bulgarian society were undoubtedly hindering the implementation of democratic reforms.

Bulgaria required the Committee's authorization to send foodstuffs urgently, on four trucks via Turkey or by a chartered flight to Baghdad. The Bulgarian Embassy in Iraq and a committee of Bulgarian nationals trapped in Iraq would monitor the transit of the food supplies from the Turkish-Iraqi border and their distribution, in compliance with the relevant Security Council resolutions.

Mr. RICHARDSON (United Kingdom) said that his delegation had learned that the Iraqi authorities were reconsidering their threats to cut off food rations. It seemed that ration cards would be available to nationals of all countries, including detainees. He wondered if the Bulgarian delegation, too, had received information to that effect.

Mr. GOTZEV (Bulgaria) replied that his delegation had received no such information officially.

Mr. FLOREAN (Romania) said that his delegation fully understood Bulgaria's request and the measures it had taken, since Romanian nationals faced similar problems. It appeared that the situation in Iraq was growing worse, owing to a lack of food and medical supplies. Romania, too, had encountered difficulties in its efforts to repatriate its nationals. He wished to assure the representative of Bulgaria that the Committee would devote its full attention to the Bulgarian request and to the information the Bulgarian representative had provided.

Mr. GOTZEV (Bulgaria) expressed his delegation's gratitude. The Committee was highly regarded by the Bulgarian public and his delegation hoped that its request would be taken very seriously and acted upon with urgency. The Committee's decision would have very important consequences for the Bulgarian Government and people.

Mr. ALARCON de QUESADA (Cuba) noted that the Committee had been considering requests from Bulgaria for some time, concerning both assistance to its nationals in Iraq and consultations under Article 50 of the Charter. The Committee should take a decision at the earliest possible date in order to assist Bulgarians and other foreign nationals. His delegation was satisfied that the Bulgarian authorities would assume responsibility for the transport and distribution of

emergency food supplies in compliance with Security Council resolution 666 (1990). He wished to know whether Bulgaria was prepared to dispatch trucks or a chartered flight immediately, pending the Committee's authorization, or whether certain arrangements must still be made.

Mr. GOTZEV (Bulgaria) said that it was his understanding that the Bulgarian authorities were fully prepared to ship the food and were only awaiting the Committee's authorization.

Mr. Gotzev (Bulgaria) withdrew.

At the invitation of the Chairman, Mr. Tilakaratne (Sri Lanka) took a place at the Committee table.

Mr. TILAKARATNE (Sri Lanka) drew the Committee's attention to the special problems of nearly 100,000 Sri Lankan women who had been employed as domestics in Kuwait. The Sri Lankan Government had devoted considerable resources to airlifting approximately 20,000 of those women to Amman, but the others remained helpless, huddled in two or three camps since the closure of the Sri Lankan embassy. It had so far proved impossible to persuade some of the women and children to cross into Jordan.

The Iraqi authorities had advised Sri Lanka to provide food for its nationals during the remainder of the evacuation process, similar to the arrangements made by India. His delegation therefore hoped the Committee would authorize the dispatch of a ship carrying essential food supplies and staffed by representatives of the Sri Lankan Red Cross, which was affiliated with the International Committee of the Red Cross. The ship would be used, on the return voyage, to assist in the evacuation process. Although India had expressed its willingness to share its supplies with the Sri Lankan nationals, the fact was that the Indian food was still in warehouses and was also being claimed by thousands of foreign nationals of other countries.

Sri Lanka was a small developing country whose defence budget had increased as a result of internal ethnic disputes and whose tea exports to Iraq had been halted when the sanctions were imposed. Moreover, remittances from family members employed in Kuwait were a major source of income for an estimated one half million Sri Lankans. Sri Lanka would also be severely affected by the recent sharp rise in oil prices. He urged the Committee to agree to his country's request, which had been submitted separately in order to avoid procedural difficulties.

Mr. REDZUAN (Malaysia) expressed his full support for the application made by Sri Lanka and regretted that a decision had not been taken earlier on the Sri Lankan request. The matter had been long outstanding, and large numbers of women were suffering at that very moment. His delegation urged the Committee to take a decision at that meeting.



Mr. ALARCON de QUESADA (Cuba), referring to the earlier Sri Lankan communications (S/AC.25/1990/COMM.12 and 20), supported the Malaysian request and expressed regret that the Committee's response had not been satisfactory. Sri Lanka was a poor, developing country and its authorities had already made considerable efforts to help their nationals in Kuwait. At the very least, the Committee could act swiftly to authorize the departure of a Sri Lankan ship.

Mr. YU Mengjia (China) agreed with the representatives of Malaysia and Cuba. He wished to know whether, the Sri Lankan Government had completed preparations to dispatch its vessel, pending the Committee's approval.

Mr. TILAKARATNE (Sri Lanka) said that his Government was basically hoping to send a ship under the same conditions as had applied to that sent by the Government of India. According to his information, it would take several weeks to distribute the surplus Indian food, during which time the Sri Lankan nationals in Kuwait and Iraq would continue to be in jeopardy.

Mr. RICHARDSON (United Kingdom), noting that one vessel could evacuate only a limited number of people, asked for any indication as to the expected rate of departure of Sri Lankan nationals by land during the next few weeks.

Mr. TILAKARATNE (Sri Lanka) said his Government hoped to send some food and then ferry two or three loads of passengers out to a convenient airport whence they could be repatriated to Sri Lanka. It was difficult to persuade the individuals involved to embark on the long and difficult overland journey to Jordan because of the unfortunate experiences undergone by some who had already taken that route. The magnitude of his country's social problem was indicated by the fact that some 1,000 people were camped outside the Colombo airport awaiting the return of their relatives, in addition to another 4,000 outside the Ministry of Foreign Affairs.

Mr. DELON (France) asked whether any detailed talks had yet been held between India and Sri Lanka concerning the quantity of Indian food which might be distributed to Sri Lankan nationals, or the conditions for such distribution.

Mr. TILAKARATNE (Sri Lanka) said that India had invited several countries to share the food which it had transported. However, it appeared that the food was currently stored in warehouses, with tens of thousands clamouring for its release. The arrangements appeared somewhat nebulous. He had no idea of what the food consisted or how it was to be distributed.

Miss BOTERO (Colombia) endorsed the remarks made by the representatives of Cuba, Malaysia and China and noted the need for an urgent decision. She felt it was legitimate that a vessel should be used to feed and subsequently evacuate Sri Lankan nationals.

Mr. ILITCHEV (Union of Soviet Socialist Republics) said that the further details provided by the representative of Sri Lanka had confirmed the rightness of

his country's decision to endorse Sri Lanka's request from the outset. Noting that reference had been made to negotiations with the Iraqi authorities, he wished to know whether the delivery and distribution of food would be carried out in accordance with the relevant Security Council resolutions.

Mr. TILAKARATNE (Sri Lanka) said he understood that the same procedure as that applied by the Government of India would be adopted.

Mr. AL-ALFI (Yemen) said he fully understood the humanitarian aspect of the problems faced by Sri Lankan nationals in Kuwait and Iraq. He would be interested to know whether, in the opinion of the Sri Lankan Government, the situation remained much as it was when the crisis began or whether it had deteriorated since the request had been submitted. It would also be useful to know whether that Government expected the assistance offered by India to be sufficient as an alternative to its own proposal.

Mr. TILAKARATNE (Sri Lanka) said the few reports at his disposal indicated that Sri Lankan nationals were undergoing tremendous personal hardship and approaching the brink of starvation. There was no sense in prolonging their agony, and it was for that reason that his Government wished to evacuate them as soon as possible.

Mr. AL-ALFI (Yemen) said that interpretation problems might have prevented his remarks being understood. He repeated the same two questions.

Mr. TILAKARATNE (Sri Lanka) acknowledged that the situation had indeed deteriorated gravely. About 4,000 people were gathered in two camps close to where his country's embassy used to be. They had no money, and their conditions were worsening each day. While grateful for the offer made by the Government of India, he did not see it as an immediate solution to the problem.

Mr. Tilakaratne (Sri Lanka) withdrew.

At the invitation of the Chairman, Mr. Kotevski (Yugoslavia) took a place at the Committee table.

Mr. KOTEVSKI (Yugoslavia) said that his country had recently reported the presence of some 3,000 Yugoslav workers remaining in Iraq. Its latest information, received on 30 September, was that only some 600 now remained, with the number expected to fall further to between 200 and 300 by the end of October. That was the minimum number expected to be required for the purpose of maintaining equipment and preventing further losses. All work by Yugoslav companies in Iraq had been discontinued, and his Government was making great efforts to ensure the evacuation of more personnel.

Since evacuation had proceeded more rapidly than anticipated, his country's request for food supplies was now less urgent, but a need would arise for the provision of food to the minimum number of workers who would be required to remain in Iraq. Although companies had estimated that minimum number to be 600, his

Government had succeeded in reducing it to between 200 and 300. He therefore hoped that the Committee would consider his request seriously and take a decision in principle that, if and when the need arose, his country would be authorized to send food to its workers in Iraq. It stood ready to comply with any conditions set by the Committee, including, given Iraq's refusal to allow distribution by international agencies, the dispatch of personnel from his country's Red Cross Society.

Ms. KALKKU (Finland) asked whether she had understood correctly that Yugoslavia was not asking for immediate permission to transport foodstuffs but simply requesting approval in principle for subsequent deliveries, details of which would be provided in due course.

Mr. KOTEVSKI (Yugoslavia) confirmed that her understanding was correct. His country expected soon to be in a position to make a specific request. Meanwhile, a decision in principle would help enormously to raise the spirits of workers' families in Yugoslavia.

Mr. Kotevski (Yugoslavia) withdrew.

At the invitation of the Chairman, Mr. Trinh Xuan Lang (Viet Nam) took a place at the Committee table.

Mr. TRINH XUAN LANG (Viet Nam) said that his Government sought to draw the Committee's attention to the very serious problems faced by some 16,000 Vietnamese nationals working in Iraq under agreements concluded in 1986 and 1988. Besides those employed in irrigation projects and housing construction, many were employed as drivers, mechanical workers or nurses. Some 1,000 of them were women. About 11,000 were working near Mosul, 3,500 in and around Baghdad, and over 1,000 in the Basra area. They now faced a desperate food shortage. More than half of them were sick and some might face starvation within a few days. As of 1 October 1990, Iraq would discontinue its supply of food to them. His Government therefore urgently requested assistance in mounting an international relief operation to rush 500 tons of food to Vietnamese nationals in Iraq and provide for the urgent repatriation of between 4,000 and 5,000 people, with priority being accorded to women and the sick. Ideally, direct flights should be organized from Baghdad, Mosul and Basra.

With regard to food, his Government wished to send 500 tons on board two Vietnamese ships, which could also evacuate about 1,000 people. Those ships were prepared to leave for Iraq as soon as approval was granted. Despite India's readiness to share its food, the situation would only be marginally alleviated by such assistance. His Government had approached various international agencies with respect to repatriation. Although the agencies had responded positively, they had indicated a need for his country's nationals to be brought out initially overland to one of Iraq's neighbouring countries. Accordingly, his Government had already

asked for assistance from Iran, Jordan and Turkey in permitting the transit of Vietnamese nationals.

Mr. LOZINSKIY (Union of Soviet Socialist Republics) asked whether, as in the Indian case, Viet Nam could ensure proper monitoring of food distribution by humanitarian organizations.

Mr. TRINH XUAN LANG (Viet Nam) said that his Government was prepared to accept any conditions governing food distribution which might be established by the Committee.

Mr. DELON (France) requested information as to the type and quantity of food which had been offered to Vietnamese nationals by the Government of India and asked whether they had already begun to receive such foodstuffs.

Mr. TRINH XUAN LANG (Viet Nam) said he understood that India had offered to provide his country's nationals with about 240 tons of rice, 1,600 kilograms of milk and 2,000 kilograms of sugar. He had no information as to whether that food had yet been distributed.

Mr. WILKINSON (United States of America) asked whether the Vietnamese authorities had made any plans for distributing the foodstuffs transported to Iraq by ship to their nationals there. In particular, he wished to know whether the Vietnamese authorities were working with Indian authorities on the distribution of the foodstuffs shipped by the Indian Government. The question was an important one, as Vietnamese nationals appeared to be located in a number of places throughout Iraq.

Mr. TRINH XUAN LANG (Viet Nam) said that distribution arrangements were being made by the Indian and Vietnamese Governments through their Ambassadors in Iraq. However, he had not yet received any concrete information as to the nature of those arrangements.

Ms. KALKKU (Finland) asked the representative of Viet Nam whether he could provide an estimate of the time it would take to evacuate all Vietnamese nationals from Iraq and Kuwait.

Mr. TRINH XUAN LANG (Viet Nam) said that his Government intended to repatriate all 16,000 Vietnamese workers in Iraq and had to that end approached various international organizations and the countries concerned. As repatriation arrangements were still under discussion, a specific plan had yet to be elaborated, and he was therefore unable to say how long it would take to implement such arrangements.

Mr. RICHARDSON (United Kingdom) again recalled that his Government had been informed that the Iraqi Minister of Trade had stated on 30 September that ration cards for basic foodstuffs would be issued to all persons in Iraq, including foreign nationals. He inquired whether the representative of Viet Nam had heard that information, which his delegation sought to have confirmed.

Mr. TRINH XUAN LANG (Viet Nam) said that, at the outset of the crisis, his Government had been assured that the welfare and security of Vietnamese nationals would be looked after. However, it had recently been informed that the Iraqi Government intended to cut food supplies to Vietnamese nationals as of 1 October.

Mr. REDZUAN (Malaysia) asked how long it would take the two Vietnamese ships to reach Iraq and whether the representative of Viet Nam would be able to report to the Committee in the next few days on the status of the delivery of Indian foodstuffs to Vietnamese nationals.

Mr. TRINH XUAN LANG (Viet Nam) estimated that the Vietnamese ships would take two weeks to reach Iraq. He would ask his Government to provide him with information regarding the situation of the foodstuffs India planned to share with Vietnamese nationals and would report to the Committee thereon as soon as he received a reply.

Mr. Trinh Xuan Lang (Viet Nam) withdrew.

The CHAIRMAN invited the Committee to consider the requests made by Bulgaria, Sri Lanka and Viet Nam in the light of the clarifications provided by the representatives of those countries.

Mr. RICHARDSON (United Kingdom) said that the statement on 30 September by the Iraqi Minister of Trade that ration cards would be issued to all persons in Iraq without discrimination, including foreign nationals, was a rather important development which would affect Asian nationals in Iraq and Kuwait.

Mr. AL-ALFI (Yemen) said that, the fact that the Iraqi Minister of Trade had stated that foodstuffs would be available to foreigners did not mean that the high-level representatives of Governments who had just addressed the Committee were providing misleading information. That information concerned the latest developments affecting their nationals in Iraq and Kuwait, who appeared to be in need of food regardless of any statement issued by the Iraqi Government or anyone else. The Committee was therefore ethically bound to provide those foreign nationals with foodstuffs and should take a decision regardless of any information from Iraqi sources.

Mr. RICHARDSON (United Kingdom) said he hoped that the representative of Yemen had misunderstood him; he was not contradicting what the representative of Bulgaria had said. In fact, the representative of Bulgaria had indicated that he, too, had learned of the statement by the Minister of Trade on the radio. What he (Mr. Richardson) sought to stress was the importance of that statement, if it was true.

Mr. KIRSCH (Canada) said that, like the representative of Yemen, he took the appeals made to the Committee by Governments very seriously. It appeared that humanitarian considerations applied in the cases the Committee had just heard and

that assistance might be necessary. Yet the point raised by the representative of the United Kingdom could not be ignored. It was impossible for the Committee to proceed further without confirmation of that information, which the Committee ought to be able to obtain rapidly.

The CHAIRMAN, supported by Mr. GOSHU (Ethiopia), suggested that the Committee should seek clarification from the Iraqi authorities regarding the issuance of ration cards.

Mr. WILKINSON (United States of America) said that allowing foreigners to purchase foodstuffs with ration cards was a satisfactory solution in the case of small foreign populations in Iraq. When necessary, the diplomatic officials of the country concerned could provide financial assistance. However, in the case of larger populations, such as the Sri Lankans, it did not constitute an attractive alternative.

In the mean time, the Indian ship was known to contain 10,000 metric tons of food, capable of feeding 150,000 people for four months. The main problem associated with those foodstuffs was caused by an inadequate system of distribution within Iraq, a problem which any other foreign ship arriving in Iraq would probably face as well. The most urgent question at present, then, was how to distribute the Indian food so that people could be fed as quickly as possible.

The CHAIRMAN said she would take it that the Committee wished to ascertain as quickly as possible the accuracy of the information received through different channels from Baghdad regarding the availability of ration cards to foreigners in Iraq and Kuwait.

Miss BOTERO (Colombia) supported the Chairman's remarks but said that the case of Sri Lanka was particularly serious. While the Committee waited for the Iraqi authorities to confirm the availability of ration cards, Sri Lankan women in Kuwait and Iraq would be waiting for food while living in very difficult social conditions. Consequently the Committee could not postpone a decision on that case.

Mr. AL-ALFI (Yemen) said he did not disagree that the Committee should seek clarification from the Iraqi authorities but pointed out that it was quite possible that, for political reasons, the authorities might say that foreigners would be treated on an equal footing with Iraqi citizens even while maintaining saying that foreigners required assistance. In fact, food might not be available even to Iraqi citizens.

Mr. MORENO FERNANDEZ (Cuba) said that the Committee was discussing two separate, unrelated issues: the provision by the Iraqi authorities of ration cards to foreigners and the right of nationals of third countries to receive humanitarian food assistance from their Governments. Whether or not foreigners were issued ration cards, the Committee must reply to the requests for assistance made by Governments.

Mr. RICHARDSON (United Kingdom) said that the representative of Yemen had identified a major problem: the difficulty of establishing the accuracy of information coming from Iraq. The difficulty lay in the fact that there was no impartial arbiter in Iraq which could help the Committee reach a decision. In any event, he was not sure that the current impasse was intended by any party, even Iraq. Security Council resolution 666 (1990) called for information regarding the humanitarian need for foodstuffs and applied to Iraqi citizens as well as foreigners. It would thus be in the interest of all parties if the International Committee of the Red Cross or the United Nations could maintain a presence in Iraq.

He drew attention in that connection to a letter dated 11 September 1990 from the Secretary-General addressed to the Chairman of the Committee (S/AC.25/1990/COMM.13), in which the Secretary-General had indicated his readiness to ask the Iraqi authorities to co-operate in establishing an adequate international presence in Iraq and Kuwait to ascertain whether essential foodstuffs were reaching vulnerable groups.

Mr. REDZUAN (Malaysia) said that the Secretary-General's letter clearly indicated that "humanitarian circumstances" did apply in relation to Asian workers remaining in Iraq and Kuwait. Moreover, the Chairman had stated previously that applications by individual countries would be given speedy consideration, and the Committee was still obligated to do so. In a plenary meeting of the Security Council, the Minister for Foreign Affairs of Malaysia had expressed concern at the delays in the consideration of requests for assistance and had urged that there should be no political impediment to such hearings. Yet the Committee had reached a point where it was unable to act, but repeatedly sought additional information. Consequently, his delegation did not wish to be associated in the future with the Committee's inability to reach a decision.

Mr. MORENO FERNANDEZ (Cuba) said that the Committee seemed condemned to inaction by the fact that Iraq refused to let humanitarian organizations or the United Nations enter the country and the fact that the Committee itself lacked the will to provide assistance to foreign nationals in Iraq until their needs had been confirmed by humanitarian organizations. Given that impasse, he supported the statement made by the representative of Malaysia: his delegation did not wish to bear any responsibility for the death of thousands of people.

Mr. WILKINSON (United States of America) said he was dismayed at the insinuation that the Committee was failing to respond to the concerns of Sri Lanka or other countries whose nationals remained in Iraq and Kuwait. The fact was that 10,000 metric tons of food lay at Umm Qasr port, only a few miles from the needy populations. The other ports to which foreign vessels might be dispatched were far from those people, and those vessels would be bringing in only a few hundred additional tons of foodstuffs. The most urgent need then, was the distribution to

the Asian populations in Iraq and Kuwait of the food provided by the Indian Government. It was the Committee that had taken the decision that had allowed that food to reach Iraq; the delay in the delivery of those foodstuffs arose from problems of internal distribution.

Mr. KIRSCH (Canada) said he did not share the pessimism of some other delegations. There were ways of ensuring that the foodstuffs reached their intended beneficiaries, and the Committee ought to be able to reach a decision in a few days, although it should not overlook the fact that certain necessary information was lacking.

It was now rather urgent that the Permanent Representative of India should report to the Committee on the delivery of foodstuffs by his country in Iraq, particularly since it was clear from some of the statements made earlier that the Governments of countries with refugees in Iraq did not even know how their people would receive that food. However, he did not mean to imply that such a report was a prerequisite for a decision by the Committee.

Mr. AL-ALFI (Yemen) said that if verbatim records of previous meetings had existed, he would have read out the statements by certain members concerning the Indian foodstuffs which appeared to contradict what they were saying at the current meeting. Although the Indian Government offered to share its foodstuffs, it was not the responsibility of the Indian Government to ensure that the needs of foreign nationals in Iraq were met. That responsibility lay with the Committee and the Governments of the countries from which those individuals came.

The representatives of Bulgaria, Sri Lanka and Viet Nam had appeared before the Committee not in order to provide false information, but in order to inform the Committee of the problems their nationals faced in Iraq. If the Iraqi Government distributed ration cards and there was no food in the country, who would feed the third-country nationals there? The problem should not be passed on to the Indian Government; however, if the Committee wished to do so, it should be honest about its decision and not resort to subterfuges or ruses. Like the representative of Malaysia, his delegation did not wish to be a party to a decision that would inflict hunger on the nationals of third countries in Iraq.

Mr. YU Mengjia (China) said that the Committee appeared to have moved from a discussion of Bulgaria's request to a consideration of the issue in general. He was concerned that the Iraqi authorities might soon change their position, and agreed that more information was required; in particular, whether the Iraqi authorities had agreed to issue ration cards to everyone, including foreigners, and whether foreigners would be required to pay for the cards. Some foreign nationals were in severe economic straits and it had become difficult to remit money to Iraq.



The representative of Sri Lanka had been uncertain about the arrangements for the distribution of the food which India had generously offered to share with Sri Lankan nationals, and information was also needed on that matter. It was also necessary to ascertain the time needed for the vessels to reach Iraq and for the loading and off-loading of the food. It was also important, however, for the Committee to attend to urgent problems, such as that posed by the Sri Lankan nationals, before waiting for all the information to be received.

Mr. DELON (France) said that Iraq, and not the Committee, should be held responsible for the plight of foreign nationals stranded in the region. His delegation shared the views expressed by Canada and urged the Committee to reach a swift decision on urgent matters, particularly the question of the Asian nationals. In their statements the representatives of Viet Nam and Sri Lanka had eloquently illustrated the plight of their nationals, but he had been disappointed by the lack of detail provided by the representative of Sri Lanka, particularly with regard to possible contacts between his country and the Government of India concerning the distribution of the Indian food. He had been surprised to learn that it would take some weeks for the food, already at Umm Qasr port in Iraq, to reach the Sri Lankan nationals, and that it would in fact be quicker for food to be sent directly from Sri Lanka. It was clear that more information was urgently needed in order for the Committee to be able to take prompt action. The Committee had already been informed by India that some of the Indian foodstuffs would be made available to other Asian nationals, and he questioned the advisability of authorizing vessels to sail from Sri Lanka and Viet Nam with foodstuffs that might not reach their intended recipients.

Ms. KALKKU (Finland) said that her delegation supported the Canadian proposal, in view of India's offer to share its foodstuffs with other Asian nationals and the fact that the Indian ship had already arrived and unloaded its cargo, which was ready for distribution. As the necessary information could only be fully provided by the Indian authorities, she suggested that the Indian representative should be invited to address the Committee as a matter of urgency. The availability of the Indian food did not mean, however, that further shipments would not be necessary, as there were very large numbers of stranded foreign nationals in the area, and there might be problems with distribution of the food.

Mr. GOSHU (Ethiopia) said that further information was required for the Committee's decisions. The decision to grant India's request to send a ship had been based on the information provided by the Permanent Representative of India, confirmed by the Secretary-General in his letter (S/AC.25/1990/COMM.13), attesting to the humanitarian circumstances justifying the request. The Committee should take steps to verify as swiftly as possible the announcement by the Iraqi Ministry of Trade that food would be provided to nationals of third countries and should

then meet to take its decision. He believed that, without such information, the Committee's deliberations could lead nowhere and he suggested that the Chairman should summarize the discussions held thus far.

The CHAIRMAN said that, in her discussions earlier in the day with the Permanent Representative of India concerning the unloading and distribution of the Indian cargo of foodstuffs, the Permanent Representative had said that he was awaiting further information from New Delhi. It was advisable, therefore, to wait for that information before inviting him to address the Committee, but she would ask him to seek the information as expeditiously as possible, if that was the wish of the Committee.

In summarizing the Committee's decisions, she said that the Committee's deliberations had moved from the Bulgarian request to a general consideration of the Asian nationals. As she understood it, the Committee wished to seek clarification from the Iraqi authorities concerning the distribution of foodstuffs to foreigners through ration cards. The information could be requested from the Iraqi authorities at the United Nations or through foreign embassies in Baghdad.

Information was required from the Indian authorities on such matters as how much food was available, how long supplies would last, and what quantities were available for other nationals, to give the Committee a basis for its decisions regarding the citizens of other Asian countries. The question of evacuation procedures was also linked to that of foodstuffs, as it directly affected the number of stranded nationals who would require food assistance.

Mrs. CASTAÑO (Colombia) said that her delegation agreed with the Chairman's suggestion. Bearing in mind the views put forward by other delegations, however, she proposed that the Committee should set a deadline for the submission of information, as an urgent response was required for certain cases, such as that of Sri Lanka. The situation in Iraq made it unlikely that much surplus food would remain from the Indian shipment for distribution to other Asian nationals, and the Committee should therefore act on the information available when the deadline was reached. In the mean time, the Committee could confer with the Iraqi authorities and foreign embassies and thereby satisfy the concerns of all delegations.

Mr. AL-ALFI (Yemen) said that his delegation also agreed with the Chairman's suggestion, and supported the Colombian proposal for a deadline. The inquiry to the Iraqi Government should include the question, raised earlier in the meeting by China, of whether foreign nationals would have to pay for the ration cards. Many foreign citizens, in particular the Sri Lankans, were financially distressed and the ration cards would be of no use if they were required to pay for them.

Mr. MORENO FERNANDEZ (Cuba) said that his delegation supported the Colombian proposal for a deadline, but he stressed the importance of strict adherence to the deadline, in view of the extreme urgency of the matter.

Mr. LOZINSKIY (Union of Soviet Socialist Republics) said that the USSR concurred with views expressed at the meeting about the urgent need for information regarding the distribution of food to foreign nationals, especially Asians, whose plight was exacerbated by their dire financial circumstances. It would assist the Committee to obtain a full picture of the situation if the Special Representative of the Secretary-General for Humanitarian Affairs could co-ordinate information obtained from foreign Governments, embassies in the region and other sources, thereby enabling the Committee to reach a prompt decision on urgent matters, such as the requests already submitted by Viet Nam and Sri Lanka.

Mr. WILKINSON (United States of America) said that he supported the proposal to seek information through the Special Representative of the Secretary-General for Humanitarian Affairs, and to obtain information regarding the ration cards; he also supported the Colombian proposal for a deadline on such information. He noted, however, that the issue of ration cards principally concerned the Bulgarians and was not of great relevance to the Asian nationals, who constituted large populations with very little money and were unable to deal through the normal market.

As he recalled, the Indian ship had carried sufficient food for 170,000 Indian nationals. The commendable evacuation measures implemented by India, however, had reduced their population in the area from 180,000 to 100,000, thus creating the surplus of food. The food supplies were at Umm Qasr port near the border with Kuwait, a few miles distant from the stranded foreign nationals, and mechanisms to distribute that food to the Asian populations should be implemented immediately, without waiting for further information.

The CHAIRMAN said that, while she warmed to the general idea of a deadline, she was hesitant about imposing a specific date in view of the possible delay in receiving information from India. She therefore proposed that the Committee should reconsider the issue of a deadline when it had received that information. In the mean time, information could be sought from the Iraqi authorities and through United Nations channels regarding the question of ration cards.

Mr. RICHARDSON (United Kingdom) said that the important question of evacuation should also be included in discussions with the Special Representative for Humanitarian Affairs and with the International Organization for Migration (IOM).

The CHAIRMAN said that the issue of evacuation was, indeed, closely linked to that of foodstuffs, as she had noted in her summary of the discussion

earlier in the meeting. She would take it, if she heard no objection, that the Committee wished to continue its discussion of the matter early in the following week.

It was so decided.

#### CONSULTATIONS UNDER ARTICLE 50 OF THE CHARTER

The CHAIRMAN said that the Committee, at its 14th meeting, had decided, in principle, to set up a working group to study the cases pending under Article 50 of the Charter and to advise the Committee on appropriate action. Further consultations were still required on the chairmanship, but, if she heard no objection, she would take it that the Committee wished to establish the working group.

It was so decided.

The CHAIRMAN drew attention to a letter from Czechoslovakia dated 2 October 1990 (S/21837) regarding Article 50 of the Charter.

#### IMPLEMENTATION OF RESOLUTION 670 (1990)

The CHAIRMAN said that the draft standard reply to requests for the Committee's authorization of flights under resolution 670 (1990) had not proved acceptable to all members of the Committee. She suggested, therefore, that responsibility to ensure compliance with the resolution should rest with States from which aircraft were departing or whose territory they were traversing, in terms of paragraph 3 of resolution 670 (1990), and that a general letter would therefore not be necessary. The Committee would consider requests for authorization on a case-by-case basis.

Mrs. CASTAÑO (Colombia) said that, as she recalled it, the Committee had agreed at its previous meeting that there was no need to consider each case separately. Colombia did not believe that every flight needed to be considered by the Committee, as the number of cases would place an insupportable burden on the Committee. India had requested authorization for 10 flights per day to evacuate its nationals, Turkey had requested that each aircraft overflying its territory should land for the purposes of inspection, Brazil and Morocco had submitted requests, and it was impracticable for the Committee to attend to each request individually. She believed, therefore, that the views expressed at the previous meeting should be further discussed in order to facilitate the Committee's work.

Mr. KIRSCH (Canada) said that it was difficult to formulate model rules in the abstract. He therefore believed that the Committee should consider the first specific cases, from which parameters for future action could be derived and rules developed for dealing with requests from other countries. It would save time if the Committee considered those first cases on their individual merits and then authorized the Chairman to decide on subsequent cases.

The CHAIRMAN said that if the Committee proceeded with consideration of a specific case, it could perhaps begin to establish a pattern for dealing with cases such as the Indian one in the future. She therefore drew attention to document S/AC.25/1990/COMM.28, which contained the text of a letter dated 28 September 1990 from the Permanent Representative of India addressed to her.

Mr. KIRSCH (Canada) said that he wished first of all to express his delegation's concern at the plight of Indian nationals stranded in Iraq and Kuwait. Canada viewed favourably steps taken by countries to evacuate their stranded nationals from Iraq and Kuwait. In particular, it approved of the action taken by India to evacuate its nationals. Canada was in favour of evacuation - both for humanitarian reasons and so as to ensure implementation of the relevant Security Council resolutions. It was clear that India wished to avoid procedures connected with the landing of the aircraft in Turkey. Canada was in favour of the most expeditious procedures possible, which would of course mean that there would be a departure from normal procedures. If the Committee once again approved quicker procedures for the flights in question, which Canada would welcome, it should probably establish alternative modes of inspection in order to ensure that, as a general principle, States fulfilled their obligations under the relevant resolutions. India was apparently objecting not to the inspection of its aircraft as such but, rather, to the length of time that such procedures would take in Turkey. India was proposing an easy way of dealing with the issue, namely, by providing for inspection upon take-off from and landing in India, under the auspices of the International Committee of the Red Cross (ICRC), the local United Nations authorities or some other non-Indian organization.

Mr. LOZINSKIY (Union of Soviet Socialist Republics) said that his delegation supported the proposal made by the representative of Canada.

Mr. AL-ALFI (Yemen) said that his delegation did not disagree with the proposal just made by Canada. However, he would appreciate clarification of whether the proposal concerned only the Indian flights under consideration, since those flights involved air force aircraft, not civilian aircraft. He wished to ascertain that the proposal would not apply to civilian airliners carrying passengers on scheduled flights.

Mr. KIRSCH (Canada) said that his delegation's general objective was simply to attempt to reconcile the desire of India for speedy mechanisms - and the desire of other States that might wish to follow the same more expeditious procedures - with the general requirements of inspection laid down in Security Council resolution 670 (1990). Paragraph 4 (a) of that resolution did not seem to distinguish between military and civilian aircraft and thus seemed to apply to all aircraft. At the current stage he was referring only to the Indian issue. A model for use in the future would develop in due course.

The CHAIRMAN said that she, too, was of the view that the resolution concerned all aircraft, both military and civilian.

Ms. KALKKU (Finland) asked how long the flights in question would continue and how many flights would be involved.

The CHAIRMAN said that the Indian delegation could be requested to answer Finland's question.

The CHAIRMAN said that, if she heard no objection, she would take it that the Committee wished to approve the request by India, on the understanding that impartial inspection would be provided so as to ensure that the flights in question did not engage in any activities contrary to the provisions of resolution 661 (1990) and that such inspection might be carried out by representatives of the ICRC or the United Nations.

It was so decided.

The CHAIRMAN said that she would inform the Permanent Representative of India accordingly. She would also send appropriate letters to the Permanent Representatives of Pakistan, the Islamic Republic of Iran and Turkey informing them of the Committee's decision.

She now wished to draw attention to document S/AC.25/1990/COMM.26, which contained a letter dated 27 September 1990 from the Director General of the International Organization for Migration addressed to her.

After a procedural discussion in which Mr. GRAHAM (United States of America), Mr. AUST (United Kingdom), Mr. LOZINSKIY (Union of Soviet Socialist Republics), Mr. DELON (France) and Mrs. CASTAÑO (Colombia) took part, the CHAIRMAN said that, if she heard no objection, she would take it that the Committee wished her to transmit the letter from the Director General to the Legal Counsel, requesting him to prepare a draft reply for consideration by the Committee.

It was so decided.

The CHAIRMAN drew attention to document S/AC.25/1990/COMM.30, which contained the text of a letter dated 2 October 1990 from the Permanent Representative of the Philippines addressed to her.

Mr. AUST (United Kingdom) said that the letter from the Permanent Representative of the Philippines seemed to show a slight misunderstanding of resolution 670 (1990). Perhaps the Philippines was in fact requesting approval for evacuation flights under paragraph 4 (b) of the resolution, as in the case of the Indian request just dealt with by the Committee. Perhaps the Legal Counsel should be requested to provide a draft reply covering the particular points raised in the letter, which could then be circulated to Committee members prior to the following meeting, for consideration by them.

Mr. DELON (France) said that he supported the United Kingdom proposal that the Secretariat should be requested to prepare a draft reply for consideration by the Committee.

Mr. FLOREAN (Romania) said that he wished to suggest that the Committee should circulate notifications under paragraph 6 of resolution 670 (1990) in Committee documents.

The CHAIRMAN said that, if she heard no objection, she would take it that the Committee wished her to transmit the letter from the Permanent Representative of the Philippines to the Legal Counsel, requesting him to prepare a draft reply to the letter for consideration by the Committee.

It was so decided.

The CHAIRMAN said that, in view of the reports of flights about which the Committee had not been notified, she wished to suggest that the Committee should authorize her to request the Secretary-General to send a letter to all States reminding them of their obligations under resolution 670 (1990). If she heard no objection, she would take it that the Committee wished her to do so.

It was so decided.

The CHAIRMAN drew attention to document S/AC.25/1990/COMM.31, which contained the text of a letter dated 20 September 1990 from the Permanent Representative of Australia addressed to her. She wished to suggest that the Permanent Representative of Australia should be informed that the Committee had not adopted general guidelines with regard to resolution 666 (1990) and examined requests on a case-by-case basis. Whenever the interests of other States were involved, it was the Committee's policy duly to inform the States concerned.

Mr. GRAHAM (United States of America) said that he had absolutely no objection to the Chairman's suggestion. However, there was another matter to which the letter might possibly refer. When the Committee approved such shipments in the future, it might be appropriate for Committee members, either before approval was given or at the time when approval was given, to work out a way of signalling the Committee's approval to States that maintained a military presence in the region and whose military personnel might have contact with the ships in question.

The CHAIRMAN said that she was prepared to accept the United States interpretation of the letter. She agreed that in future cases it would be important to inform all possible interested parties. If she heard no objection, she would take it that the Committee endorsed her suggestion, as amended by the United States.

It was so decided.

The CHAIRMAN drew attention to document S/AC.25/1990/NOTE/18, which contained the English text of a reply from the Legal Counsel to the first question contained in the letter dated 29 August 1990 from the Permanent Representative of

Yemen to the United Nations addressed to her. Owing to the length of the reply, translations would be provided the following day.

Mr. DELON (France) proposed that consideration of the document before the Committee should be deferred to a later meeting.

The CHAIRMAN said that, if she heard no objection, she would take it that the Committee wished to defer consideration of the text before it to a later meeting.

It was so decided.

#### OTHER MATTERS

Mr. GRAHAM (United States of America) said that his delegation had noted with some dismay press reports, that appeared to have been confirmed, that voluntary organizations in Jordan had sent humanitarian food shipments across the border between Jordan and Iraq into Iraq. The organizations in question had reportedly done so after the date of the adoption of resolution 666 (1990). The United States noted with some further consternation that there were reports that certain Jordanian entities might be planning another such shipment. In view of those reports, it might be appropriate for the Committee, perhaps through its Chairman, to seek information on and obtain clarification of the matter from the Jordanian Government. He believed that the Jordanian Government was responsible, under a decision taken by the Committee, for actions taken by Jordanian non-governmental organizations. The Committee might, in particular, wish to seek information concerning any future plans of the non-governmental organizations or the Jordanian Government to channel requests regarding such operations through the Committee.

Mr. AL-ALFI (Yemen), supported by Mr. MORENO FERNÁNDEZ (Cuba), said that Committee members must be given an opportunity to see the press reports in question before they considered authorizing the Chairman to contact the Jordanian authorities as proposed by the United States.

Mr. GRAHAM (United States of America) said that he would be happy to provide the Chairman with all the information he had on the subject the following day. His delegation had raised the matter simply so that the Committee might consider whether it wished to request clarification of the matter. He was not in a position to make any statement regarding the confirmed veracity of the reports at the current stage, although the reports in question had appeared in numerous newspapers around the world.

The CHAIRMAN said that once she had received the information in question from the United States delegation she would circulate copies to Committee members without delay.



**P. Provisional Summary Record of the 16th Meeting (closed), 11 October 1990***Source: S/AC.25/SR.16, 29 October 1990*Chairman:

Ms. RASI

(Finland)

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## ADOPTION OF THE AGENDA

The agenda was adopted.

## REVIEW OF THE IMPLEMENTATION OF SECURITY COUNCIL RESOLUTION 661 (1990)

The CHAIRMAN said that, since the previous meeting of the Committee, six more States had replied to the Secretary-General's note verbale of 8 August 1990 and his reminder of 27 August 1990: the Congo (S/21831), Pakistan (S/21832), Czechoslovakia (S/21837), Indonesia (S/21838), Argentina (S/21848) and Bangladesh (S/21856). In accordance with the decisions adopted by the Committee at its 12th and 14th meetings, the Secretary-General had transmitted to all Member States the questionnaire concerning national measures taken to implement resolution 661 (1990).

## CONSULTATIONS CARRIED OUT UNDER ARTICLE 50 OF THE CHARTER OF THE UNITED NATIONS

The CHAIRMAN announced that Mr. Philippe Kirsch, Deputy Permanent Representative of Canada to the United Nations and a Vice-Chairman of the Committee, had accepted the post of Chairman of the Working Group which, in accordance with the decision adopted by the Committee at its 14th meeting, would study the existing problems in complying with Article 50 of the Charter of the United Nations and would recommend to the Committee measures for adoption in that respect.

If there were no objections, she would take it that the Committee members wished to appoint Mr. Kirsch as Chairman of the Working Group.

It was so decided.

The CHAIRMAN drew the attention of the Committee to a letter dated 9 October 1990 from the Permanent Representative of Bangladesh to the United Nations addressed to the Secretary-General (S/21856), in which Article 50 of the Charter had been invoked.

Mr. KIRSCH (Canada) said that he wished to make two comments with respect to his appointment. The first was in regard to the fact that the Working Group had not yet held a meeting and, thus far, had not defined the exact nature of its work and its deliberations. Furthermore, as was well known, there were conflicts and priorities of every nature to be taken into account during the current session of the General Assembly. Accordingly, he wished to suggest that his delegation should occupy the post of Chairman of the Working Group under the same conditions as it occupied that of Vice-Chairman of the Committee, namely, in a national rather than a personal capacity. That would facilitate matters, depending on the circumstances.

The second comment he wished to make was that he would like to initiate a series of individual consultations with Committee members in order to become familiar with their general views on the specific issues which might arise.

FOODSTUFFS AND DELIVERY OF FOODSTUFFS: SECURITY COUNCIL RESOLUTIONS 661 (1990), PARAGRAPH 3 (c), and 666 (1990)

The CHAIRMAN requested the Secretariat, in accordance with the decision adopted by the Committee at its 13th meeting, to invite the Permanent Representative of India to the United Nations to address the meeting in order to inform the Committee about the delivery and distribution of foodstuffs transported by an Indian vessel to Iraq, with the authorization of the Committee, for the purpose of meeting the immediate needs of the Indian nationals in Iraq and Kuwait. The Committee had before it a communication from the Deputy Permanent Representative of India to the United Nations, which provided information regarding the amount of foodstuffs transported by the Indian vessel, the amount unloaded, the amount to be unloaded for consumption by nationals of Sri Lanka and Viet Nam, the number of Indian citizens evacuated from Iraq and Kuwait and the estimated number of Indian citizens remaining in Kuwait. There apparently was a significant surplus of foodstuffs and the understanding was that the Government of India wished to receive guidance from the Committee regarding what was to be done with that surplus. She invited the Permanent Representative of India to make an initial statement, after which Committee members who so desired could ask questions.

Mr. GHAREKHAN (India) said that there was in fact a surplus of 7,500 tons of foodstuffs as a result of the prompt measures adopted by his Government to evacuate its nationals from the region. To date, some 150,000 individuals had been evacuated; between 15,000 and 18,000 wished to remain in Kuwait and it was estimated that some 6,000 to 7,000 wished to remain in Iraq. Approximately 2,000 tons of foodstuffs had been unloaded, and that cargo was currently under the supervision of the Indian Embassy and the Indian Red Cross. Distribution of those foodstuffs would be made in strict compliance with the decisions of the Committee.

His Government had at a previous meeting already offered to share those foodstuffs with other Asian countries, and that procedure was being implemented. Viet Nam, Sri Lanka and the Philippines had already requested foodstuffs from his

Government, which was in a position to meet their needs fully. Even so, there would still be a surplus, a situation which could hardly be considered unfortunate - quite the reverse. The problem lay in the fact that there was no place to store the foodstuffs. The ship could not stay in port indefinitely with the foodstuffs aboard; moreover, the crew wished to return home as soon as possible. Thus, in the absence of other alternatives, perhaps the best thing to do would be to return the shipment to India. However, he wished to have the guidance of the Committee on that subject.

Mr. DELON (France) said that, before being able to provide the Permanent Representative of India with the guidance he was seeking, more specific information would be helpful. First, it would be of interest to have information on the amounts requested by the foreign Governments which had addressed the Indian Government in the hope that some of the foodstuffs which the Indian ship had transported to Iraq could be distributed to their own nationals. It would also be of interest to know whether the Government of India had been able to respond positively to those requests and the precise number of tons which it had provided in each particular case. In addition, it would be useful to know whether the more than 834 tons referred to by India in its communication had already been unloaded or whether the situation remained the same, and whether the Government of India would be willing to unload more foodstuffs if other foreign countries so requested. In summary, it was essential to have figures in order to evaluate the situation, the requests and the extent to which such requests could be satisfied. Finally, it would be worth learning how the delivery and distribution of the foodstuffs had been actually carried out, because it was known that there had been problems in transporting the goods between the point of unloading and the localities of the nationals of the various countries for whom the foodstuffs were intended.

Mr. GHAREKHAN (India) said that, according to the information available to him, the number of Vietnamese nationals was approximately 17,000 and of Sri Lankan nationals approximately 30,000. He did not know the exact quantity of foodstuffs requested; however, the 2,000 tons already unloaded had been sufficient to meet the needs of those two groups. As he understood the situation, the number of Philippine nationals was negligible.

To date, besides the 834 tons referred to in the communication, the unloading of another 1,200 tons was already under way, the entire shipment remaining under the supervision of the Indian Embassy and the Indian Red Cross. The Indian Embassy had made the arrangements for the unloading of the cargo and the Iraqi authorities had subsequently authorized the use of the port facilities. The Embassy had hired cranes and trucks and there had been no problems in using those services. Trucks had to be hired in order to distribute the foodstuffs and the cost was borne by the

Indian Embassy. The foodstuffs were accompanied at all times by representatives of the Indian Red Cross.

Mr. KAMAL (Malaysia) said that his delegation endorsed the proposal made by the Permanent Representative of India to the effect that the surplus should be returned to India. For practical reasons, that was the best solution, since most of the foodstuffs were still on board the ship, and that operation would be more easily performed by the Government of India and the Indian Embassy.

Mr. RICHARDSON (United Kingdom) said that the evacuation of Indian citizens and persons of other nationalities seemed to be proceeding smoothly, although there were still some people who for different reasons had not been able to leave Iraq and Kuwait. He would like to know whether the Indian authorities would be prepared to provide part of the surplus food to any other group of foreigners who might need it, in addition to those who had already requested it, and whether the Indian Embassy in Baghdad would be able to contact the embassies that needed food urgently, which might be able to co-operate in distributing them.

Mr. GHAREKHAN (India) suggested that the embassies of the different countries that needed aid should get in touch with the Indian Embassy in Baghdad. The Government of India was taking a humanitarian approach to the matter, and was prepared to share any foodstuffs that might be needed by other communities. Some complications might arise with regard to the distribution of the foodstuffs, but the Government of India would do all it could to facilitate the process.

Mrs. KABA (Côte d'Ivoire) expressed the view that the surplus foodstuffs should not be returned to India, but should be distributed to the other groups of foreigners that needed them. With regard to the 15,000 Indian citizens who had decided to stay in Kuwait and the 7,000 who had decided to stay in Iraq, she wondered whether their decision was final and what the Indian authorities thought about it.

Mr. GHAREKHAN (India) said that, for the time being, those citizens wanted to stay in Iraq and Kuwait, but there was no way of knowing what might happen if tensions increased over the next few weeks. If the situation changed, the matter would have to be brought up again in the Committee; however, he believed that, in any event, the foodstuffs which had been delivered should be enough to meet the needs of those citizens for several months.

Mr. YU Mengjia (China) said that, since it was hard to know how long the crisis might last, he wondered whether the Indian authorities might consider the possibility of discussing with the Special Representative of the Secretary-General the policy to be followed with regard to the surplus foodstuffs. It might be possible to store them in their present location or on the coast of a neighbouring country; alternatively, the Special Representative of the Secretary-General might discuss the matter with the Indian authorities.

Mr. GHAREKAHN (India) said he could not give a definitive answer, although obviously it was not feasible for the ship to stay in the port where it was at present, and it must therefore leave as soon as possible. Whether or not the foodstuffs could be stored would depend on many factors which would have to be looked at later on; in the mean time, a decision on the departure of the ship had to be taken immediately.

Mr. LOZINSKIY (Union of Soviet Socialist Republics) said he understood the Indian Government's concern regarding what should be done with the ship and how to make the best possible use of the foodstuffs that were on board. The Committee had received a letter from the Permanent Observer of Palestine to the United Nations describing the difficult situation of nearly 400,000 Palestinians who were in Kuwait and lacked food. Although there was no obligation on the part of India, perhaps that Government might be prepared to provide humanitarian assistance.

Mr. GHAREKHAN (India) said that the Indian Government had no preferences; it was up to the Committee to decide on the matter. Although 400,000 persons was no small number when it came to providing assistance, his delegation would consider the matter in a spirit of solidarity. It was up to the Committee to decide on how to proceed with the distribution.

Mr. LOZINSKIY (Union of Soviet Socialist Republics) asked the Chairman whether it might not be practical to inform the representative of India about all the requests for food assistance that had been received, in order to facilitate the adoption of measures for humanitarian aid as soon as possible and not delay decision-making on the part of the Indian Government.

Mr. WATSON (United States of America) raised the question of the foreigners who had decided to stay in Iraq and Kuwait and were not trying to leave those countries. Those people should be considered part of the general population of Iraq and Kuwait. None the less, it was important to determine the existence of humanitarian circumstances in connection with the implementation of Security Council resolution 661 (1990).

The CHAIRMAN observed that the Committee must concentrate on providing assistance to the citizens of other countries who were in Iraq and Kuwait and who had to be evacuated, and the Committee must consider how to co-ordinate that assistance. She therefore suggested that a representative of the International Organization for Migration should be invited to attend the next meeting of the Committee, in order to plan the evacuation, and that Prince Sadruddin Aga Khan, Special Representative of the Secretary-General, should also be invited to participate in the Committee's discussions. In addition, bilateral contacts between Member States might be useful. If she heard no objection, she would take it that the Committee agreed to that course of action.

It was so decided.

The CHAIRMAN added that India had asked for guidance on how to dispose of the surplus foodstuffs. She suggested that the ship might transport them back to India, in view of the difficulties involved in storing them, and if necessary, consideration might be given to the possibility of distributing them subsequently to the groups that needed food aid.

Mr. LOZINSKIY (Union of Soviet Socialist Republics) said that, before taking a categorical decision, the Committee should find out what the response had been to the requests for assistance already made. He knew that some requests had been made recently and that the situation was extremely difficult.

Mr. GHAREKHAN (India) said he could guarantee that there would be enough food for other groups, and that it would not be necessary to wait to get in touch with the various embassies. He explained that the foodstuffs belonged to the Government of India, which had sent them to help its citizens, but had also expressed its willingness to share them with other communities, including the Palestinian community, subject to the Committee's decision in that regard. The Government of India wished to proceed correctly, and that was why it had brought the matter before the Committee.

The CHAIRMAN said that, since there was a surplus of foodstuffs but the exact needs of the nationals of other countries were not known, she could work with the Secretariat and draw up a list of the countries that had requested authorization to send foodstuffs to their nationals, and ask those countries to contact the Permanent Mission of India or the Embassy of India in Baghdad, so that the Government of India could decide how much food to send back to India. The list would be prepared immediately following the meeting.

Mr. MORENO FERNANDEZ (Cuba) commended the Government of India for its humanitarian approach, which would help solve the very real problems that were arising. The study suggested by the Chairman would make it possible to determine how much of the foodstuffs could be used. While it was true that priority should be given to evacuation, there were some people who did not have a country to return to, and the proposal of the Soviet Union was therefore very pertinent.

Mrs. KABA (Cote d'Ivoire) endorsed the suggestion that a study should be made to quantify needs and determine to what extent they could be met using the foodstuffs from India. Consideration should also be given to the possibility of storing foodstuffs in the country concerned or in neighbouring countries, and turning them over to a humanitarian organization. It would be unfortunate if new shipments had to be authorized once those foodstuffs had been returned.

Mr. YU Mengjia (China) said that the Government of India and the Special Representative of the Secretary-General might work together in establishing contacts with a view to finding out if some neighbouring country could store the surplus foodstuffs for future needs. The Government of India might then take its decision on that basis.



trapped in Iraq and Kuwait who needed food. The situation was urgent, and there should be no delay. The word "study" caused concern because studies took a long time. The mission of India could inform his Government that the ship could depart the following day. Since it would take several days to reach the Strait of Hormuz, if his Government received any requests in time, it would be possible to discharge food at some Gulf port.

The CHAIRMAN said that "study" was not the appropriate word, and that what was meant was simply the drawing up of a list of needs. The Indian offer was extremely generous, and very practical action was needed in order to determine the best way to take advantage of it and help those Member States whose nationals needed food. It would be useful to contact those States as quickly as possible and to ask them to get in touch directly with the permanent mission of India in New York or the embassy in Baghdad, so that a joint decision could be taken, given that the Committee could not decide on their behalf. It was also necessary to determine what should be suggested to the Permanent Representative of India with regard to the ship's route.

Mr. PEÑALOSA (Colombia) said it was clear that the Government of India needed no authorization from the Committee to bring its ship back, as the authorization which it had received was to sail to the Gulf and back again, with or without food. Thanks to the graciousness and co-operation of the Permanent Representative of India, the Committee had been informed of the situation. Those Governments that were interested in any surplus food should contact the Government of India before the ship left the Gulf.

The CHAIRMAN said she understood that the Government of India did not need any authorization from the Committee to bring its ship back, but that the Permanent Representative of India wanted suggestions with regard to the surplus food. The fact was that the ship would have to start its return voyage before those countries interested in the surplus food could make their requests. If a decision was reached, the Indian ship could drop off the surplus at a port in one of the neighbouring countries.

Mr. GHAREKHAN (India) suggested that the Chairman's proposal should be modified to say that Governments interested in the food should contact representatives of the Government of India in New York, Baghdad or New Delhi, and that subsequently, in consultation with the appropriate countries, the Government of India would decide when the ship should leave. It was not necessary for the Committee to decide its departure date.

The CHAIRMAN said that was an extremely practical suggestion.

Mr. DELON (France) supported the Indian proposal. In his opinion, the sole decision which the Committee had to take was to pass information rapidly, via the Secretariat, to the countries which had announced their intention of sending



food to their nationals, concerning the offer mentioned by the Permanent Representative of India.

The CHAIRMAN said she took it that the Committee wished to proceed in accordance with the proposal of the Permanent Representative of India.

It was so decided.

The Permanent Representative of India withdrew.

The CHAIRMAN stated that the question of the surplus food was now resolved, and that she would inform the Committee of any requests made once she knew what contacts had taken place.

OTHER MATTERS (S/AC.25/1990/NOTE/18)

The CHAIRMAN brought to the attention of the Committee the text of the response to a letter sent to the Chairman by the Permanent Representative of Yemen (S/AC.25/1990/NOTE/18). The text had been prepared by the Legal Counsel. If there were no objections, she would take it that the Committee wished to send the response to the Permanent Representative of Yemen.

It was so decided.

The CHAIRMAN called the attention of the Committee to a letter from the President of the Council of the International Civil Aviation Organization (S/AC.25/1990/COMM.46), in which he offered such assistance as the Committee might need, as well as to a letter from the Deputy Permanent Representative of the United Kingdom of Great Britain and Northern Ireland (S/AC.25/1990/COMM.48).

Mr. RICHARDSON (United Kingdom) said he had never suggested that any letter that the Committee might send to inform Member States of the general problem should mention any country in particular.

The CHAIRMAN said that too many letters had been exchanged concerning different flights. Although she did not wish to get into an exhaustive debate concerning the letters that had already been distributed to Committee members, she would like to know if any members of the Committee had an opinion about what should be done in such cases, since she was afraid that the exchange of letters would continue.

Mr. AL-ALFI (Yemen), referring to the letter for the Deputy Permanent Representative of the United Kingdom, wondered about the warning mentioned in that letter. If there were specific problems with certain countries, they should be brought to the attention of the Committee; the latter could not approve of warning all the States in general. The accusations made by the United Kingdom should be studied by the Committee, which could then take a decision on them.

Mr. ROSENSTOCK (United States of America) asked whether the representative of Yemen was suggesting that the right of a State Member of the United Nations to circulate material was in some way limited.

Mr. AL-ALFI (Yemen) said that there was no question of imposing any limitation. He did not object to the United Kingdom addressing letters to the other Member States; but the Committee should not be used as a vehicle for transmitting the accusations to all the States. He wished the representative of the United States to know that he was very well aware of the rights of Member States.

Mr. RICHARDSON (United Kingdom) said it was unfortunate that a controversy had arisen. He wished to re-explain the suggestion contained in the document in question. There was apparently proof that the Government of Iraq had shown interest in repainting and reflagging some of its ships. All that was being suggested was that the Committee should bring that practice to the attention of the Member States in the most general terms possible, without mentioning any State in particular, and that it should ask them to keep a close watch on any situation of that type. It was entirely within the powers of the Committee to do so. He did not understand why the representative of Yemen had problems with that request.

The CHAIRMAN said it was her understanding that the representative of the United Kingdom was only suggesting that the information should be distributed, not that the Committee should take a decision or express an opinion.

Mr. RICHARDSON (United Kingdom) made it clear that he was not asking for the document to be distributed in its current form. He would like the Committee to issue a general warning to States about the possible practice of reflagging.

Mr. AL-ALFI (Yemen) said that he would not object to the United Kingdom distributing the letter as it stood, but he would object to the Committee taking a stance and distributing a text without having confirmed the information it contained.

The CHAIRMAN said it was her understanding that there was no agreement concerning the letter from the representative of the United Kingdom; the Committee might wish to come back to the matter after further consultations.

It was so decided.

Mr. AL-ALFI (Yemen) referred to a letter from the Permanent Representative of Poland (S/AC.25/1990/COMM.43) requesting permission for an aircraft to deliver foodstuffs to Baghdad that very day. He wondered whether that request would be examined.

The CHAIRMAN said it was her understanding that the Committee had already decided that anyone interested should contact the Indian authorities in New York or in New Delhi concerning the delivery of foodstuffs.

Mr. RICHARDSON (United Kingdom) said that he wished to discuss that letter from the viewpoint of landing authorization. As he understood it, under resolution 666 (1990), the Committee had to take a decision authorizing the

aircraft to land. With respect to the Romanian letter (S/AC.25/1990/COMM.42), he wondered whether it referred to the same flight.

The CHAIRMAN said that there was a discrepancy between the two letters. As it had not been possible to clarify the matter, she would remain in touch with the representatives involved.

Mr. FLOREAN (Romania) said that the information contained in the Romanian letter had been supplied by his Government and was correct. It gave the type of aircraft, the route, the airport at which it would stop and details on its return. His Government was acting in accordance with the provisions of resolution 670 (1990). With respect to the contents of the other letter, he was not sure that it referred to the same aircraft, since it did not contain specific information. Perhaps clarification should be requested from the Polish delegation.

#### Q. Provisional Summary Record of the 17th Meeting (closed), 23 October 1990

*Source: S/AC.25/SR.17, 30 October 1990*

Chairman: Ms. RASI (Finland)

#### CONTENTS

Adoption of the agenda

Exchange of views with the Personal Representative of the Secretary-General for Humanitarian Assistance relating to the crisis between Iraq and Kuwait and with the Director General of the International Organization for Migration

#### ADOPTION OF THE AGENDA

The agenda was adopted.

EXCHANGE OF VIEWS WITH THE PERSONAL REPRESENTATIVE OF THE SECRETARY-GENERAL FOR HUMANITARIAN ASSISTANCE RELATING TO THE CRISIS BETWEEN IRAQ AND KUWAIT AND WITH THE DIRECTOR GENERAL OF THE INTERNATIONAL ORGANIZATION FOR MIGRATION

Prince Sadruddin AGA KHAN (Personal Representative of the Secretary-General for Humanitarian Assistance relating to the crisis between Iraq and Kuwait) said that by mid-August it had become apparent that the transit countries, in particular Jordan, would need the urgent assistance of the international community in coping with the repercussions of the crisis between Iraq and Kuwait. The Secretary-General had selected the Office of the United Nations Disaster Relief Co-ordinator (UNDRO) to take responsibility for operational co-ordination, and UNDRO had subsequently issued a number of situation reports, as well as various appeals for resources to help meet the material requirements for the speedy transit and resettlement of third-country nationals. UNDRO had worked in close co-operation with the International Organization for Migration. The

efficiency of the international response had been such that some 700,000 people had subsequently been evacuated in record time, through Jordan, Turkey, Syria and Iran.

The Secretary-General had appointed him Personal Representative in an endeavour to consolidate international efforts and avoid a piecemeal approach. Accordingly, he had prepared a comprehensive plan of action encompassing the region as a whole, and had also sought to stimulate donor awareness. The United Nations now needed to anticipate future contingencies and be prepared to assist further those countries unable to cope with the emergency.

The current situation gave cause for cautious optimism. In mid-September some 50,000 refugees, who had lost everything in the upheaval, had been accommodated in refugee camps in Jordan. By 22 October, that number had decreased to 2,643 refugees, mainly comprising nationals of Sri Lanka, the Philippines and India. Enough flights from Jordan were now available to enable the evacuation to proceed smoothly and the situation in the neighbouring countries was also under control.

The plan of action presented by the United Nations included a regional plan, with three modules, based on best-case, middle-case and worst-case scenarios of 50,000, 100,000 and 150,000 refugees respectively, with costing of the various inputs. The plan also contained an assessment of current emergency requirements, including funding of some \$14 million needed immediately for the International Organization for Migration (IOM), and provided for the replenishment of aid to the transit countries, costed at \$47 million, the bulk being for Jordan, to ensure that their borders remained open. Those figures related solely to emergency assistance.

He had been informed by the Jordanian Government that the amount of \$47 million was urgently needed to make good the deficit it had incurred in respect of third-country evacuees. Jordan also had much greater long-term needs, as identified by the International Monetary Fund (IMF) in its assessment of the impact of the crisis. IMF had noted that the costs incurred by Jordan corresponded to some 33 per cent of its gross domestic product, a proportion which jeopardized the country's stabilization programme.

In addition to the 50,000 Asians remaining in Kuwait, there were some 300,000 Egyptian factory workers and 900,000 Egyptian farmers in Iraq, together with approximately 16,000 Vietnamese workers. The first contingent of Vietnamese nationals, numbering some 1,100, was currently crossing into Turkey, and flights were being arranged for their final evacuation. Negotiations were continuing between the Governments of Viet Nam and Iraq on the subject of the remaining Vietnamese nationals. Other nationalities, including Palestinians, were also present in Iraq.

It was difficult to anticipate what further refugee flows might arise, particularly if hostilities broke out. Clearly, contingency planning was required. It would have been preferable to organize a direct airlift, as had been

ad the case with the Europeans evacuated from the region, than to have refugees leave  
a. by land. Such an operation would have been simpler to organize and would have cost  
less. The Government of Iraq took the position that the refugees should be the  
on subject of separate bilateral negotiations with the Governments concerned, and that  
there was no requirement for United Nations involvement. He had dispatched a  
technical mission to Baghdad to discuss the question further, which had proved  
useful in terms of gathering advance information and functioning as an  
early-warning system. The Iraqi view that the issue was purely bilateral had  
me obliged relief operations to be conducted from neighbouring countries.

n Mr. PURCELL (Director General, International Organization for Migration)  
said that the evacuation programme had been highly successful, although various  
issues remained unresolved. His organization had responded to requests from  
various Asian Governments to assist in organizing a departure mechanism for their  
nationals trapped in Iraq. Following an inter-agency meeting at Geneva in August,  
and the selection of UNDRO as lead agency, IOM had been given responsibility for  
the repatriation of refugees. IOM's position was that Governments had primary  
responsibility for evacuation of their own nationals, but that it would repatriate  
refugees if Governments lacked the means to do so. Following an appeal for  
contributions, the organization had received \$50 million in cash and \$13 million in  
transport services. IOM had established offices in the region, and, in  
co-operation with the European Community, which had played an active role in the  
evacuation programme, had repatriated some 125,000 of the 700,000 refugees who had  
left Iraq and Kuwait. Most of those evacuated by IOM were nationals of Sri Lanka,  
Bangladesh, India or the Philippines.

act The numbers of refugees being repatriated were now such that there was no  
build-up in refugee camps, and many could be expected to be repatriated within two  
or three days. It seemed that the bulk of those wishing to leave had in fact  
he already done so.

00 Despite the Iraqi position that the refugee question was purely bilateral, his  
organization was continuing its attempts to organize direct flights, and was  
hopeful that they would soon become a practical possibility. Now that arrangements  
for evacuation through transit countries were generally satisfactory, the  
organization of a direct departure programme would assume greater significance.  
His organization estimated that between 25,000 and 40,000 individuals still wished  
to be repatriated, which would involve an additional cost of \$27 million. The  
European Community was expected to assume responsibility for approximately half  
that amount, so that IOM would seek additional contributions in the amount of  
\$13.5 million. It was, of course, possible that those estimates would need to be  
revised in the light of further developments in the region. Of those remaining,  
en the largest group were Sri Lankans, numbering approximately 15,000 to 20,000, and  
Vietnamese, numbering 16,000 to 17,000.

Mr. AL-ASHTAL (Yemen) asked what means were available to alleviate the problems of non-European foreigners who so far had been unable to leave Iraq and Kuwait. He requested additional information regarding the 30,000 Yemenis in Kuwait, and asked whether any remained in Jordan. Migration in the southern part of the Arabian peninsula was becoming a serious problem; 400,000 Yemenis had returned recently from Saudi Arabia, and he wondered whether the returnees' problems would fall under the IOM mandate.

Prince Sadruddin AGA KHAN (Personal Representative of the Secretary-General) said that the ability to expedite the departure of remaining non-Europeans hinged on gathering them together. That applied particularly to some 30,000 Sri Lankans, mostly single women who had worked as household staff; they were scattered and vulnerable. They had little contact among themselves and lacked both the material means and knowledge to organize their own return transport. If flights out of Kuwait or Baghdad were not possible, they must depart overland, preferably through Iran. For other groups which had not been part of the original departures, a maximum transit time through third countries of only one to two days would have to be ensured, since access to food staples at reception centres was becoming difficult, and those groups had undergone severe psychological stress already. Speed was of the essence in arranging their departure.

He was attempting to ensure that the Iran-Iraq border remained open, particularly with the onset of winter. He had observed some 100 cars per day crossing that border, most occupied by Kuwaiti nationals, but including some Filipino members of households. It remained unclear, however, whether the Iraqis would allow significant numbers of third-country nationals to leave by that route.

Mr. PURCELL (Director General, International Organization for Migration) said that the Sri Lankan women in Kuwait had encountered abuses and had therefore dispersed. The main problem was contacting them, and several efforts to do so were under way. He was also attempting to arrange direct flights out of Kuwait in their behalf.

Regarding the Yemeni nationals, the primary responsibility for repatriation lay with Governments. Large numbers of Yemenis had already been repatriated, and none remained in Jordan. Any third-country nationals needing assistance came under the IOM mandate.

Repatriation of such large numbers of people would indeed affect home countries, and that problem would remain for years to come. Such problems were also part of the IOM mandate, but they must be addressed after the priority evacuation of vulnerable foreign nationals was complete.

Mr. RICHARDSON (United Kingdom) said it was clear that the immediate priority was to evacuate foreign nationals, but he inquired about the existence of

any contingency plans if the need arose to evacuate the large number of Egyptians working in Iraq.

Prince Sadruddin AGA KHAN (Personal Representative of the Secretary-General) said that the case of the Egyptians was slightly different. As Arabs, they were much more integrated into Iraqi society than the other groups in question. Many of them had married and been resident in the country for a longer period. For the most part, they were performing essential functions in the Iraqi economy. Egyptian farmers were a pillar of Iraq's agricultural output, which was of extreme importance for food self-sufficiency. The remaining Egyptians were working in industry. Unless unemployment began to rise and contracts were cancelled, it was highly unlikely that they would be compelled to leave. For the most part, Egyptians desired to stay, as they had job security which they could not enjoy at home. If it became necessary they would most likely leave by road through Jordan, which meant that Jordan would have to brace for another wave of refugees.

Mr. PURCELL (Director General, International Organization for Migration) said that Jordan was the logical evacuation route for Egyptian workers. As 300,000 refugees had already passed through that country, the question arose of Jordan's ability to take on such an additional burden, and, in that light, the request for \$47 million to reimburse Jordan became extremely important. Jordan had done as the international community had asked: it had opened itself up to the refugees in need. Its ability to continue to do so was tied with the willingness of the international community to support that effort.

Mr. WILKINSON (United States of America) commended the efforts of the Personal Representative of the Secretary-General and the Director General and requested that the Committee should continue to receive reports from them on the situation.

Regarding the Sri Lankan departure programme, it appeared that some uncertainties remained regarding over-flight clearances, and the application of Security Council resolutions in that connection. He offered to assist in any way possible to expedite the process.

Mr. KAMAL (Malaysia) said that since the Iraqi Government did not want United Nations involvement in evacuations, he would like further clarification on plans to contact Sri Lankans, when neither the United Nations nor IOM had a physical presence in Iraq or Kuwait.

Prince Sadruddin AGA KHAN (Personal Representative of the Secretary-General) said that embassies in Iraq and Kuwait had co-operated in the effort to contact the remaining Sri Lankans on behalf of the United Nations. The system was not speedy, but had worked well to date.

Mr. PERRUCHOUD (Legal Adviser, International Organization for Migration) said he wished to comment on two aspects, the legal and the practical. From the

beginning of its involvement, IOM had wished to ensure that the action it took would be in keeping with Security Council resolution 661 (1990) and the Council's intentions. As soon as resolution 670 (1990) had been adopted, IOM had written to the Committee requesting clarification, and the reply it had received had enabled it to move forward to making requests to Governments. What it had asked of the Government in the present case in fact went beyond what was contained in the Security Council's decisions; it had asked that the return flights to Iraq of the aircraft carrying evacuees should be without cargo, and the Government involved had agreed in writing to that request.

With regard to the practical aspect, he said that members of the Sri Lankan mission now in Kuwait were completing the arrangements for the evacuation, and that the Sri Lankan community in Kuwait was being informed of the details of those arrangements. IOM believed that it had taken every possible precaution to ensure that the operation took place in accordance with Security Council resolutions 661 (1990) and 670 (1990). The lack of an international presence did not mean that the operation was not being carried out in accordance with resolution 670 (1990) or that it was impossible to be fully informed about what was happening.

Mrs. KABA (Côte d'Ivoire) asked to what extent IOM could help the people who wanted to leave but had not been given authorization to do so, and to what extent it planned to help countries like Sri Lanka, the Philippines and Bangladesh with the task of resettling their nationals.

Mr. PERRUCHOUD (Legal Adviser, International Organization for Migration) said that IOM could take action only with respect to people who had received authorization to leave. In the case of the Sri Lankans, such authorization had been received; in the case of the Vietnamese, a first group had received authorization to leave and a second group was awaiting that authorization.

IOM recognized that the burden of repatriating the evacuees was a heavy one for some countries. It was involved with the question, and had had discussions with some of the Governments concerned, but the problem was one which could not be dealt with by IOM alone. It would have to be dealt with by the international community, and should be dealt with soon.

Mr. YU Mengjia (China) asked what degree of co-ordination had been achieved between the two organizations involved in making the evacuation arrangements and with the diplomatic missions of the countries concerned.

Prince Sadruddin AGA KHAN (Personal Representative of the Secretary-General) said that, given the constraints involved in the situation, there had been a high degree of communication. When in the field, he had communicated on a regular basis with the nationals of the countries concerned, and in Geneva there had been frequent and regular meetings with government representatives and with UNHCR. Contacts had been maintained in Baghdad through



the members of the technical missions and the embassies of the countries concerned, and also with Iraqi representatives abroad.

With regard to the evacuation of the Sri Lankans, he was confident that when the procedures outlined to the Committee had been carried out all the Sri Lankans concerned would be aware of the arrangements made.

The CHAIRMAN thanked the Personal Representative of the Secretary-General and the Director General of IOM for their appearances before the Committee.

## R. Provisional Summary Record of the 18th Meeting (closed), 30 October 1990

*Source: S/AC.25/SR.18, 7 November 1990*

Chairman: Ms. RASI (Finland)

### CONTENTS

Adoption of the agenda

Review of the implementation of Security Council resolution 661 (1990)

Consultations under Article 50 of the Charter

Implementation of Security Council resolution 670 (1990)

Foodstuffs and delivery of foodstuffs: Security Council resolutions 661 (1990), paragraph 3 (c), and 666 (1990)

Other matters

#### ADOPTION OF THE AGENDA

The agenda was adopted.

REVIEW OF THE IMPLEMENTATION OF SECURITY COUNCIL RESOLUTION 661 (1990) (S/21872, S/21875, S/21878, S/21880 and S/21891; S/AC.25/1990/1, 2 and 3;

S/AC.25/1990/COMM.65)

The CHAIRMAN said that, since the Committee's previous meeting, additional replies to the Secretary-General's note verbale of 8 August 1990 and his reminder of 27 August 1990 had been received from: Botswana (S/21872), Pakistan (S/21875), San Marino (S/21878), Tunisia (S/21880) and Seychelles (S/21891). Replies to the questionnaire had been received from: the United Kingdom (S/AC.25/1990/1), Belgium (S/AC.25/1990/2) and Argentina (S/AC.25/1990/3). A response from Tunisia had been received but not circulated, as a result of technical difficulties with the text. She proposed that the Committee should request the Secretary-General to send a reminder to those States which had not yet replied.

It was so decided.

Mr. RICHARDSON (United Kingdom) observed that Member States should endeavour as far as possible to abide by the format of the questionnaire, in order to facilitate the processing of replies by the Secretariat.

The CHAIRMAN drew the Committee's attention to document S/AC.25/1990/COMM.65, containing the text of a letter dated 24 October 1990 from the Permanent Representative of Jordan. In that letter, the Jordanian Government indicated its willingness to receive any United Nations official designated by the Committee to visit the Jordan-Iraq border at Ruweished, with a view to ascertaining the solid facts and realities of Jordan's firm compliance with resolution 661 (1990).

Mr. RICHARDSON (United Kingdom) said that there was another dimension to the problem raised by the Government of Jordan. As all were aware, Jordan was the first State to have requested assistance under Article 50 of the Charter, and its difficulties would constitute a major priority at an important meeting of donors due to take place in Rome on 5 November. It was his delegation's inclination to accede to Jordan's request, not because of any doubt on its part as to that country's commitment to uphold the sanctions but in order to provide clear evidence to the international community of that commitment. With regard to actual participation, his delegation would prefer that any official designated by the Committee be drawn from United Nations agencies in the region, rather than dispatching a mission from New York.

Mr. GOSHU (Ethiopia) said that any response to the Jordanian request should be considered cautiously and seriously. If the Committee was to grant the request, it would constitute a major departure from its practice so far of always accepting the statements of Governments at face value, and might entail the acceptance of further similar requests in the future.

Mr. WILKINSON (United States of America) welcomed the Government of Jordan's initiative in trying to set the record straight. His delegation believed that it might be useful to ask United Nations officials stationed in the field to examine, in consultation with the Government of Jordan, what sort of approach might be taken to monitor any cross-border traffic over a period of time. The representative of Ethiopia had raised a very valid point. Nevertheless, his delegation was inclined to respond favourably to the Jordanian request and felt that the case should be examined on its merits.

Mr. DELON (France) said he shared the concern expressed by the representative of Ethiopia. It would be wrong for the Committee to place officials on the borders of every State neighbouring Iraq and Kuwait in order to monitor compliance with Security Council resolutions. In the case under discussion, however, it was the Government of Jordan which had requested the designation of an

justified, on the basis of its belief that impartial United Nations observation was preferable to misleading reports in the press. In those circumstances, his delegation was quite prepared to look favourably on Jordan's request but felt that the Secretariat should first provide an opinion as to how the request might be most economically and realistically met.

Mr. MORENO FERNANDEZ (Cuba) said that his delegation would have no difficulty in accepting Jordan's request. The entirely understandable concern expressed by the representative of Ethiopia might perhaps be addressed in the context of the Chairman's letter of reply to the Permanent Representative of Jordan. In particular, that letter should indicate that the Committee had no doubt of Jordan's sincere adherence to its commitments under resolution 661 (1990), note that approval of the request would not set any precedent for the future and make it clear that there was no intention to establish a long-term mechanism to monitor Jordan's frontier with Iraq. What the Jordanian Government had requested was simply a visit.

Mr. ALSAIDI (Yemen) noted that Jordan was undergoing severe difficulties as a result of its adherence to the embargo. The request concerned certain humanitarian supplies not covered by the embargo, such as medicines. His delegation believed that the Committee should approve the request because such humanitarian supplies would in no way contribute to Iraq's military effort.

Mr. RICHARDSON (United Kingdom) agreed with most of the suggestions made by the representative of Cuba concerning the circulation of a draft reply for consideration by the Committee. While agreeing in principle that a visit rather than a mechanism was required, he noted the need, from the Jordanian Government's point of view, for a clear, impartial report on its compliance with Security Council resolutions. That compliance, and the fact that Jordan had suffered more than any other country from the events of the past two months, should be made very clear to all during crucial meetings to be held in the near future.

The CHAIRMAN said there appeared to be a broad understanding among members of the Committee on the subject of Jordan's request. She intended to circulate a draft reply shortly and meanwhile understood it to be the wish of the Committee that she should approach the Secretariat concerning the most appropriate way of meeting the request.

It was so decided.

#### CONSULTATIONS UNDER ARTICLE 50 OF THE CHARTER (S/21891)

The CHAIRMAN drew the Committee's attention to document S/21891, containing the text of a letter dated 19 October 1990 from the Chargé d'affaires a.i. of the Permanent Mission of Seychelles. She also noted that the Working Group established to advise the Committee in connection with requests under Article 50 of the Charter had begun its work.

Ms. PIATTELLI (Canada), speaking on behalf of the Vice-Chairman of the Committee and Chairman of the Working Group, said that action had been taken on the various proposals and requests which had been the subject of decisions at the first meeting of the Working Group. A general paper outlining the effects on countries of sanctions implementation had been prepared by the Secretariat and reviewed by the Chairman and was currently being translated for distribution before the Working Group's next meeting. The Chairman had also drawn up a brief paper containing elements which might be applicable to all cases, for distribution prior to that meeting. The Secretariat was currently preparing a chart, as suggested by the representative of Malaysia, which should be translated and distributed by the end of the week. The Chairman had written to the President of the World Bank to request information on the general economic situation arising from the Gulf crisis, and particularly on the impact of the application of resolution 661 (1990). He had also written to all individual applicants in order to arrange meetings with them and had held bilateral meetings with 6 of the 18 applicants. It was expected that the next meeting of the Working Group would be convened early in the week beginning 5 November.

IMPLEMENTATION OF SECURITY COUNCIL RESOLUTION 670 (1990) (S/21894, S/21839, S/21862 and S/21895; S/AC.25/1990/COMM.44)

The CHAIRMAN drew the Committee's attention to documents S/21894, S/21839, S/21862 and S/21895, containing communications from the International Civil Aviation Organization regarding the implementation of resolution 670 (1990). If she heard no objection, she would take it that the Committee decided to take note of those communications.

It was so decided.

The CHAIRMAN drew the Committee's attention to document S/AC.25/1990/COMM.44, containing the text of a letter dated 10 October 1990 from the Permanent Representative of Turkey concerning the practical difficulties faced by his country with regard to flights to and from Iraq.

At the invitation of the Chairman, Mr. Aksin (Turkey) took a place at the Committee table.

Mr. AKSIN (Turkey) said that, under current arrangements, all aircraft bound to or from Iraq or Kuwait which overflew Turkey were required to land for inspection. Since that procedure was cumbersome and expensive, his country was trying to find ways of alleviating the problem without in any way impairing the implementation of resolution 670 (1990). Accordingly, it had decided that any flight authorized by the Committee should not be required to land. In cases where the Committee had not had time to authorize a flight, his country had sought written confirmation of its inspection by United Nations personnel at the airport from which it originated. Where no United Nations officials were able to carry out

such an inspection, his country had requested an inspection by personnel from the Embassies of at least two of the countries represented on the Committee, together with personnel from the Turkish Embassy. Ideally, the Committee might perhaps agree that the main responsibility for monitoring compliance of flights with resolution 670 (1990) should lie with the countries from which such flights originated.

In connection with resolution 661 (1990), it was his Government's understanding that all medicines and medical supplies which were ready for use could be imported into Iraq and Kuwait but that raw materials such as chemicals and intermediary products were prohibited under the terms of the embargo.

Mr. WILKINSON (United States of America) expressed particular appreciation of Turkey's strong support for United Nations sanctions. With regard to the distinction between raw materials and medical supplies which were ready for use, his main concern was the extent to which the Turkish authorities could in their inspections be sure that no such supplies were susceptible of dual use.

Mr. AKSIN (Turkey) said that his Government was unable to guarantee that a specific product was or was not open to dual use. As far as it was concerned, raw materials were to be intercepted, while the delivery of ordinary medicines and medical supplies would be permitted.

Mr. RICHARDSON (United Kingdom) said that his delegation fully recognized Turkey's involvement in a difficult aspect of the implementation of resolution 670 (1990). In the case of evacuation flights, which were usually arranged at very short notice and required rapid decisions, it was appropriate to seek the authority of the Committee under paragraph 4 (b) of the resolution. However, if several days' notice of a flight were provided to the authorities on its route, it should be possible to apply the procedure provided for under paragraph 4 (a). The best response to Turkey's concerns might be to urge a flexible approach.

Ms. KALKKU (Finland) thanked the representative of Turkey for illustrating the practical problems encountered by his country in implementing Security Council resolution 670 (1990). With regard to the procedure under paragraph 4 (a), she noted that all States were required to deny aircraft permission to overfly their territory unless they agreed to land at a designated air field for inspection. The Turkish authorities were therefore not solely responsible for such inspection and she wondered whether Turkey had approached other countries whose territory was overflown with a view to sharing the burden of inspecting flights.

Mr. AKSIN (Turkey) said that there had been cases of aircraft forced to land in Turkey and others which had been let through. For example, a light aircraft carrying a diplomatic representative but obviously no cargo had not been asked to land. On the other hand, there was the case of a flight originating in an

Eastern European country which had been stated to carry several kilos of cargo for a group in Iraq. Other Eastern European countries overflowed by the aircraft, however, had been told that it carried no cargo. In view of the conflicting information received, that aircraft had been asked to land. The most practical course would be for the country in which a flight originated to assume the major responsibility for compliance with the resolution. If the Turkish authorities were not satisfied, they would of course reserve the right to request the aircraft to land. His Government felt that there should be a procedure whereby the authorities in the originating country would take all the necessary measures and would so inform all the countries that would be overflowed so that the aircraft would not have to land repeatedly before it reached Iraq.

Mr. WILKINSON (United States of America) said that the country in which a flight originated should be expected to communicate with the Committee in order to obtain its approval and to spell out the steps taken to meet the requirements of the resolution. The only exception to that rule should be when time was so short as to require alternative means.

Mr. YU Mengjia (China) recalled that the Committee had agreed to authorize certain flights from India to Iraq which would overfly a number of countries. The Committee had decided then that provided that a certain procedure was followed in India confirming that there were no materials on board that violated the provisions on sanctions, the Committee could agree that the aircraft could overfly those countries and would also notify the countries to be overflowed that there was no violation of the sanctions provisions. He wondered whether there were any special features in the Turkish situation that required the Committee to consider the question in another light.

The CHAIRMAN said that, in several instances of evacuation flights, the Committee had been able to authorize flights that proceeded directly to their destination. The members of the Committee were aware of the problems that the terms of resolution 670 (1990) posed to the Turkish authorities, largely because of Turkey's geographical position. The suggestion by the representative of Finland regarding co-operation between the Turkish authorities and the authorities of other countries whose airspace was used could facilitate Turkey's task. She noted that the Committee was not in a position to make any changes in the provisions of the resolution, which must be fully implemented even though it might cause problems to some Member States.

Mr. FLEISCHHAUER (Under-Secretary-General, the Legal Counsel) said that, if the Committee so wished, he and his colleagues were ready to take a closer look at the questions submitted by Turkey and give their views in writing.

The CHAIRMAN thanked the representative of Turkey for the information he

had provided and said that the Committee would revert to the question at a later date.

Mr. Aksin (Turkey) withdrew.

The CHAIRMAN said that it would be appropriate, if the Committee so agreed, to issue a reminder to those States which had been requested by the Committee to report on flights for which permission had been granted. As yet, none of them had done so.

Miss BOTERO (Colombia) asked whether the reply to the questions raised by Turkey would be available at the Committee's next meeting.

The CHAIRMAN said that she would ask the Legal Counsel to prepare the information requested, which would be circulated.

Mr. WILKINSON (United States of America) thought that the Turkish request should be circulated in writing to the members of the Committee first, so that it would be clear what aspects of the problems raised by Turkey the Legal Counsel was addressing.

The CHAIRMAN said that the communication from Turkey (S/AC.25/1990/COMM.44), in which the request for information was clearly stated, had been before the Committee for a considerable time.

Mr. WILKINSON (United States of America) said that if the basis of the request for information from the Legal Counsel was the Turkish communication, he had no objection to the suggested procedure.

Mr. KAMAL (Malaysia) asked whether evacuation flights from Iraq, for example to France or the United Kingdom, had been required to land in the countries overflown or whether they had gone directly to their destination.

The CHAIRMAN said that in cases where the Committee had authorized certain flights, those flights had not been forced to land but had been able to fly non-stop to their destination. That had been the case with certain requests received from the United Kingdom and France. Authorization had also been given for a series of flights requested by India and Sri Lanka.

Mr. RICHARDSON (United Kingdom) said that his Government's request, like that of a number of other States, including France, India and Sri Lanka, had been made under paragraph 4 (b) of the resolution. Notification had been given under paragraph 6 for a flight out of Baghdad and the associated requirements for flights going into Baghdad or Kuwait had also been complied with. If a legal opinion was to be sought in response to the Turkish request, it was important that the Committee should have a clear idea of the purpose. The Turkish request seemed to fall into two parts. First, there was the question of authorization under paragraph 4 (b), whereby authorization was normally to be sought by the country of

origin. He pointed out that that might lead to difficulties if the country of origin was in fact Iraq, as it might be in the case of evacuation flights. Second, the Turkish representative had suggested that if there was no time for the Committee to reach a decision under paragraph 4 (b), matters might be expedited by direct contact between the Turkish authorities and the originating State. That, however, was not specifically provided for in paragraph 4 (b). There were thus a number of sub-sets to the general question, which might be difficult to answer in a single legal opinion.

The CHAIRMAN repeated that the Committee had no authorization to make exceptions to the provisions of resolution 670 (1990). That would be made clear to the representative of Turkey in order to clear up any misunderstanding about the provisions of the resolution.

Mr. KAMAL (Malaysia) asked how the Committee had decided which provisions of paragraph 4 to invoke.

Mr. MORENO FERNANDEZ (Cuba) recalled that the Legal Counsel had presented the Committee with a draft letter to be sent in response to questions formulated by the International Organization for Migration, in which the points at issue were clearly explained. He suggested that the letter might be circulated again to the Committee and perhaps used to clarify the points raised by the representative of Turkey.

The CHAIRMAN said that the letter to the International Organization for Migration answered all the points raised. A note based on that letter could be sent to the representative of Turkey in order to address his concerns. She believed that it would be useful for the Committee to study the letter again, as the representative of Cuba suggested.

Ms. KALKKU (Finland) said that it was clear that, in practice, the Committee could not handle all possible flights to Iraq or Kuwait under paragraph 4 (b). A certain part of those flights would thus be covered by paragraph 4 (a). Regarding the procedure to be followed in that case, the Government of Turkey apparently wished to see the main responsibility for co-ordination lie with the country of origin. Her delegation agreed that that was desirable, but believed that the Committee could point out in its response that it was not necessary for the task of checking flights heading to Iraq and Kuwait to be left to the Turkish authorities. Any other country overflown could do so. Under operative paragraph 7 of the resolution, all States were required to co-operate with each other in that respect. She suggested, therefore, that that should be taken into account in answering the Turkish communication.

Mr. FLEISCHHAUER (Under-Secretary-General, the Legal Counsel) said that the basis of the legal opinion that had been requested would be the letter of the



Permanent Representative of Turkey of 8 October 1990 (S/AC.25/1990/COMM.44). As to whether the opinion would be available by the time of the Committee's next meeting, he would prefer presentation to be "as soon as possible".

The CHAIRMAN said that that would be the Committee's understanding.

FOODSTUFFS AND DELIVERY OF FOODSTUFFS: SECURITY COUNCIL RESOLUTIONS 661 (1990), PARAGRAPH 3 (c), AND 666 (1990) (S/AC.25/1990/COMM.60)

The CHAIRMAN said that the Committee had before it document S/AC.25/1990/COMM.60, containing the text of a letter dated 24 October 1990 from the Permanent Representative of Jordan to the United Nations addressed to the Chairman, in which the Government of Jordan requested permission for a shipment to Iraq of food and medicine donated by the Jordanian people to the children of Iraq, to be made by the General Union of Voluntary Societies in Jordan. She suggested that members of the Committee might wish to reflect on that request until the next meeting.

It was so decided.

Mr. KAMAL (Malaysia) asked whether the Committee had heard anything from the representative of India about the ship that was due to sail from Iraq shortly, and from the representatives of Sri Lanka and Yugoslavia about the condition of their nationals in Iraq in terms of foodstuffs.

The CHAIRMAN said that the Permanent Representative of India had confirmed that a number of countries had been in touch with the Indian authorities about sharing foodstuffs with those who requested them and that no problems had been reported. It was her understanding that the situation had been alleviated by the Indian authorities' generous offer.

OTHER MATTERS (S/AC.25/1990/WP.12; S/AC.25/1990/COMM.40, 50 and 61; S/AC.25/1990/NOTE/31 and 33)

The CHAIRMAN said that the Committee had before it document S/AC.25/1990/COMM.50, containing the text of a letter dated 15 October 1990 from the Permanent Representatives of the Comoros, Mauritius, Zambia and Zimbabwe to the United Nations and the Deputy Permanent Representative of Seychelles to the United Nations, addressed to the Chairman. The Committee also had before it document S/AC.25/1990/NOTE/33 containing the text of a letter dated 23 October 1990 from the Chairman addressed to the Permanent Representative of Kuwait to the United Nations, requesting information on the date of the actual exportation from Kuwait of the oil products mentioned in the letter from the five African States. The reply from the Permanent Representative of Kuwait to the United Nations was before the Committee in document S/AC.25/1990/COMM.61. If there was no objection, she would invite the representatives of Kuwait and Mauritius to address the meeting.

It was so decided.

Mr. AL-ALFI (Yemen) said that the communications before the Committee

also concerned Yemen. While he had not opposed the requests for a hearing, he would have a number of questions to put in that connection.

At the invitation of the Chairman, Mr. Abulhasan and Ms. Al-Mulla (Kuwait) and Mr. Peerthum (Mauritius) took a place at the Committee table.

Mr. ABULHASAN (Kuwait) said that the Committee's letter of 23 October (S/AC.25/1990/NOTE/33) had requested information on two specific points: first, the date of the actual exportation from Kuwait of the oil products destined for the five African States, and second, an assurance that any payment for delivery would be made to the legitimate Government of Kuwait or to agents under its control. In his own letter of 25 October 1990 (S/AC.25/1990/COMM.61), he had confirmed that the export of the materials under contract had taken place before 2 August 1990 and that the Government had been assured that payment would be made to it or to agents under its control. Both those letters had been brought to the attention of the Committee. His Government was keenly aware of the serious effects of the non-release of those products on the economies of the States concerned, with which Kuwait had contractual or arrangements. It was estimated that the amount of petroleum products involved was about 200,000 tons. His Government's earnest wish was that those products should be released for delivery as soon as possible. It had therefore decided to appeal to the Committee in order to impress it with the urgency of the matter and to ensure that, if possible, an immediate decision was taken so that Kuwait's agents could proceed with the arrangements for delivery.

Mr. PEERTHUM (Mauritius), speaking on behalf of his own country and of the Comoros, Seychelles, Zambia and Zimbabwe, said he wished to inform the Committee that the Kuwait Petroleum Corporation had confirmed in writing that 120,000 tons of petroleum products were in storage in Aden. The Corporation had informed his country's Minister for Foreign Affairs, during his recent visit to London, that it was willing to supply those products in accordance with the terms of the contract, which had been drawn up before the Gulf crisis erupted and before the adoption of Security Council resolution 661 (1990). Payment would be made directly to the legitimate authorities of Kuwait.

He pointed out that the countries concerned faced severe economic difficulties as a result of the sanctions imposed. The economy of Mauritius, in particular, was dependent on textile exports and tourism, which had been adversely affected by the rise in petrol prices due to the crisis. If the petroleum products from the Kuwait Petroleum Corporation were not made available at the pre-crisis price, Mauritius was likely to price itself out of the international market.

Mr. AL-ALFI (Yemen) said that he noted from the letter of 25 October 1990 from the Permanent Representative of Kuwait to the Chairman of the Committee (S/AC.25/1990/COMM.61) that there was a stock of 120,000 tons of petroleum products

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in Aden intended for delivery to the contracting parties. However, the annexes to the letter of 15 October from the five delegations submitting the request (S/AC.25/1990/COMM.50) included two contracts, with Seychelles and Zambia respectively, which did not mention Aden. He wished to know whether the 120,000 tons of petroleum products referred to by the Permanent Representative of Kuwait in his letter of 25 October as being stored in Aden were the same as those referred to in the contracts annexed. He also wondered how it was proposed to distribute the further 80,000 tons which according to the letter were in store for processing in the Aden refinery. Lastly, he asked whether there were any official documents attesting to the actual existence in Aden of the quantities of petroleum products referred to. He would also like the representative of Mauritius to explain the way in which he had been informed of the Government of Yemen's intention to implement the Security Council sanctions.

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Ms. AL-MULLA (Kuwait) said that Kuwait and Yemen had an agreement, which had been in effect for the previous 15 years, for the export of crude oil by the Government of Kuwait from Al-Ahmadi to Aden for refining and subsequent shipment elsewhere. Her information was that the current stocks of petroleum products and crude petroleum for refining under the agreement amounted to 200,000 tons. The main purpose of the agreement was to assist the Yemeni economy during a difficult period. She pointed out that only crude oil was shipped from the port of Al-Ahmadi.

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Mr. PEERTHUM (Mauritius) said that, in view of the seriousness of the Gulf crisis, it would be better to avoid an academic discussion of the actual amounts of oil involved. The purpose of the meeting was to take a decision which would enable the Kuwait Petroleum Corporation to honour its contractual obligations to the five countries concerned, which had applied for a waiver of the sanctions.

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With regard to the question of how his Government had been informed of the position of the Yemeni Government, he said that the Mauritian Minister for Foreign Affairs had indeed met with the representative of Yemen at Headquarters, and that it was to be assumed that the latter was acting in an official and not an individual capacity. He himself had had a conversation with the representative of Yemen which had confirmed his Foreign Minister's impressions of the Yemeni Government's position. In addition, there had been a letter from the Kuwait Petroleum Corporation indicating that it had a stock of petroleum products in Aden which it was willing to make available, under the terms of contracts entered into prior to the Gulf crisis, to the five countries which had applied to the Committee for a waiver of the sanctions, and there was no reason to impugn its good faith in the matter. In his delegation's view, such a waiver would not violate the spirit of Security Council resolution 661 (1990).

Mr. WILKINSON (United States of America) said that his delegation was satisfied that the contract for the sale of the petroleum products to the five countries concerned antedated the application of the Security Council resolution, and that payment would be made to the Kuwait Petroleum Corporation as a body under the control of the legitimate Kuwaiti authorities. It was confident that release of the stocks would not contravene the resolution.

Mr. RICHARDSON (United Kingdom) said that the only two issues before the Committee were, firstly to determine whether the contract antedated the invasion and annexation of Kuwait, and secondly, whether the oil was in fact the property of the Kuwait Petroleum Corporation. On both counts the requisite assurances had been provided by the representative of Kuwait.

Mr. SERV (Côte d'Ivoire) and Mr. GOSHU (Ethiopia) said that they agreed with the two previous speakers.

Mr. AL-ALFI (Yemen) said that he was not challenging any of the statements made in the Committee nor the existence of a lawful contractual agreement, and fully appreciated the plight of the five African countries concerned, but, since the agreement made no mention of the quantity of petroleum products stored in Aden, it remained to be ascertained whether such a quantity actually existed. He would forward the relevant documents, including the request from Mauritius and the other four countries, to his authorities for confirmation of the existence of the amount specified and would subsequently convey their reply to the Chairman of the Committee.

The CHAIRMAN suggested that, as on previous similar occasions, Committee members should first address questions to its guests and then deliberate and take a decision in the matter.

Mr. MORENO FERNANDEZ (Cuba) said that there were two aspects of the matter to be considered. The first was the request from the five countries concerned (S/AC.25/1990/COMM.50) for the Committee's confirmation of their understanding that the petroleum products were not subject to the sanctions régime under Security Council resolution 661 (1990). In his view, their understanding was correct and, if the stock referred to existed, it should be delivered in accordance with the contracts. The second question was whether the stock actually existed, to which the representative of Yemen had provided a solution by offering to communicate with his Government, providing it with the relevant documentation, including the letter dated 15 October 1990 from the five countries concerned, and to report back to the Committee. He therefore proposed that the Committee should decide on the theoretical aspect, namely that the shipment of the products to the five countries was lawful, but defer a final decision until a definitive answer had been received from Yemen.

Mr. KIBIDI NGOVUKA (Zaire) agreed that the question of the existence of the oil products in Yemen called for further investigation.

Mr. SERVY (Côte d'Ivoire) said that, while he agreed with the comments made by the representative of Cuba, there remained some misunderstanding about the basis for the information to be obtained about the existence of the oil products in Aden. Such information should not be based on the request from Mauritius and the other four countries concerned, who were the beneficiaries of the contracts, but on data provided by the Kuwait Petroleum Corporation. Another point requiring clarification was that there might be a quantity of oil products belonging to the Kuwait Petroleum Corporation in Yemen, but possibly not the exact quantity for which the contracts had been signed. Kuwait might be requested to specify the quantity, if any, of oil products in Yemen that were not covered by the contracts.

The CHAIRMAN said that it was her understanding that the availability and amount of petroleum products in question concerned the contracting parties, and that the Committee's responsibility was to decide whether the release of the shipment did not contravene resolution 661 (1990). She invited comments from the representatives of Kuwait and Mauritius.

Ms. AL-MULLA (Kuwait) said that Kuwait was anxious to fulfil its contractual obligations, and had expected the Committee's deliberations to focus on the question of the applicability of sanctions to the release or non-release of the petroleum products in question. Regarding the question of the availability and quantity of products, which she believed to be a side issue, she was able to provide the Committee with information from the Kuwait Petroleum Corporation which might be of assistance to the Committee and might help the representative of Yemen in retrieving information from his own Government. The official document, from which she quoted, reported on the latest two deliveries of crude oil from Kuwait for processing at the Aden refinery. The first consignment, with a bill of lading dated 13 July 1990, concerned a quantity of 85,000 tons discharged at Aden on 13 July 1990. The second, with a bill of lading dated 30 July 1990, concerned a quantity of 85,389 tons discharged at Aden on 5 August 1990. She further specified that the Kuwait Petroleum Corporation still had a balance of petroleum products in Aden in addition to the aforementioned cargoes.

Mr. PEERTHUM (Mauritius) said that, from their experience in dealing with the Kuwait Petroleum Corporation, the five States which he represented did not question its good faith in informing them that it had a stock of petroleum products in Aden. Those States were not asking the Committee to determine whether the stock existed or not, but merely to take a decision of principle as to whether the delivery of petroleum products by the Kuwait Petroleum Corporation from its stock in Aden contravened Security Council resolution 661 (1990).

Mr. Abulhasan and Ms. Al-Mulla (Kuwait) and Mr. Peerthum (Mauritius) withdrew.

The CHAIRMAN said that the Committee might be ready to take a decision in principle, if it agreed with her understanding that the contracts had been concluded before 2 August 1990 and that the release of the shipment would not contravene the provisions of resolution 661 (1990). If that were the case, she proposed to address a letter to the Permanent Representative of Yemen to the United Nations to that effect.

Mr. Al-ALFI (Yemen) said that Yemen had not submitted any question to the Committee, and that any reply must be given to the authority that had addressed such a question. It should moreover be made clear in any decision taken by the Committee that none of the contracts concluded by the States concerned referred to the quantity of petroleum products to be released from Aden. It was apparent that the quantity had been fixed at a later stage, to tally with what appeared to be the available stock in Aden. The Committee was faced with contradictory information on the available stock, since the 120,000 tons referred to in the letter dated 15 October 1990 (S/AC.25/1990/COMM.50) did not match the quantity in excess of 170,000 tons just referred to by the representative of Kuwait. While he agreed in theory that the release of such a shipment did not contravene resolution 661 (1990), the conflicting reports on the quantities involved dictated caution, and he would urge deferral of a decision until the request had been transmitted to his authorities and their reply had been received.

The CHAIRMAN said that it was her understanding that, since the contracts concerning the purchase of the petroleum products had been entered into prior to the adoption of Security Council resolution 661 (1990), the release of the shipment did not constitute a violation of that resolution. If the Committee so agreed, she would draft a letter to the authors of the request accordingly.

It was so decided.

Mr. KAMAL (Malaysia) drew attention, in connection with the case of the contracts for petroleum products just discussed, to paragraph 5 of resolution 661 (1990), seeking clarification of the phrase "notwithstanding any contract entered into or licence granted before the date of the present resolution". Specifically, did it mean that a country which had a contract with Iraq before the adoption of resolution 661 (1990) could continue with that contract?

The CHAIRMAN suggested that, in the absence of the Legal Counsel, the question might be raised at a forthcoming meeting.

Mr. AL-ALFI (Yemen) said that the Legal Counsel's reply to the question asked by the representative of Malaysia might shed new light on the case just discussed and might indeed conflict with the Committee's own interpretation of the resolution. He therefore suggested that a reply to the five African countries

should be postponed until the Legal Counsel's advice on the wider context had been heard.

The CHAIRMAN expressed doubt about revoking a decision which was in line with previous Committee decisions and suggested that a draft letter should be prepared and circulated to Committee members before being dispatched.

Mr. AL-ALFI (Yemen) said that he was not suggesting any revocation of the Committee's decision, but wished it to be on record that Yemen was in favour of seeking the advice of the Legal Counsel before proceeding with the dispatch of a letter.

The CHAIRMAN said that she took it that the Committee agreed to her drafting a letter and circulating it among the members of the Committee.

It was so decided.

The CHAIRMAN drew the Committee's attention to document S/AC.25/1990/NOTE/31, containing the text of the reply from the Legal Counsel to the question posed in the letter dated 13 September 1990 from the Permanent Representative of Singapore to the United Nations addressed to the Chairman. She took it that the Committee decided to forward the reply of the Legal Counsel to the Permanent Representative of Singapore.

It was so decided.

The CHAIRMAN drew the Committee's attention to document S/AC.25/1990/COMM.40, containing the text of a letter dated 9 October 1990 from the Permanent Representative of Cyprus to the United Nations addressed to the Chairman, regarding an alleged violation of resolution 661 (1990). In her view, the issues raised in the letter would require careful study, and she therefore suggested that consultations should be held on the matter before the Committee's next meeting, and that further consideration of the question should consequently be deferred until that meeting.

It was so decided.

The CHAIRMAN drew the Committee's attention to document S/AC.25/1990/WP.12, containing the draft of a standard reply by the Chairman to communications from non-governmental organizations, prepared in accordance with the decision taken by the Committee at its 12th meeting. If she heard no objection she would take it that the draft met with the approval of members.

It was so decided.

Mr. RICHARDSON (United Kingdom) said that he was in possession of a letter from the Permanent Observer for Switzerland concerning a flight from Geneva to Baghdad carrying medical supplies. Since there seemed to be a connection with the letter dated 26 October 1990 from Turkey, in which the Committee's approval had been sought on an identical matter, and the Geneva flight was scheduled to leave on

1 November 1990, he wished to know how the Committee intended to deal with the case in question.

The CHAIRMAN said that, since the letter from the Swiss authorities had only just been circulated, she had deemed it preferable to allow delegations time for its consideration, but her intention was to adopt the same procedure as on previous occasions.

### S. Provisional Summary Record of the 19th Meeting (closed), 8 November 1990

*Source: S/AC.25/SR.19, 16 November 1990*

Chairman:

Ms. RASI

(Finland)

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#### ADOPTION OF THE AGENDA

The agenda was adopted.

#### REVIEW OF THE IMPLEMENTATION OF SECURITY COUNCIL RESOLUTION 661 (1990)

The CHAIRMAN said that since the Committee's previous meeting, an additional reply to the Secretary-General's note verbale of 8 August 1990 and his reminder of 27 August 1990 had been received from Poland (S/21918).

She recalled that replies to the questionnaire had been received from a further 27 States, namely, Switzerland, Spain, Hungary, Oman, Czechoslovakia, Jamaica, Luxembourg, Israel, New Zealand, Sweden, Republic of Korea, Viet Nam, Austria, Germany, Japan, Mauritania, Italy, Cyprus, Liechtenstein, Australia, the Union of Soviet Socialist Republics and Greece, and were contained in documents S/AC.25/1990/5 to 26, respectively. The replies from Portugal, Ireland, Maldives, Finland and Ethiopia would be circulated on the following day in documents S/AC.25/1990/27 to 29, 31 and 32, respectively. Also, pursuant to the Committee's request, the Secretary-General had addressed a reminder dated 2 November 1990 to States requesting submission of replies to the questionnaire by 30 November 1990.



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Mr. RICHARDSON (United Kingdom) asked how many States Members of the United Nations had not yet replied to the Secretary-General's original note verbale of 8 August 1990 and his reminders. He was under the impression that some replies were still outstanding; it might be appropriate to send further reminders to ask those States to expedite their replies.

The CHAIRMAN said that the Secretariat would try to answer at a later date the question raised by the previous speaker.

At the 18th meeting, the Committee, considering the letter dated 24 October 1990 from the Permanent Representative of Jordan to the United Nations (S/AC.25/1990/COMM.65), had decided that the Chairman would consult the Secretariat as to how the invitation from the Government of Jordan might best be met and that she would circulate an appropriate draft for consideration by the Committee. Accordingly, a draft letter to the Secretary-General from the Chairman had been prepared, after consultation with the Chef de Cabinet, and had been circulated to members for comments by 12 noon, 8 November 1990. A number of members of the Committee had made proposals with regard to the first sentence of the second paragraph. Those proposals were reflected in the revised draft before the Committee. If she heard no objection, she would take it that the draft as revised in the second paragraph met with the approval of the Committee.

It was so decided.

The CHAIRMAN said that she would send the letter as approved by the Secretary-General and would inform the Permanent Representative of Jordan to the United Nations accordingly in writing.

#### CONSULTATIONS UNDER ARTICLE 50 OF THE CHARTER OF THE UNITED NATIONS

The CHAIRMAN drew the attention of the Committee to document S/21930, which contained the text of a letter dated 6 November 1990 from the Permanent Representative of the Sudan to the United Nations addressed to the Secretary-General, in which the Sudan had resorted to Article 50 of the Charter. She recalled that Members of the Committee had also seen document S/21918 from the Permanent Representative of Poland to the United Nations addressed to the President of the Security Council, which was related to document S/21808, by which Poland had resorted to Article 50 of the Charter.

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Mr. KIRSCH (Canada), Chairman of the Working Group on Article 50, reporting on the progress made by the Working Group, said that a second meeting had been held on Tuesday, 6 November 1990, at which he had reported on the consultations he had held with the then 17 applicants, the Sudan having since joined that list, in his capacity as Chairman of the Working Group. Those consultations had been aimed at providing the applicants with the sense of the general direction of the work of the Working Group and confirming that they would have the opportunity to provide additional input with respect to their own

applications, in a manner that would be left to their discretion. The applicants had appeared to welcome those contacts, which many had seen as representing the beginning of consultations provided for under Article 50 of the Charter. The applicants had requested the Working Group to proceed expeditiously.

There had been a general sense at that meeting that the most important task at hand was to begin deliberations on the petitions and to adjust working methods as necessary in the course of the proceedings. It had thus been agreed to begin examination of the first petition received by the Security Council, that of Bulgaria, at the next meeting of the Working Group, to be held on 9 November 1990.

The two documents, one outlining general criteria for the consideration of the application of Article 50, i.e., the effects of sanctions on the States concerned, and the other suggesting a possible structure for recommendations to be adopted in specific cases, had been generally held to provide a good basis for the Working Group's work. In that connection, the Secretariat had been requested to review the paper on general criteria and to make changes, as necessary, on the basis of the remarks made by delegations. It had also been agreed that the Secretariat would prepare a short narrative text from the same document describing losses incurred by petitioners.

The Working Group had also agreed on a practical approach in anticipation of the examination of the first petition. Essentially, the Working Group, having provided the applicant with an opportunity for further input, would review the petition in the light of the proposed structure for a recommendation contained in the aforementioned document. In order to facilitate the Working Group's examination of the operative sections of the document, particularly with regard to the needs of the country concerned and the measures that might be recommended, the Secretariat would provide the Working Group with points for consideration prior to examination of the petitions, probably in an oral form as part of the discussion.

IMPLEMENTATION OF SECURITY COUNCIL RESOLUTION 670 (1990)

The CHAIRMAN said that members of the Committee had before them document S/21923, which contained the text of a letter dated 29 October 1990 from the President of the Council of the International Civil Aviation Organization addressed to the Secretary-General. If she heard no objection, she would take it that the Committee decided to take note of that communication.

It was so decided.

The CHAIRMAN said that members of the Committee had before them document S/21848, containing a communication from Argentina and documents S/AC.25/1990/4 and 30, containing communications from Norway and France, respectively, regarding the implementation of Security Council resolution 670 (1990). Members of the Committee also had before them documents S/AC.25/1990/COMM.71, 73 and 75, containing reports by France, the United Kingdom and Germany, respectively,

regarding flights in connection with which the Committee had requested reports. At its 18th meeting, the Committee had decided to send reminders to those States from which such reports had been requested and had not yet been received. Reminders had been sent to two other States from which replies were still awaited.

From press reports it would appear that there were flights to and from Iraq that were not required to land for inspection by the countries overflown and of which the Committee had not been notified in conformity with Security Council resolution 670 (1990). The Committee might therefore wish to consider issuing a statement to the press expressing its concern at the apparent non-compliance in that regard with the provisions of Security Council resolution 670 (1990). A draft of such a statement could be prepared and circulated to members for comments and, once approved, could be read out to the press.

Mr. MORENO FERNANDEZ (Cuba) said that he had reservations about issuing such a statement. Any action taken by the Committee must be on the basis of official information at its disposal, not unauthenticated press reports.

The CHAIRMAN said that it was the understanding of the Committee that it was not being notified of all flights and that it must therefore address the question of non-compliance with the provisions of Security Council resolution 670 (1990). The Committee had been asked about certain official or unofficial visits to Baghdad, but there had been no notification on their flights; instead, the Committee had learned of their visits through press reports.

Mr. MORENO FERNANDEZ (Cuba) said that, in that case, the Committee should send a communication to States reminding them of their obligations under Security Council resolution 670 (1990), in particular paragraph 4. The activities of the Committee concerned Member States, not the press, and therefore the Committee should not issue a statement to the press.

Mr. RICHARDSON (United Kingdom) agreed with the previous speaker's proposal to remind Member States of their obligations under paragraphs 3 and 4 of Security Council resolution 670 (1990), but such a reminder should also include paragraph 6.

Mr. FLOREAN (Romania) also supported the proposal.

The CHAIRMAN said she took it that the Secretariat should send a communication to Member States reminding them of their obligations under Security Council resolution 670 (1990), in particular paragraphs 3, 4 and 6.

It was so decided.

FOODSTUFFS AND DELIVERY OF FOODSTUFFS: SECURITY COUNCIL RESOLUTIONS 661 (1990), PARAGRAPH 3 (c), AND 666 (1990)

The CHAIRMAN recalled that members of the Committee had before them document S/AC.25/1990/COMM.60, which contained the text of a letter dated 24 October 1990 from the Permanent Representative of Jordan to the United Nations

addressed to the Chairman, in which the Government of Jordan requested permission to send to Iraq a shipment of food and medicine donated by the Jordanian people to the children of Iraq to be made by the General Union of Voluntary Societies in Jordan.

Mr. WILKINSON (United States of America) suggested that the Chairman should prepare a reply drawing on the appropriate language in Security Council resolution 666 (1990). With regard to foodstuffs, his delegation could not approve Jordan's request in the absence of information for determining whether there was, in fact, a humanitarian need for such a shipment. In that context, his Government again encouraged the Government of Iraq to allow representatives from international humanitarian agencies and the United Nations to operate in the territories of Iraq and Kuwait so that an objective organization could decide whether such circumstances actually obtained.

Mr. MORENO FERNANDEZ (Cuba) said that, just as the Secretary-General had, in the past, been requested to report on other matters before the Committee, the Committee might ask the Secretary-General for his opinion on whether humanitarian circumstances might exist that would justify Jordan's sending food for distribution to Iraqi children. Although the Secretary-General had no representative in Iraq, perhaps information could be obtained through other sources. In his view, before rejecting Jordan's request, the Secretariat should seek further information to help clarify the circumstances.

Mr. RICHARDSON (United Kingdom) said that his delegation had no objection in principle to dispatching food for Iraqi children or for any other persons who might be suffering, in accordance with paragraph 4 of Security Council resolution 666 (1990). But the United Kingdom attached great importance to the other provisions of that resolution, namely paragraphs 3 and 6. In the absence of independent international humanitarian sources in Iraq or Kuwait his delegation could not approve Jordan's request. It was to be hoped that the Government of Iraq would see an investigation as being in its own interest. There had been widely conflicting reports on the availability of food in Iraq and Kuwait, but most suggested that there was no shortage whatsoever. The Committee could only respond to Jordan's request on the basis of information provided by an independent investigation of the situation.

Mr. AL-ALFI (Yemen) said that any decision that the Committee took should not be based on political considerations. The Committee should approve the sending of medicine after it had ascertained that the shipments did in fact contain such medicine. With regard to the sending of foodstuffs, he pointed out that Jordan had shown its good intentions by requesting the Committee's authorization, despite the fact that Jordan and Iraq had a common border. Jordan was simply acting as an

intermediary on behalf of non-governmental organizations, and it had also expressed its willingness to co-operate with the International Committee of the Red Cross and other humanitarian organizations concerned with the welfare of children.

Foodstuffs should be allowed to be sent for distribution to children in Iraq and Kuwait, regardless of their nationality.

Mrs. KABA (Côte d'Ivoire) said that the question under consideration concerned foodstuffs that were specifically meant for children, such as powdered milk, and that there was therefore little possibility that they could be diverted to soldiers or others. The Committee wished to prevent the death of children, but it must respect the provisions of the pertinent Security Council resolutions. She agreed with the representatives of the United States and the United Kingdom that further information was needed, from various sources, on the situation of children in Iraq. She proposed that Iraq should be requested to accept a special representative of the Secretary-General or of a humanitarian organization to evaluate the food needs of children by visiting such centres as schools and hospitals. The Committee could then examine the question in the light of the response of the Iraqi authorities to that request and could reply to the Jordanian Government that an evaluation of the situation in Iraq and Kuwait was needed. She also proposed that the Committee should make use of other information sources, such as embassies in Iraq, which had already provided information on the situation in that country. If the Committee determined, according to the information received, that there was a real need for food and medicine in Iraq, it could ask the Jordanian Government for details on the amount and the nature of the cargo to be shipped, and those details could be verified by a United Nations representative in Jordan. In addition, the Committee could request a humanitarian organization of the donor country to supervise the distribution of the supplies and subsequently to report to the Committee. The first step, however, was to collect further information.

Mr. MORENO FERNANDEZ (Cuba) agreed with the previous speaker that further information was needed but emphasized that the Committee should not delay its decision merely because there were no representatives of the Secretary-General or of humanitarian organizations in Iraq or Kuwait; there must be many unofficial sources of information in those countries. The question of sending foodstuffs to Iraq was separate from the question of sending medical supplies, since the latter were not covered by the sanctions outlined in resolution 661 (1990). He proposed that the Committee should reply to Jordan that medical supplies could be sent to Iraq under the supervision of United Nations authorities in Jordan, with the certification by Jordanian physicians that the supplies were exclusively for medical purposes.

Mr. RICHARDSON (United Kingdom) agreed with the representative of Cuba that the two questions were separate, since there were no restrictions on the shipment of medical supplies other than the Security Council's recommendations in paragraph 8 of resolution 666 (1990), and that the Committee was therefore in a position to decide on the issue of medical supplies. However, he preferred to postpone a decision on the question of foodstuffs.

Mr. WILKINSON (United States of America) felt that the language of resolution 666 (1990) adequately addressed both of the issues under consideration, since it requested the Secretary-General to continuously seek information on the availability of food in Iraq and Kuwait (paras. 3 and 4), and recommended strict supervision of the shipment of medical supplies (para. 8). It would therefore suffice to communicate that language to the Jordanian Government in reply to its request.

Mr. AL-ALFI (Yemen) said that merely referring the Jordanian Government to the provisions of Security Council resolutions would represent a departure from the manner in which the Committee had previously replied to similar requests, and would cast doubt on the position of the Jordanian Government. The Committee should decide immediately on the question of medical supplies. On the question of foodstuffs, he agreed with the proposals of other delegations that further information should be requested, but reiterated that the Committee must bear in mind both the geographical situation of Iraq and Jordan and the humanitarian nature of the issue under consideration.

Mr. MORENO FERNANDEZ (Cuba) said that before sending a definite reply to Jordan, the Committee should try to exhaust all available sources of information to determine whether circumstances of humanitarian need existed in Iraq. He suggested that the Chairman should address a letter to the Secretary-General requesting his views on the matter, in the light of his information on the situation in Iraq, particularly that of children. He pointed out that children were one of the vulnerable groups mentioned in paragraph 4 of resolution 666 (1990).

Mr. RICHARDSON (United Kingdom) said that he did not object to sending an immediate reply to Jordan on the question of medical supplies but that the reply should clearly state the position of the Committee and of the Security Council on the matter.

The CHAIRMAN said that if there were no objections, she would take it that the Committee decided to respond in writing to the Jordanian Government, with a reference to resolution 666 (1990), on the question of sending medical supplies to Iraq.

It was so decided.

The CHAIRMAN said that, in response to the proposal by several delegations that further information should be sought through the

Secretary-General, she was prepared to request the Secretary-General's assistance in writing.

Mr. RICHARDSON (United Kingdom) said that his delegation wished to reflect on that proposal before taking a decision.

The CHAIRMAN said that the Committee would revert to the matter at its next meeting.

Mr. MORENO FERNANDEZ (Cuba) proposed that, as an intermediate measure, the Chairman should prepare a draft letter to the Secretary-General, and that the representative of the United Kingdom should review the draft letter.

Mr. RICHARDSON (United Kingdom) questioned whether the Secretary-General had access to information sources that would enable him to evaluate the humanitarian circumstances in Iraq. The evidence received from embassies in Baghdad was unreliable because of the travel restrictions imposed on embassy personnel by the Iraqi authorities. He did not wish to burden the Secretary-General with a task he was in no position to perform.

Mr. AL-ALFI (Yemen) said that the Committee could not answer for the Secretary-General as to whether or not information could be obtained. Since the Committee's decision would affect the fate of hundreds of thousands of children, it should not be delayed by procedural questions. He appealed to the representative of the United Kingdom not to insist on deferring consideration of the item but to await the Secretary-General's reply to the Committee's request for further information.

Mr. MORENO FERNANDEZ (Cuba) supported the position of the representative of Yemen.

Mr. WILKINSON (United States of America) said that resolution 666 (1990) was clear in its intent and that his delegation would like to reflect before deciding on a communication on the subject of foodstuffs.

Mr. KAMAL (Malaysia) supported the proposal of the representatives of Yemen and Cuba that the Committee should seek further information from the Secretary-General. Paragraph 3 of resolution 666 (1990) clearly stated that the Secretary-General was to keep the Committee informed on the availability of food in Iraq and Kuwait.

The CHAIRMAN said that the Committee was well aware of the difficulties faced by the Secretary-General in obtaining information, since Iraqi authorities had refused to receive a United Nations representative in their country. She proposed that she should contact the Secretary-General to determine whether he had any means of gathering information.

Mr. RICHARDSON (United Kingdom) said that if the Secretary-General had had any relevant information, it would already have been communicated to the

Committee. The question of food distribution was of fundamental importance, and required careful consideration in the absence of representatives in Baghdad. He wished to consult his capital before returning to the matter at the Committee's next meeting.

Mr. AL-ALFI (Yemen) said that he was surprised to see such a position being taken when a humanitarian issue was before the Committee. When India had requested permission to ship foodstuffs to Iraq, it had been feared that the ship would be seized by Iraqi authorities but that had not been the case, and so the Committee should proceed without undue pessimism.

The CHAIRMAN said that she understood that the Committee would return to the question of Jordan's request to send foodstuffs to Iraq at its next meeting. She drew attention to document S/AC.25/1990/COMM.72, containing the text of a note verbale from the Permanent Mission of Morocco informing the Committee that Iraqi authorities had requested permission from the Government of Morocco for an Iraqi aircraft to make a refuelling stop on the return leg of a humanitarian flight between Baghdad and Brazil. She informed the Committee that she had contacted the Permanent Representative of Brazil to the United Nations, who, after contacting his capital, had reported that he had no information on that flight. The Committee was therefore obliged to leave the matter pending.

#### OTHER MATTERS

The CHAIRMAN drew attention to document S/AC.25/1990/COMM.40, containing the text of a letter from the Permanent Representative of Cyprus in which he informed the Committee of his Government's detention of a Honduran tanker, in accordance with paragraph 8 of resolution 670 (1990), for violating paragraph 3 (b) of resolution 661 (1990), and requested the Committee's advice on the matter. In her opinion, the information in the letter was insufficient, and she proposed that the Committee should address a communication to the Permanent Representative of Cyprus requesting further information on whether the Honduran ship was still being detained and on the allegations contained in the letter.

Mr. WILKINSON (United States of America) supported the Chairman's proposal, and offered to supply his delegation's suggestions for a draft of the letter to be sent to the Permanent Representative of Cyprus.

The CHAIRMAN said that if there were no objections, she would take it that the Committee decided to seek further information in the case under consideration.

It was so decided.

The CHAIRMAN drew attention to document S/AC.25/1990/COMM.9, containing the text of a letter from the Permanent Representative of Malta informing the Committee of the situation of a Maltese flag vessel stranded in Kuwait, and to document S/AC.25/1990/COMM.53, containing the reply of the Permanent Mission of



Malta to the Committee's request for further information on the matter (S/AC.25/1990/NOTE 11). She felt that the reply did not clearly answer the Committee's request and said that if she heard no objections, she would take it that the Committee decided to request further details, such as whether the ship was still in Kuwait.

It was so decided.

**T. Corrigendum to Provisional Summary Record of the 19th Meeting (closed)**

*Source: S/AC.25/SR.19/Corr.1, 21 November 1990*

Page 3, the first complete paragraph should read

The CHAIRMAN said that she would send the letter as approved to the Secretary-General and would inform the Permanent Representative of Jordan to the United Nations accordingly in writing.

**U. Provisional Summary Record of the 20th Meeting (closed), 3 December 1990**

*Source: S/AC.25/SR.20, 18 December 1990*

Chairman:

Ms. RASI

(Finland)

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Other matters

**ADOPTION OF THE AGENDA**

The agenda was adopted.

**REVIEW OF THE IMPLEMENTATION OF SECURITY COUNCIL RESOLUTION 661 (1990)**

The CHAIRMAN said that, since the previous meeting, an additional reply had been received from Cook Islands, transmitted by New Zealand (S/21924), in connection with the Secretary-General's note verbale of 8 August 1990 and his reminder of 27 August 1990. She noted that 39 Member States and six non-Member States had still not replied to the Secretary-General's note verbale of 8 August 1990 and his reminder of 27 August 1990. Twenty-six additional replies to

the questionnaire had been received, from Uruguay, Indonesia, Ecuador, Yugoslavia, the Islamic Republic of Iran, Mauritania, India, Poland, the Netherlands, Botswana, Bulgaria, Brazil, Norway, Bolivia, Peru, Turkey, the Byelorussian SSR, Singapore, Romania, Iceland, Morocco and Senegal, contained in documents S/AC.25/1990/51 to 60, respectively, and the Holy See (S/21973). She suggested that the Committee should request the Secretary-General to send further reminders requesting States to submit their replies.

It was so decided.

The CHAIRMAN said that the Secretary-General would be dispatching Mr. James Ngobi, Chief of the Security Council Practices and Charter Research Section to Jordan in response to the Government's invitation to visit the Jordanian-Iraqi border at Ruweished in order to monitor its compliance with Security Council resolution 661 (1990). A report on the mission would be submitted to the Secretary-General in due course.

#### CONSULTATIONS UNDER ARTICLE 50 OF THE CHARTER OF THE UNITED NATIONS

The CHAIRMAN drew attention to a letter dated 22 October 1990 from the Secretary-General addressed to the President of the Security Council (S/21938) concerning the problems faced by Jordan, in which he stated that he was appealing to all Member States and was calling on the organs of the United Nations system to provide assistance to Jordan to mitigate the consequences of its difficulties as a result of the crisis.

Mr. KIRSCH (Canada), Chairman of the Working Group on Article 50, said that the Working Group had adopted recommendations in respect of Bulgaria, Tunisia, Romania and India, and would make them available shortly. With regard to Bulgaria, the Committee should note that the Working Group had adjusted its original draft decision for the sake of consistency in its recommendations. The draft decisions in respect of those four countries were commended to the Committee under the cover of document S/AC.25/1990/WG.8/Rev.2. Annex I to that document, concerning losses and additional costs arising from the carrying out of Security Council resolution 661 (1990), might serve as a general framework for transmitting observations on specific requests under Article 50.

The Working Group was preparing draft decisions in respect of the Philippines and Lebanon, and would soon take up the cases of Yugoslavia, Sri Lanka and Yemen. All the countries concerned had chosen to make oral presentations to the Working Group. He noted that the Committee would in due course endorse the Working Group's recommendations and approve their transmittal to the President of the Security Council and to the Secretary-General.

Mr. AL-ALFI (Yemen) and Mr. FLOREAN (Romania) expressed their appreciation of the endeavours of the Working Group's Chairman.

The CHAIRMAN said she would take it that the Committee wished to take a decision on the Working Group's recommendations at a later date.

It was so decided.

IMPLEMENTATION OF SECURITY COUNCIL RESOLUTION 670 (1990)

The CHAIRMAN said that, in accordance with a decision taken by the Committee, she had addressed a letter to the Secretary-General requesting that the attention of States should be drawn to their obligations under Security Council resolution 670 (1990), paragraphs 3, 4 and 6. Communications had been received from Switzerland, the Federal Republic of Germany and Nicaragua and were contained in documents S/AC.25/1990/33, 50 and 57, respectively. The Chairman noted that a report was outstanding from one of two States to which the Committee had sent reminders to submit reports on flights undertaken. Reports had been received from the International Organization for Migration, Denmark and Sri Lanka, and were contained in documents S/AC.25/1990/COMM.87, 100, 107 and 116, respectively.

FOODSTUFFS AND DELIVERY OF FOODSTUFFS: SECURITY COUNCIL RESOLUTIONS 661 (1990), PARAGRAPH 3 (c) AND 666 (1990)

The CHAIRMAN drew attention to a letter which she had sent to the Permanent Representative of India (S/AC.25/1990/NOTE/50), in which an appeal had been made to the Government of India to leave behind in storage, for eventual distribution in Iraq and Kuwait, the surplus of the food sent by ship to meet the needs of Indian nationals. The Government of India had stated its agreement in principle, and was requesting the Indian Red Cross to monitor the distribution of the foodstuffs, as the Committee had also requested.

Mr. WILKINSON (United States of America) asked whether the Government of India could update the Committee by advising it of its plans for unloading the shipment and for dealing with requests it might receive for the distribution of foodstuffs.

Mr. AL-ALFI (Yemen) said that the Committee should consider the long-standing request by the Permanent Observer of Palestine to the United Nations that Palestinians in Kuwait should be included in any distribution of foodstuffs.

The CHAIRMAN said that she would endeavour to obtain all relevant information concerning the foodstuffs left in storage on the Indian ship before the Committee's next meeting. However, it was her understanding that foodstuffs were available for distribution to all third-State nationals whose Governments submitted requests.

Mr. WILKINSON (United States of America) said that before giving a general dispensation the Committee should look at the general situation with particular regard to the quantity of food in storage and the continued presence of the Indian Red Cross, and should consider guidelines for the distribution of

foodstuffs in circumstances in which the Kuwaiti population, for example, was also in need.

Mr. AL-ALFI (Yemen) said that his delegation shared the Chairman's understanding. The Committee should consider the request made by the PLO without further delay.

Mr. MORENO FERNANDEZ (Cuba) said that the Committee had decided some time before that foodstuffs would be made available to all third-country nationals whose Governments contacted the Government of India to request distribution, as several had already done. The Committee had considered a request from the PLO at its previous meeting, at which the Chairman had stated her intention to hold consultations on the matter. It would be useful if she now indicated to the Committee the results of those consultations. If foodstuffs were available to third-State nationals, there seemed to be no reason why Palestinian nationals should not be entitled to receive them.

The CHAIRMAN said that letters had been sent to Member States and to the PLO informing them that they could approach the Government of India to request distribution of foodstuffs. Responding to a request from the Government of India, she had sent a letter on behalf of the Committee asking the Government of India to leave the excess food in storage on the ship for those in need. The question of identifying specific groups had not arisen in the Committee's communications with the Government of India.

Mr. KAMAL (Malaysia) said that it would be useful for the Chairman to remind those in need of foodstuffs that they should contact the Indian Government.

The CHAIRMAN said that before doing so she would need to know the exact situation. To that end she would contact the Indian authorities and inform the Committee in due course.

Mr. WILKINSON (United States of America) said that he welcomed the Chairman's stated intent to obtain exact information. His understanding was that the Committee, in considering the distribution of foodstuffs, had focused on detainees, hostages and those attempting to leave Iraq and Kuwait, and that the question of the application from the PLO would be taken up at a later date. The Committee's approval of arrangements for distribution thus essentially concerned nationals of third States who were detainees or hostages, whose numbers were relatively small. The situation of the Palestinians was more akin to that of the Kuwaitis themselves. The Committee would be in a better position to respond to the request by the PLO once it had updated information enabling it to assess the situation of the detainees and hostages.

Mr. AL-ALFI (Yemen) said that the Chairman's view of the situation was accurate. It ought to be that all those in need of foodstuffs could submit requests, but the Committee now seemed to be reconsidering the situation of the

Palestinians. His delegation formally requested the provision of humanitarian assistance to the Palestinians in Kuwait in order to alleviate their suffering. The Committee should take a decision there and then, and any delegation not in agreement should state its formal objections.

The CHAIRMAN read out the letter dated 12 October 1990 which she had sent to the Permanent Observer for Palestine (annexed to document S/AC.25/1990/NOTE/27), which used the same wording as that in the letter of the same date sent to the Permanent Representatives of Bulgaria, the Philippines, Romania, Sri Lanka, Viet Nam and Yugoslavia.

Mr. MORENA FERNANDEZ (Cuba) said that the substance of the letter just read out - which the Committee had approved - confirmed his delegation's view of the situation. The United States representative had stated that the Committee had decided that the surplus should go essentially to the nationals of countries who were awaiting evacuation. It was absurd to apply such a pre-condition to the Palestinians, and he observed that the question of their homeland was unresolved.

The Committee did not need to give any further authorization. The Palestinian authorities should simply contact the Indian authorities to request that some of the surplus food should be made available to the Palestinians residing in Kuwait.

Mr. KAMAL (Malaysia) said that the letter read out by the Chairman spoke for itself. The Committee should not discriminate between the Palestinians and any other nationals requiring food. The Committee should not go back on its decision, as that would undermine its credibility.

Mr. WILKINSON (United States of America) said that it was his recollection that there had been a general discussion of the letters sent to the five countries concerned, but that there had been no discussion of a Palestinian request for food. The only mention at any meeting of a Palestinian request had been the statement by the Chairman to the effect that that question would be taken up at a later stage.

Now that the question of implementing the letter had arisen, his delegation felt bound to state that there was a difference between the situation of the nationals of the countries to which the letter had been sent and the situation of the Palestinians, in Kuwait, a large resident population. His delegation was concerned, to the extent that the situation of the Kuwaitis in their own country was also relevant. Although there was a large quantity of surplus food available, it was limited, and it was necessary to assess the priority needs of detainees and hostages.

Mr. YU Mengjia (China) said that the plight of the Palestinians, who were refugees, was serious. The procedure suggested in the Chairman's letter of 12 October was appropriate. He agreed with the representative of Malaysia that a reminder should be sent to the countries concerned and to the representatives of

the Palestinians reminding them that if their nationals in Iraq or Kuwait were experiencing difficulties, they could contact India to ascertain whether some of the surplus food could be made available to them. The Chairman should also determine how much of food was left.

Mr. ALZATE (Colombia) said that the terms of the Chairman's letter were very clear and that the issue was simply a question of procedure. There should be no delay in dealing with what was clearly a humanitarian issue.

The CHAIRMAN said that, at the meeting at which the Indian Ambassador had reported that surplus food would be available and that his Government was prepared to share it with third-State nationals, the Committee had had several requests before it, and had not discussed them in detail. It had simply decided to send the letter regarding the availability of surplus food to those States whose requests were before the Committee.

Mr. WILKINSON (United States of America) said that his delegation was unwilling, on the basis of the discussion of the issue at prior meetings, to place the Palestinians in the same category as the nationals of third States. As he recalled, the Committee had received appeals from specific States whose nationals were being or were likely to be treated adversely by Iraq. The Palestinian request, which had come later, concerned a substantial resident population which could be differentiated from the nationals of those States. Moreover, according to information available to him, the Kuwaitis could be considered in as difficult straits as the Palestinians.

The situation must be reviewed more closely before explicit authorization was given to consider the Palestinians in the same category as the nationals of the other countries. Moreover, the case of the Palestinians had been differentiated to some degree since the beginning; the PLO had requested food through UNRWA, as opposed to food distributed directly. The situation should be reviewed in the light of additional information to be received from India regarding the amount of food available, before an explicit response was given to the Palestinian request for food.

Mr. AL-ALFI (Yemen) said that his delegation did not wish to bargain for the Palestinians or the Kuwaitis. The fact was that a party was imposing hunger on the Palestinian people. It was inappropriate to place the Palestinian people in the same category as third-country nationals. The Committee had reached an agreement, reflected in the Chairman's letter. The delegation which now objected to the Palestinian request had not raised any objection to the sending of the letter to the Permanent Observer for Palestine. The Committee should not discuss further a decision it had already adopted. He agreed with the representative of Malaysia that a reminder should be sent to all those concerned.

Mr. MORENO FERNANDEZ (Cuba) said it was futile for a delegation to object at the current stage to the Committee's decision.

The CHAIRMAN said that she had sent the letter on the basis of the Committee's decision. Later on, when the Permanent Observer for Palestine had approached her and she had learned that the food had been earmarked, she had inquired whether any extra food could be left in storage for monitored distribution.

Mr. WILKINSON (United States of America) emphasized that the Palestinians were not in the same category as the nationals of the States to which the letter had been sent and that the Committee had not specifically discussed the case of the Palestinians in this context. While his delegation might be faulted for not objecting sooner, according to the letter from the Permanent Observer of Palestine the Palestinians were resident in Kuwait, and the few "third-State nationals" did not, therefore, apply to them.

The CHAIRMAN said that she had not used the phrase "third-State nationals", but had spoken of a group of people who were in need of the food.

Summarizing the discussion, she said she presumed that the Committee agreed that the Indian authorities should be asked to provide information about the amount of food in storage but she noted that there was no agreement that the food should be shared with the Palestinians.

Mr. AL-ALFI (Yemen) agreed with the first part of the Chairman's conclusion but said that the second part entirely contradicted the letter sent on behalf of the Committee to the Permanent Observer for Palestine. To claim that the Committee's position had changed one and a half months after the decision had been taken amounted to discrimination against an oppressed people.

The CHAIRMAN emphasized that she had simply been summarizing the views which had emerged during the current discussion.

Mr. YU Mengjia (China) said he believed that it had been the Committee's intention to include the Palestinian people at the time the Chairman had sent the initial letters. To adopt a different approach now would be a mistake.

Mr. MORENO FERNANDEZ (Cuba) said that some six weeks earlier the Committee had decided that the countries whose nationals needed food and the Palestinians could request it from and negotiate directly with the Indian authorities. The Chairman accordingly had sent letters to those parties which had indicated such a need. The Committee would be contradicting itself if it stated that there had been no agreement to assist the Palestinians. The fact was that the Committee had adopted a decision and one delegation now objected to that decision.

Mr. AL-ALFI (Yemen) said that the Chairman had sent the letters of 12 October on the basis of an explicit agreement by the Committee. No objection had been raised until the current meeting. He understood the implications of political positions; however, the issue at hand was a humanitarian one and there

must be no discrimination against anyone where humanitarian matters were concerned. He could not accept the assertion that there had been no agreement in October on the issue of food for the Palestinians. The fact remained that a single delegation now wished to reconsider its position.

Mr. WILKINSON (United States of America) said that an element of uncertainty had surrounded the question of the Palestinians in Kuwait from the very beginning and it was not true to state that his delegation had gone against a consensus which it had joined in October. He referred to the letter sent by the Permanent Observer for Palestine to the Secretary-General on 24 September 1990 (S/AC.25/1990/COMM.22), which had noted the extremely difficult living conditions of the Palestinians residing in Kuwait and had suggested that a method similar to that followed by UNRWA should be employed in assisting them with humanitarian supplies, and stressed the need for co-operation between the United Nations and the International Committee of the Red Cross (ICRC) in determining precisely who was in need of humanitarian assistance.

In late November, i.e. more than one month after the Chairman's letter to the Permanent Observer for Palestine, it had still been unclear whether humanitarian circumstances should apply to the Palestinians resident in Kuwait; the Indian Government had therefore been authorized to unload its ship and hold the food in storage.

The United States believed, therefore, that further consideration should be given to the question of the Palestinians resident in Kuwait, and that efforts should be made to establish who among the non-Iraqi residents of Kuwait, including the Kuwaitis themselves, was deserving of access to the food stocks in question. His delegation proposed, therefore, that the Committee should return to the question of whether explicit approval should be granted to the Palestinians at its next meeting when, hopefully, it would have the benefit of the anticipated report from the Indian Government on the situation on the ground and the amount of food stocks available.

Mr. AL-ALFI (Yemen) said that his delegation could not accept the proposal by the United States.

Mr. MORENO FERNANDEZ (Cuba) said it appeared that the United States did not accept the decision already taken by the Committee.

The CHAIRMAN said that, in accordance with the Committee's practice, copies of the letter to the Permanent Observer for Palestine had been circulated to all Committee members and no objections or comments had been expressed to her or to the Secretariat concerning the text of those letters. All the Committee's decisions were taken by consensus and she understood that such consensus had been reached when she had sent the second letter to the Indian representative,



suggesting that the surplus food should be made available to all groups in need, and not earmarked for the nationals of any particular State.

Mr. WILKINSON (United States of America) said that it was necessary first for any particular group to establish its need.

The CHAIRMAN said that, in her understanding, the Committee had previously decided that the humanitarian conditions justifying distribution of the food were already present. She wondered, therefore, whether the United States representative wished other States to make the same kind of estimation of their need as had been made by Yugoslavia and Bulgaria in approaching the Indian Government for food assistance for their stranded nationals.

Mr. WILKINSON (United States of America) said that, although no explicit objections had been raised to the implications of the correspondence and of the discussions in the Committee, the situation of the Palestinians resident in Kuwait had always been unclear, as all Committee members must have been aware. That uncertainty had not previously been addressed by the Committee and no evidence, comparable to that submitted in respect of other nationals, had been produced of discriminatory practices against the Palestinians, while proof of such practices had been submitted by the representatives of other national groups.

The CHAIRMAN said that, if the Committee agreed to defer the question to its next meeting, further clarification could be sought in the mean time in order to assess whether the circumstances justified distribution of food to the Palestinians in Kuwait.

Mr. AL-ALFI (Yemen) said that his delegation was prepared to defer the discussion on the understanding that, despite such deferral, the decision had already been taken and Yemen had not changed its position. With regard to the so-called ambiguity of the Palestinian request, he stressed that the letter from the Chairman had stated the position in very clear terms, and his delegation therefore regarded as unacceptable the repeated attempts to introduce new procedures for the sake of political expediency.

Mr. MORENO FERNANDEZ (Cuba) said that his delegation accepted the Chairman's suggestion on the same understanding as that expressed by Yemen.

The CHAIRMAN said that the matter would therefore be deferred until the next meeting.

She drew attention to letters from the USSR (S/AC.25/1990/COMM.111 and NGO/2) dated 30 November 1990, which sought approval for the delivery of foodstuffs from the Soviet Union to Soviet nationals stranded in Iraq, and said that, if she heard no objection, she would take it that the Committee approved the request.

It was so decided.

The CHAIRMAN said, with reference to the letter from Jordan dated 24 October 1990 (S/AC.25/1990/COMM.60), that the only controls on the export of

medical supplies were those mentioned in paragraph 8 of resolution 666 (1990), recommended strict supervision by the Government of the exporting State or by appropriate humanitarian agencies. A reply to Jordan was being prepared. She drew attention to her letter of 29 November 1990 addressed to the Secretary-General (S/AC.25/1990/NOTE/59), requesting him to urge the Iraqi authorities to permit the appropriate humanitarian agencies to investigate the availability of food in Iraq and Kuwait for Iraqi and Kuwaiti children and infants and for foreigners stranded in the region. It was hoped that such a mission would help the Committee to judge whether the necessary humanitarian circumstances were at hand to justify sending food to Iraq and Kuwait for distribution under the provisions of resolutions 661 (1990) and 666 (1990). It was to be hoped that the Iraqi authorities would respond favourably to the request.

Mr. RICHARDSON (United Kingdom) said that a humanitarian mission of that kind would considerably alleviate many of the Committee's problems and it was therefore to be hoped that the Iraqi authorities would give their permission.

#### OTHER MATTERS

The CHAIRMAN said that, if she heard no objection, she would take it that the Committee decided to take note of the letter dated 13 November 1990 from Cuba (S/AC.25/1990/COMM.83) concerning assistance given to a tanker in distress, flying the Iraqi flag.

It was so decided.

The CHAIRMAN said that letters had been addressed to the Permanent Representatives of Cyprus, Honduras, Lebanon and Turkey (S/AC.25/1990/NOTE/52) to obtain a fuller picture of the situation regarding the allegations contained in document S/AC.25/1990/COMM.40 and to ascertain whether the vessel was still being detained.

Letters had also been sent to the Permanent Representatives of Malta, Kuwait and Morocco to seek further clarification regarding the vessel flying the Maltese flag, M.V. Sea Music II, which was stranded in Kuwait.

If she heard no objection, she would take it that the Committee decided to take note of letters from Spain, the United Kingdom and France (S/AC.25/1990/COMM.115, 117 and 118) concerning naval activities in the Gulf area, submitted under resolution 665 (1990).

It was so decided.

## V. Provisional Summary Record of the 21st Meeting (closed), 12 December 1990

Source: S/AC.25/SR.21, 20 December 1990

Chairman: Ms. RASI (Finland)

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#### ADOPTION OF THE AGENDA

The agenda was adopted.

#### CONSULTATIONS UNDER ARTICLE 50 OF THE CHARTER OF THE UNITED NATIONS

The CHAIRMAN drew attention to documents S/21984 and S/21990, containing communications from Sri Lanka and Romania, respectively, which provided further information on their requests under Article 50 of the Charter. Members of the Committee also had before them document S/AC.25/1990/CRP.6/Rev.1, containing draft decisions adopted by the Working Group with regard to Bulgaria, Tunisia, Romania and India, and document S/AC.25/1990/CRP.6/Rev.1/Add.1 containing draft decisions adopted by the Working Group with regard to Yugoslavia, Lebanon and the Philippines.

Mr. KIRSCH (Canada), Chairman of the Working Group on Article 50, said that by adopting nine draft decisions, namely, those listed in documents S/AC.25/1990/CRP.6/Rev.1 and Rev.1/Add.1 and those on the requests from Sri Lanka and Romania which would be incorporated in a further addendum to the Working Group's report and placed before the Committee at its next meeting, the Working Group was half-way towards completing its task, with nine cases remaining to be considered. The Working Group intended to complete its work before Christmas and had accordingly decided to increase the frequency of its meetings; four meetings were to be held during the current week.

He wished to take the opportunity to call for the Committee's continued co-operation, especially in view of the fact that, with changes due to take place in the membership of the Security Council at the end of the year, postponement of the consideration of appeals to a later date might entail unfortunate delays. He hoped that the Committee, mindful of the need to respond quickly to the situation

of countries which had encountered special economic problems as a result of their observance of sanctions against Iraq and occupied Kuwait, would fully endorse the Working Group's draft decisions.

So far as the nine applications still outstanding were concerned, oral presentations had been made at the Working Group's 8th meeting by the representatives of Czechoslovakia, Poland and Mauritania; draft decisions on those applications were now being prepared for adoption at the 9th meeting, to be held on 13 December. The request by Pakistan and, possibly, some others would also be considered at that meeting, and draft decisions on them would be prepared for adoption at the 10th meeting. Further addenda to the Working Group's report to the Committee would then be issued.

In conclusion, he thanked all members of the Working Group for their co-operation in the efforts made to respond seriously and expeditiously to the urgent problems confronting the countries which had consulted the Security Council under Article 50 of the Charter.

The CHAIRMAN expressed appreciation for the work done by the Working Group. The Group's intention to complete its task by Christmas was most encouraging. She wished it every success in its endeavours and expressed the hope that the spirit of co-operation which distinguished its work would also prevail in the Committee.

Mr. FLOREAN (Romania) said that the Working Group and its Chairman were to be commended for their excellent work. On a technical point, he suggested that, should the requesting country so desire, additional explanatory material and the text of the memorandum submitted by that country should be annexed to each of the Committee's recommendations.

It was so decided.

The CHAIRMAN said that, if she heard no objection, she would take it that the Committee decided to adopt the recommendations in document S/AC.25/1990/CRP.6/Rev.1 concerning Bulgaria, Tunisia, Romania and India and in document S/AC.25/1990/CRP.6/Rev.1/Add.1 concerning Yugoslavia, Lebanon and the Philippines.

It was so decided.

The CHAIRMAN said that, in accordance with resolution 669 (1990), she would convey the Committee's recommendations to the President of the Security Council for appropriate action.

#### IMPLEMENTATION OF SECURITY COUNCIL RESOLUTION 670 (1990)

The CHAIRMAN drew attention to documents S/AC.25/1990/61 and 63, containing communications from Bulgaria and Canada, respectively, on the implementation of resolution 670 (1990) and documents S/AC.25/1990/COMM.133, 135 and 152, containing reports from Poland, Viet Nam and the USSR, respectively, on

flights in connection with which the Committee had requested reports. It should again be noted that one of the States to which reminders to submit reports had been addressed some time earlier had still not replied. She proposed that reminders be sent to all States from which reports were outstanding.

It was so decided.

The CHAIRMAN drew attention to document S/AC.25/1990/COMM.151, containing the text of a letter dated 10 December 1990 from the Permanent Representative of Viet Nam to the United Nations addressed to the Chairman of the Committee. She recalled that the Vietnamese evacuation flights were being conducted in accordance with the approval granted by the Committee on 30 November 1990, as contained in document S/AC.25/1990/NOTE/43 and that a report by Viet Nam dated 30 November 1990 concerning the operation was contained in document S/AC.25/1990/COMM.135. Accordingly, she proposed that the Committee inform Pakistan of the Committee's approval of the Vietnamese evacuation operation.

It was so decided.

The CHAIRMAN drew attention to document S/AC.25/1990/NOTE/76, containing a note by the Chairman dated 11 December 1990, proposing that the Committee delegate the discharge of specific responsibilities under paragraphs 4 (b) and 6 of Security Council resolution 670 (1990) to the Chairman of the Committee, up to and including 31 December 1990. The proposal was motivated by the fact that numbers of evacuation flights were currently being made from Iraq, often at very short notice, making it almost impossible for the Chairman to circulate requests in due time.

Mr. AL-ALFI (Yemen) said that his delegation supported the Chairman's proposal, in keeping with its position of principle that humanitarian issues should always receive equal priority.

Mr. DELON (France) said that his delegation would support the proposal as a mark of its full confidence in the Chairman.

The CHAIRMAN said she took it that the Committee agreed to the proposal contained in document S/AC.25/1990/NOTE/76.

It was so decided.

FOODSTUFFS AND DELIVERY OF FOODSTUFFS: SECURITY COUNCIL RESOLUTIONS 661 (1990), PARAGRAPH 3 (c), AND 666 (1990)

The CHAIRMAN drew attention to documents S/AC.25/1990/COMM.22 and S/AC.25/1990/NOTE/27 and recalled that, at the Committee's 20th meeting, it had been decided to defer to the 21st meeting further consideration of the distribution of the surplus food carried to Iraq and Kuwait by an Indian vessel for the purpose, originally, of meeting the needs of Indian nationals in those countries. In particular, it had been agreed that the Chairman should obtain the relevant information concerning foodstuffs left in storage, so that the Committee would be in a position to consider further the question of distributing food to Palestinians in Kuwait. She wished to report that she had that morning received

from the Deputy Permanent Representative of India informing her that the Indian vessel had recently offloaded 4,702 tonnes of food to be left in storage. The ship was due to leave the area on 12 December.

Mr. WILKINSON (United States of America) said that, as he understood it, at its 20th meeting the Committee had provisionally agreed that food from the Indian ship should be distributed to foreign nationals in difficult circumstances who were awaiting evacuation from Iraq and Kuwait. However, the Permanent Observer of Palestine, in his letter of 24 September 1990 annexed to document S/AC.25/1990/COMM.22, referred to Palestinians residing in Kuwait. When the question of foodstuffs and delivery of foodstuffs had been discussed at the Committee's 16th meeting, his delegation had raised the issue of the difference between foreigners urgently awaiting evacuation and those who had decided to stay in Iraq and Kuwait. As the Chairman had stated in summing up the discussion at that meeting, the Indian offer was extremely generous and practical action was needed in order to determine the best way to take advantage of it and help those Member States whose nationals needed food. His Government therefore proposed that the food from the Indian ship should be made available on a one-time basis to non-Iraqis, giving priority to foreign detainees or persons still awaiting evacuation and to categories of persons who might suffer specially, as defined in the relevant Security Council resolutions. Kuwaitis should have at least the same access to the food as Palestinians, and distribution of the food should be under the continuous supervision of the Indian Red Cross. He hoped that the proposal would resolve the contention that had characterized the discussion at the previous meeting and stressed that it was being made on a strictly one-time basis and did not imply that additional shipments would be made.

The CHAIRMAN thanked the United States representative for his highly co-operative proposal.

Mr. AL-ALFI (Yemen) asked whether the United States proposal applied to the appeal to provide and facilitate the flow and distribution of humanitarian food and medical supplies to Palestinians in Kuwait and Iraq, as contained in document S/AC.25/1990/COMM.22.

Mr. MORENO FERNANDEZ (Cuba) thanked the United States representative for what was clearly a well-intentioned proposal. The precise scope of the proposal would be made clearer and the question just raised by the representative of Yemen would be answered if the practical mechanisms for making the food available to the persons mentioned in the proposal were defined.

The CHAIRMAN said that, in her view, the Committee was not in a position to establish practical mechanisms for the distribution of foodstuffs in Iraq and Kuwait, because it lacked information on specifically which groups were in need. The Indian Red Cross and representatives of the Indian Embassy on the spot must be trusted to handle the operation.

Mr. MORENO FERNANDEZ (Cuba) agreed that the Committee did not have the means to identify the neediest groups of foreigners in Iraq and Kuwait. It could, however, identify the Palestinians referred to in the letter annexed to document S/AC.25/1990/COMM.22. In his opinion, the Committee should approve the request by the Permanent Observer of Palestine and, in line with the United States proposal, extend its scope to cover all needy groups in the area.

Mr. RICHARDSON (United Kingdom) said that, from a practical point of view, it would seem advisable to leave it to the Indian Red Cross to distribute the limited amount of food left in storage to the neediest sectors of the non-Iraqi population, whether Kuwaitis, Palestinians or any other nationality.

Mr. AL-ALFI (Yemen) endorsed the suggestion made by the representative of the United Kingdom.

The CHAIRMAN said that, as she understood it, the Committee agreed that the almost 5,000 tonnes of food remaining in storage should be made available to all needy non-Iraqi groups in the area, and that the Indian Red Cross should be left to decide how the food should be allocated. If that was the Committee's decision, she would inform the Indian authorities accordingly, upon the approval of a draft letter under the no-objection procedure.

It was so decided.

The CHAIRMAN drew attention to document S/AC.25/1990/COMM.60, containing a letter from Jordan concerning the request made on behalf of the General Union of Voluntary Societies. A reply concerning medicine had been addressed to the Permanent Representative of Jordan and would be circulated to members of the Committee. With regard to the communication addressed to the Secretary-General by the Chairman and contained in document S/AC.25/1990/NOTE/59, she had been informed by the Secretariat that it was still considering how best to proceed in the matter.

Mr. RICHARDSON (United Kingdom) said he hoped that the Secretariat would not take an undue time in considering the Chairman's proposal as contained in document S/AC.25/1990/NOTE/59. Since the number of foreign nationals unable to leave Iraq and Kuwait had diminished considerably, the Chairman's letter was now focused in practice on the possible needs of Iraqi and Kuwaiti children; he therefore hoped that the Iraqi Government would view the proposal as a humanitarian gesture. It only required the dispatch of a group of international observers or experts to visit Iraq and Kuwait and report back on actual needs. He urged the Secretary-General to initiate contacts in whatever way he deemed best.

Mr. AL-ALFI (Yemen) pointed out that to act as if all foreign nationals had left, just because the citizens of certain countries had done so, was to ignore the reality of the situation: half a million Palestinians and a further number of citizens of Yemen, India, Sri Lanka and the Philippines were still unable to leave

Iraq and Kuwait. He hoped that the United Kingdom would not insist on the deletion of the reference to third country nationals.

Mr. RICHARDSON (United Kingdom) said that he had in no way wished to suggest that there were no foreign nationals still unable to leave Iraq and Kuwait, but rather that the proposal's balance of concern had now shifted to the needs of Iraqi and Kuwaiti children and that the Iraqi Government should therefore give it very serious consideration.

Mr. GOSHU (Ethiopia) said that, in general, he agreed that more information should be obtained. However, if the food for children referred to in the request was baby food which was not consumable by other members of the population, perhaps the Jordanian authorities should be allowed to proceed with shipping the food to Iraq.

The CHAIRMAN asked whether the representative of Ethiopia was suggesting that a decision should be taken without waiting for the dispatch of a mission to determine the situation.

Mr. MORENO FERNANDEZ (Cuba) said that the balance of concern had indeed shifted towards concern for the needs of Iraqi and Kuwaiti children; the international community should give serious thought to the needs of those children, who were the most vulnerable group in Iraq and Kuwait. If the food in question was consumable only by children, the Committee should try to take a decision. Otherwise, attempts should be made to obtain an answer from the Secretary-General as soon as possible.

Mr. AL-ALFI (Yemen) said that, given the readiness of the General Union of Voluntary Societies to co-operate with internationally recognized organizations and in view of the humanitarian character of the request, he wished to suggest that if a report had not been received from the Secretary-General by the Committee's next meeting, serious consideration should be given to approving Jordan's request. He hoped that attention would not be focused solely on Iraqi and Kuwaiti children, as there were also children among the foreign nationals remaining in Iraq and Kuwait.

Mrs. KABA (Côte d'Ivoire) said that the Committee could not wait indefinitely for a report and suggested setting a deadline. For instance, if within 15 days the Committee did not have a basis for evaluating the food needs of all children in Iraq and Kuwait, some other form of action could be taken, for example in association with UNICEF, to assist those children.

Mr. WILKINSON (United States of America) said that an objective assessment must be made of the circumstances in which there could be an urgent humanitarian need to supply foodstuffs, and of whether those circumstances had arisen. The Chairman's letter was very much in the spirit of Security Council resolution 666 (1990), which requested reports from the Secretary-General and



required action to be taken on the basis of those reports. The Committee should not circumvent the provisions of the resolution by taking a decision on the basis of anecdotal information that was available on both sides of the question.

Mr. DELON (France) said that his delegation considered the matter to be a very serious and important one. Resolution 666 (1990) acknowledged that particular attention should be paid to the food needs of vulnerable groups in Iraq and Kuwait, children in particular. He agreed that the Committee should consider setting a deadline for the receipt of reports of and asked the Chairman to draw the Secretary-General's attention to the need for the matter to be dealt with quickly. If it was found that no information could be provided, the Committee would have to take a decision by itself.

Mr. MORENO FERNANDEZ (Cuba) said that a deadline of 15 days was reasonable and that if a satisfactory reply was not received within that time, the Committee should decide for itself what was to be done. Humanitarian considerations must take precedence over legal, or even legalistic, considerations where a given decision was concerned. He pointed out that that was not the only request the Committee had received regarding food specifically intended for children: three months previously, Bulgaria had submitted a request concerning a cargo which was still awaiting shipment from the port of Varna. If no reply was received within 15 days, the Committee should take a decision on all similar cases having implications for children of all nationalities in Iraq and Kuwait.

Mr. AL-ALFI (Yemen) said that humanitarian considerations should transcend all others. The plight of children was a humanitarian problem, not one of keeping to the letter of resolution 666 (1990), and he fully agreed with the proposals by Côte d'Ivoire and France.

Mr. KAMAL (Malaysia) echoed the concern expressed by France and Côte d'Ivoire, but called for a shorter deadline, of 10 days, for the receipt of an answer to the Chairman's letter. He suggested that the Secretariat team monitoring compliance with Security Council resolution 661 (1990), which was currently on the Jordan-Iraq border, might be able to obtain the necessary information, hopefully within a week.

Mr. RICHARDSON (United Kingdom) said that renewed efforts should be made to determine what the situation was. He hoped that contacts might be made between the Secretary-General and the Iraqi authorities, to establish whether a mission could be sent. However, it was difficult to proceed when no answer had been received to the Chairman's letter.

Mr. FLEISCHHAUER (Legal Counsel) confirmed that the Committee's letter was with the Secretary-General and that the Secretary-General and the Secretariat were attempting to assemble the necessary information in order to give the Committee a meaningful reply. The Secretary-General was very conscious of the

urgency of the matter and of its humanitarian character. However, Iraq's attitude to interventions or even enquiries by international organizations was well known to the Committee; the task which the Secretary-General faced in responding to the Chairman's letter was not exactly an easy one. He asked the Committee not to deduce from the absence of a reply that the Secretary-General had remained inactive. That was not the case, and the Secretary-General, and indeed all those in the Secretariat who were dealing with the matter hoped that they would be able to provide a meaningful answer.

The CHAIRMAN said she took it that the Committee decided that contacts should continue with the Office of the Secretary-General and that the Committee would return to the matter at its next meeting.

It was so decided.

The CHAIRMAN drew attention to document S/AC.25/1990/COMM.147, containing the text of a letter from the Permanent Representative of Tunisia regarding a "ship of peace" which had taken on board in Tunisia medicines being sent to Iraq by humanitarian organizations. The report in the annex to the communication stated, inter alia, that the peace ship Ibn Khaldun was carrying 2,510 sacks of sugar loaded at Tripoli, Libya, on 3 December 1990. That ship appeared to be the same ship as that referred to by Malta in document S/AC.25/1990/COMM.138, where it was stated that the Ibn Khaldun was registered in Basra, Iraq, and was an Iraqi flag vessel. She reminded members of the committee of the provisions of resolution 661 (1990), paragraph 3 (c), and resolution 666 (1990) and recalled that States were responsible for ensuring that no cargoes in contravention of those resolutions reached Iraq and Kuwait. She suggested that the Committee should address a communication to Tunisia enquiring about the route to be taken by the vessel which, according to the letter of 10 December, had already left Tunisia. In that connection, a communication could be addressed to the States in question reminding them of their obligations under the resolutions. She had spoken to the Libyan Ambassador, who had had no information on the ship but had promised to contact his authorities and to report back to her as soon as possible. The Committee was not in a position to deal with the matter; she would try to obtain more information so that the Committee could return to it at its next meeting, if that was acceptable to delegations.

Mr. WILKINSON (United States of America) endorsed the approach taken by the Chairman and called attention to the wording of paragraph 8 of resolution 670 (1990), which called upon all States to detain any ships of Iraqi registry entering their ports which were being used in violation of resolution 661 (1990).

The CHAIRMAN drew attention to document S/AC.25/1990/COMM.152, containing the text of a letter from the Permanent Representative of the USSR reporting, inter alia, on the delivery of food to Soviet nationals in Iraq as authorized by

the Committee at its 20th meeting. If she heard no objection, she would take it that the Committee decided to take note of the report.

It was so decided.

Mr. ILITCHEV (Union of Soviet Socialist Republics) expressed his gratitude for the Committee's appreciation of the humanitarian circumstances in which assistance had been given to Soviet nationals in Iraq.

COMMUNICATIONS PURSUANT TO RESOLUTION 665 (1990)

The CHAIRMAN drew the Committee's attention to documents S/AC.25/1990/COMM.120, 128 and 136, containing letters submitted in pursuance of paragraph 4 of Security Council resolution 665 (1990) by Greece, Canada and the Netherlands, respectively, concerning activities carried out by their naval forces in the Gulf area. If she heard no objection, she would take it that the Committee decided to take note of those communications.

It was so decided.

## W. Provisional Summary Record of the 22nd Meeting (closed), 20 December 1990

*Source: S/AC.25/SR.22, 7 January 1991*

Chairman: Ms. RASI (Finland)

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### ADOPTION OF THE AGENDA

The agenda was adopted.

CONSULTATIONS UNDER ARTICLE 50 OF THE CHARTER OF THE UNITED NATIONS (S/22011, S/22013-22015, S/22019, S/22026; S/AC.25/1990/CRP.6/Rev.1/Add.2-5)

The CHAIRMAN drew the Committee's attention to communications from the Philippines, India, Yugoslavia, Tunisia, Czechoslovakia and Uruguay (S/22011, S/22013-22015, S/22019 and S/22026 respectively), providing additional information on the matters on which they were consulting the Security Council, as they were

entitled to do under Article 50 of the Charter. The recommendations adopted at the 21st meeting had been submitted to the Security Council, which was to transmit them to the Secretary-General for action. In addition, the Committee had before it draft decisions concerning Sri Lanka, Yemen, Czechoslovakia, Poland, Mauritania, Pakistan, Sudan, Uruguay, Viet Nam, Bangladesh and the Seychelles (S/AC.25/1990/CRP.6/Rev.1/Add.2-5), drafted by the Working Group.

Mr. KIRSCH (Canada), Vice-Chairman and Chairman of the Working Group, observed that with the adoption of the 11 draft decisions, the Working Group had completed its review of the situation of the 18 countries which had invoked Article 50 of the Charter. It was to be hoped that States and financial institutions would now respond without delay to the needs of those countries.

The CHAIRMAN suggested that the Committee should adopt the recommendations contained in document S/AC.25/1990/CRP.6/Rev.1/Add.2-5, which would then be immediately transmitted to the President of the Security Council.

It was so decided.

IMPLEMENTATION OF SECURITY COUNCIL RESOLUTION 661 (1990) (S/21930, S/21984, S/21990, S/22004; S/AC.25/1990/62-69, 71-73, 75, S/AC.25/1990/COMM.167 and 65, S/AC.25/1990/NOTE/40)

The CHAIRMAN read out the names of the countries which had submitted replies regarding the implementation of Security Council resolution 661 (1990) (S/21930, S/21984, S/21990, S/22004; S/AC.25/1990/62-69, 71-73 and 75). She suggested that the Committee should take note of those replies.

It was so decided.

The CHAIRMAN drew the Committee's attention to the report (S/AC.25/1990/COMM.167) of Mr. James Ngobi, the United Nations official sent by the Committee to Jordan at the invitation of that country's Government. Since the document had been distributed only that morning, she suggested that the Committee should defer its consideration to the following meeting.

It was so decided.

IMPLEMENTATION OF SECURITY COUNCIL RESOLUTION 670 (1990) (S/AC.25/1990/70 and 74, S/AC.25/1990/COMM.148 and 166)

The CHAIRMAN drew the Committee's attention to the communications from Myanmar (S/AC.25/1990/70) and Austria (S/AC.25/1990/74) concerning the implementation of Security Council resolution 670 (1990), and to the reports which had been requested of the United Kingdom (S/AC.25/1990/COMM.148) and Czechoslovakia (S/AC.25/1990/COMM.166) on the question of flights. She suggested that the Committee should take note of those communications.

It was so decided.

FOODSTUFFS AND DELIVERY OF FOODSTUFFS: SECURITY COUNCIL RESOLUTIONS 661 (1990), paragraph 3 (c) and 666 (1990) (S/AC.25/1990/COMM.60, 138, 147, 156 and 169, S/AC.25/1990/NOTE/59)

The CHAIRMAN drew the Committee's attention to the request made by Jordan on behalf of the General Union of Voluntary Societies in that country (S/AC.25/1990/COMM.60), concerning the delivery of food and medicine to Iraqi children. Since the Secretary-General was still in the process of acting on the letter she had addressed to him on 29 November 1990 (S/AC.25/1990/NOTE/59), she suggested that consideration of the matter should be deferred to the following meeting.

It was so decided.

The CHAIRMAN drew attention to a communication from Tunisia (S/AC.25/1990/COMM.147), which indicated that a shipment of sugar and medicine was en route to Iraq. The ship involved was apparently the vessel flying the Iraqi flag about which Malta had already consulted the Security Council (S/AC.25/1990/COMM.138).

Mr. WILKINSON (United States of America) said that the Committee should reiterate its position: if the boat in question was transporting food to Iraq, it was clearly in violation of Security Council resolutions 661, 666 and 670 (1990). The requisite measures to ensure respect for the embargo would then have to be taken.

Mr. MORENO FERNANDEZ (Cuba) said that he believed there was not enough information to be able to rule on an alleged violation of Security Council resolutions. The first step would be to obtain all the facts. It was therefore imperative to defer taking a decision.

Mr. AL-ALFI (Yemen) said that he too thought the facts were far from sufficiently established. The implementation of the Security Council resolutions should, of course, be monitored. But, to begin with, the States referred to in that case had clearly underscored their intention to respect the injunctions in force and, furthermore, it would be a mistake to act like the policeman of the world and seek to control all geographical areas, on the basis of dubious assumptions. One should wait, therefore, until the cargo had arrived at the gateway to Iraq or Kuwait before taking radical steps.

Mr. RICHARDSON (United Kingdom) said that the operation in question seemed to fall under Security Council resolutions 661 and 666 (1990) and that the procedure to be followed was very clearly established in resolutions 665 and 670.

The CHAIRMAN suggested that a decision should be deferred until more information had been received.

It was so decided.

The CHAIRMAN recalled that Pakistan had requested authorization to fly to Iraq foodstuffs and other urgently needed products, intended for its nationals who were still in that country (S/AC.25/1990/COMM.156 and 169).

Mr. RICHARDSON (United Kingdom) said that he found the indications furnished by Pakistan in support of its request rather sketchy and suggested asking for further information, particularly as to the number and status of those for whom the assistance was intended.

Mr. MORENO FERNANDEZ (Cuba), observed that although he had no objection to asking for further information, Pakistan's request was no different from other requests that had been granted, and that Pakistan had explicitly committed itself to distributing the foodstuffs only to its own nationals. The request should therefore be given favourable consideration.

Mr. AL-ALFI (Yemen) noted with indignation that the Committee was selectively concerned about the fate of foreign nationals in Iraq and Kuwait, as shown by its recent unquestioning approval of requests that were entirely similar to that of Pakistan. The foreigners who were still in Kuwait were nationals of poor countries who had stayed on in the hope of finding greater opportunities there than at home. It was unacceptable to punish them for that by treating them less favourably than nationals of wealthier countries.

Mr. KAMAL (Malaysia) said that Pakistan should be allowed to send foodstuffs to its nationals in Iraq. The shipment in question was much smaller than those which had already been sent by other countries. The Committee should not give the impression of discriminating among different nationalities. The requested authorization should be granted at the current meeting.

Mr. YU Mengjia (China) emphasized that Pakistan would guarantee distribution to its nationals only, that the size of the shipment was small and that other countries had already obtained such authorization.

Mr. WILKINSON (United States of America) said that he fully appreciated the arguments in favour of a positive decision, which he supported in principle if, as there was absolutely no reason to doubt, the operation planned by Pakistan was in accordance with Security Council resolutions. However, since the need for consistency in the Committee's decisions had been noted, it should at least be ascertained whether the operation would be in accordance with Security Council resolution 666 (1990), which stipulated that appropriate humanitarian agencies should be involved in the distribution. In addition, the Committee could ask Pakistan whether its nationals were being held in Iraq or Kuwait against their will, as it had already done in the case of India.

Miss BOTERO (Colombia) said that she did not think it necessary to ask Pakistan for more details and that authorization could be given immediately.

Mr. AL-ALFI (Yemen) said that there must not be a double standard: the Committee should proceed with regard to Pakistan in the same manner as it had with regard to the Soviet Union.

Mr. GOSHU (Ethiopia) said that he was prepared to grant the request under consideration immediately, but that the right of delegations to request any clarifications they deemed necessary must be respected.

Mr. ROCHEREAU DE LA SABLIERE (France), noting that Pakistan's request had been favourably received by all the members of the Committee, that it was not fundamentally different from other requests which had already been granted and that it involved a small-scale shipment, said that the application of the no-objection procedure could be considered, since the main concern was to quickly obtain the additional information that was desirable for the sake of order, without having to wait for a forthcoming meeting.

Mr. AL-ALFI (Yemen) said that if Pakistan gave assurances that its operation would be carried out in accordance with the injunctions given by the Security Council, the Committee could grant the requested authorization.

Mrs. KABA (Côte d'Ivoire) said she agreed that the Committee should proceed quickly and take a positive decision then and there, subject to its receipt of additional information.

Mr. RICHARDSON (United Kingdom) said that he took a very open-minded position on the issue. He felt that the no-objection procedure would be appropriate. Certainly, the most expeditious procedure should be followed in taking a decision that concerned people in need who could not be evacuated.

Mr. YU Mengjia (China) said that it would be sufficient to find out whether humanitarian agencies would be involved in the operation. Subject to that information, the Committee could give its approval immediately.

Mr. WILKINSON (United States of America) said that in the final analysis, the Committee needed to know on the one hand whether humanitarian agencies would participate in the operation, and on the other hand whether the nationals of Pakistan to whom the foodstuffs were directed were in Iraq against their will. The Committee had always been concerned about those two questions, in particular the second; under the circumstances, it would therefore be appropriate for the Pakistan authorities to give some assurances on that point. On that condition, there was no reason not to apply the no-objection procedure.

The CHAIRMAN suggested that she should immediately contact the representative of Pakistan, the same day if possible, to ask him to provide the required information, which would be disseminated as quickly as possible.

It was so decided.

Mr. AL-ALFI (Yemen) said he was shocked that the Committee was treating the fate of human beings so lightly. In cases involving shipments of foodstuffs, all countries should be treated in the same way. Members should reread the request of the Soviet Union, which had been granted without difficulty. The same should be done for all other countries.

## COMMUNICATIONS PURSUANT TO RESOLUTION 665 (1990) (S/AC.25/1990/COMM.159)

The CHAIRMAN drew attention to a letter from the Permanent Representative of Italy (S/AC.25/1990/COMM.159) reporting, in accordance with Security Council resolution 665 (1990), paragraph 4, on the activities conducted by the Italian naval forces in the Gulf area.

## OTHER MATTERS (S/AC.25/1990/COMM.40, 129, 163, 165; S/AC.25/1990/NOTE/52)

The CHAIRMAN drew attention to a letter (S/AC.25/1990/COMM.163) addressed to the Committee by a law firm, concerning the seizure by Cyprus of the cargo of a Honduran oil vessel, with regard to which the Permanent Representative of Cyprus had already consulted the Committee (S/AC.25/1990/COMM.40). On 26 November, she had sent letters to Cyprus, Honduras, Lebanon and Turkey (S/AC.25/1990/NOTE/52) requesting additional information on the matter. The only reply to date was that of Lebanon (S/AC.25/1990/COMM.129). She suggested that the Committee should wait until it had received replies from the other three countries before pursuing its examination of the question, should take note of the communication from the law firm and should inform the latter that it would communicate its decision at a later date.

It was so decided.

The CHAIRMAN drew the Committee's attention to a letter from Iraq (S/AC.25/1990/COMM.165) in which that country declared itself "willing to donate a quantity of oil, the countervalue of which may be credited as a contribution towards meeting the huge deficit in the budget of the United Nations Relief and Works Agency for Palestine Refugees in the Near East".

However, under the provisions of Security Council resolution 661 (1990), all States must prevent the import into their territories of all commodities and products exported from Iraq or Kuwait after 6 August 1990, while United Nations agencies were required, under resolution 670 (1990), to take the necessary measures to that end. It followed that even a donation would constitute a violation of resolution 661 (1990), paragraph 3 (a). She therefore suggested that the Committee should take note of Iraq's offer and should inform the Secretary-General that the United Nations was not in a position to accept it.

It was so decided.

## X. Provisional Summary Record of the 23rd Meeting (closed), 3 January 1991

*Source: S/AC.25/SR.23, 11 January 1991*

Temporary Chairman: Mr. BAGBENI ADEITO NZENGEYA (President of the Security Council)

Chairman:

Mr. HOHENFELLNER

(Austria)



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Adoption of the agenda

Election of the Chairman

Election of two Vice-Chairmen

## ADOPTION OF THE AGENDA

The agenda was adopted.

## ELECTION OF THE CHAIRMAN

Mr. Hohenfellner (Austria) was elected Chairman by acclamation.

The Chairman took the Chair.

## ELECTION OF TWO VICE-CHAIRMEN

Ecuador and Romania were elected Vice-Chairmen by acclamation.

## Y. Provisional Summary Record of the 24th Meeting (closed), 14 January 1991

*Source: S/AC.25/SR.24, 28 January 1991*

Chairman:

Mr. HOHENFELLNER

(Austria)

## CONTENTS

Adoption of the agenda

Review of the implementation of Security Council resolution 661 (1990)

Implementation of Security Council resolution 670 (1990)

Foodstuffs and delivery of foodstuffs: Security Council resolutions 661 (1990), paragraph 3 (c), and 666 (1990)

Other matters

## ADOPTION OF THE AGENDA

The agenda was adopted.

## REVIEW OF THE IMPLEMENTATION OF SECURITY COUNCIL RESOLUTION 661 (1990)

The CHAIRMAN drew the Committee's attention to the replies to the Secretary-General's note verbale of 8 August 1990, and his reminder of 27 August 1990, received from the Philippines, India, Yugoslavia and Tunisia, and issued as documents S/22011, S/22013, S/22014 and S/22015, respectively. If he heard no objection, he would take it that the Committee wished to take note of those replies.

It was so decided.

The CHAIRMAN informed the Committee that replies to the questionnaire had been received from The Bahamas (S/AC.25/1990/77), and from Mongolia, Qatar and Zimbabwe (S/AC.25/1991/1, 2 and 3). If he heard no objection, he would take it that the Committee wished to take note of those replies.

It was so decided.

The CHAIRMAN said that the members of the Committee had before them document S/AC.25/1990/COMM.167, containing a letter dated 18 December 1990 from the Secretary-General transmitting the report prepared by Mr. Ngobi, of the Department of Political and Security Council Affairs, following his mission to Jordan at the request of the Secretary-General, pursuant to the invitation extended by the Government of Jordan to the Committee.

Sir David HANNAY (United Kingdom) said that Mr. Ngobi's report offered a fairly reassuring picture of the manner in which Jordan had been applying sanctions at its border with Iraq at the time of the mission, namely December 1990. He wished, however, to ask Mr. Ngobi, perhaps through the Chairman of the Committee, if there was any question of the United Nations organizing ongoing monitoring of the situation along the border between the two countries. Such monitoring could give a certain number of donors the sure knowledge that sanctions were being fully respected and that they could then assist Jordan to overcome the very serious economic difficulties which it was faced with as a result of the sanctions adopted against Iraq. The Chairman of the Committee could be asked to remain in contact with the Permanent Mission of Jordan to review the manner in which the United Nations could organize such ongoing monitoring.

Mr. WATSON (United States of America) said that it was his understanding that the Jordanians, too, wished to organize long-term monitoring of the situation on the border between Jordan and Iraq. The Committee might wish to pursue further contacts with the Permanent Mission of Jordan in order to determine whether it would be possible to provide support to that country in the longer term to enable it to cope with the problem to which the Committee's attention had been drawn.

Mr. NGOBI (Department of Political and Security Council Affairs) said that there were two areas in which it would be possible to initiate an ongoing process that could be activated at regular intervals with a view to preventing the exit of goods from Jordan bound for Iraq; reference was made thereto in paragraph 13 of the report, which listed the measures taken by the Jordanian authorities to plug any possible loopholes.

In implementation of one such measure, arrangements had been made for escort by customs officials for all goods released from the Jordanian free zones up to the border posts of exit. With respect to the expression "free zone", it should be understood that under Jordanian regulations, certain goods could be imported into

ad and forwarded immediately from such free zones. Such goods were deemed to be  
foreign goods so long as they remained within the zones. It was only later that  
the destination or place to which the goods would be re-exported became known. He  
had received an inventory of goods present in the zones at the time of his December  
mission. The Jordanian authorities should be asked what had happened to the goods  
which had been present at various times in the free zones, including, for example,  
whether the quantities of such goods had changed since December.

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t The second area in which a process of ongoing monitoring could be envisaged  
related to goods which had been confiscated or immobilized by the Jordanian  
authorities in the port of Aqaba. He had been informed that since the entry into  
force of sanctions, goods in the port awaiting export to Iraq had been confiscated  
or immobilized until further notice, and he had been provided with an inventory of  
the goods, with a note of their value. The Committee could thus ask the Jordanian  
Government if there had been any change in terms of the quantity or value of goods.

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ns The CHAIRMAN said that, if he heard no objection, he would take it that  
the Committee authorized him to contact the Permanent Representative of Jordan with  
regard to the matters raised by the representatives of the United Kingdom and of  
the United States of America and the two additional points referred to by Mr. Ngobi.

y It was so decided.

IMPLEMENTATION OF SECURITY COUNCIL RESOLUTION 670 (1990)

1 The CHAIRMAN proposed that the Committee should continue to delegate the  
discharge of the responsibilities specified in paragraphs 4 (b) and 6 of Security  
Council resolution 670 (1990) to the Chairman of the Committee. It would be  
recalled that the Committee had decided on that measure under the no-objection  
procedure, pursuant to the Chairman's proposal contained in document  
S/AC.25/1990/NOTE/76 of 10 December 1990. If he heard no objection, he would take  
it that the Committee agreed that the Chairman should no longer circulate:  
(a) requests by States for approval of particular flights to Iraq and Kuwait; and,  
in that connection, (b) notifications of flights under paragraph 6 of the  
resolution, unless in the view of the Chairman they might present problems.

e It was so decided.

he The CHAIRMAN said that, in accordance with established practice, he would  
continue to circulate to members of the Committee, for information, the letters  
addressed to him from States concerning flights to and from Iraq and Kuwait, as  
well as letters of reply on behalf of the Committee. All other procedures,  
including inspection, would remain the same.

Members of the Committee had before them documents S/AC.25/1990/76 and  
S/AC.25/1991/4 containing communications from Zambia and Portugal concerning the  
implementation of Security Council resolution 670 (1990). The Committee also had

before it documents S/AC.25/1990/COMM.168, 181 and 174, containing two reports from the International Organization for Migration (IOM) and one report from Denmark, respectively, and documents S/AC.25/1991/COMM.4, 10 and 7, containing two reports from the Soviet Union and a further report from IOM, respectively, concerning flights in connection with which the Committee had requested reports. If he heard no objection, he would take it that the Committee wished to take note of those communications.

It was so decided.

FOODSTUFFS AND DELIVERY OF FOODSTUFFS, SECURITY COUNCIL RESOLUTIONS 661 (1990), PARAGRAPH 3 (c), AND 666 (1990)

The CHAIRMAN drew the Committee's attention to document S/AC.25/1990/COMM.60, containing a letter dated 24 October 1990 from the Permanent Representative of Jordan to the Chairman concerning the request made by Jordan on behalf of the General Union of Voluntary Societies in Jordan. It would be recalled that a reply concerning medicine had already been sent to the Permanent Representative of Jordan (S/AC.25/1990/NOTE/80). With regard to the communication addressed by the Chairman to the Secretary-General on 29 November 1990 (S/AC.25/1990/NOTE/59), he understood that, given the importance of the matter, contacts had been established and were currently continuing between the Executive Office of the Secretary-General and the Iraqi authorities.

Mr. FLEISCHHAUER (Under-Secretary-General, The Legal Counsel) said that, in the letter addressed to the Secretary-General on 29 November 1990 by the then Chairman of the Committee (S/AC.25/1990/NOTE/59), she had asked the Secretary-General to urge the Iraqi authorities to grant access by representatives of the appropriate humanitarian agencies to investigate the availability of food in Iraq and Kuwait for: (a) Iraqi and Kuwaiti children under the age of 15 and, in particular, infants under 18 months; and (b) foreigners who were unable to leave Iraq and Kuwait. The mission, if authorized, would help members of the Committee to judge whether humanitarian circumstances had arisen which would justify food being sent to Iraq and Kuwait.

The Secretary-General had, on several occasions, spoken to the Permanent Mission of Iraq on the matter, but the Iraqi authorities had made it known that they were not willing to authorize such a mission for the time being. In view of those circumstances, the Legal Counsel was unable to supply the Committee with the information it had requested. The Secretary-General would, of course, continue to endeavour to obtain by all possible means information concerning the availability of food in Iraq and Kuwait, as he was also bound to do under paragraphs 3 and 4 of Security Council resolution 666 (1990), and would transmit such information to the Committee as soon as it was received.

The CHAIRMAN suggested that the Committee should authorize him to maintain ongoing contact with the Executive Office of the Secretary-General on the question.

It was so decided.

The CHAIRMAN drew the Committee's attention to documents S/AC.25/1990/COMM.8 and COMM.171, containing letters dated 4 September 1990 and 21 December 1990 from the Permanent Mission of Bulgaria addressed to the Chairman of the Committee, concerning a shipment of baby food purchased by Iraq and held up in the Bulgarian port of Varna. Bulgaria had requested the Committee to determine whether a pressing humanitarian need to supply foodstuffs to Iraq and Kuwait had arisen. He believed that the problem was related to the question raised by The Legal Counsel in his statement and suggested that he himself should take the matter up in his discussions with the Executive Office of the Secretary-General.

It was so decided.

The CHAIRMAN reminded the Committee that, at its 22nd meeting, it had decided to defer consideration of the question of the "peace ship", the Ibn Khaldun, which had been the subject of communications from Malta and Tunisia (S/AC.25/1990/COMM.138 and COMM.147), pending the availability of further information. In that connection, he drew attention to: document S/AC.25/1991/COMM.13, containing a letter dated 8 January 1991 from the Deputy Permanent Representative of the United States of America to the Security Council; document S/AC.25/1991/COMM.14, containing a letter dated 9 January 1991 from the Deputy Permanent Representative of the United Kingdom to the United Nations; and document S/AC.25/1991/COMM.16, containing a letter from the Deputy Permanent Representative of Australia to the United Nations. If he heard no objection, he would take it that the Committee wished to take note of those communications.

It was so decided.

#### OTHER MATTERS

The CHAIRMAN drew attention to a letter dated 27 December 1990 from the Acting Permanent Representative of India addressed to the Vice-Chairman of the Committee (S/AC.25/1990/COMM.178), requesting the Committee to inform him as to whether it was legally permissible for Indian construction companies operating in Iraq and Kuwait to accept Iraqi oil in lieu of dues owed them by Iraq, which raised questions regarding the applicability of paragraphs 3, 4 and 5 of resolution 661 (1990).

Mr. GHAREKHAN (India) expressed regret that his delegation had not had time to consider the various communications submitted to the Committee. He asked whether the Secretariat could establish a procedure whereby members could review documents before they were issued. With regard to document S/AC.25/1990/COMM.178,

the Iraqi debts pre-dated August 1990 and consequently should not be subject to the sanctions provided for in resolution 661 (1990). Certain companies in the same situation as the Indian companies in question had apparently been authorized, according to some reports, to accept Iraqi oil in lieu of dues owed them by Iraq. He requested the Committee to investigate the matter so that the facts could be established and The Legal Counsel could issue an opinion on the question.

The CHAIRMAN said that every effort would be made to ensure that documents would be issued on time and sought the views of Committee members on the investigation requested by the representative of India.

Sir David HANNAY (United Kingdom) said that, apart from one request which had been denied, no analogous cases had in fact been submitted to the Committee. The transactions referred to by the representative of India had doubtless taken place without the Committee's authorization, in violation of the sanctions set forth in resolution 661 (1990). He wished to know whether the representative of India had any information in that regard. In any case, The Legal Counsel should give his opinion concerning the Indian request.

Mr. GHAREKHAN (India) said that he was not thinking of cases in which there might have been a violation of sanctions. He had no information concerning possible violations; however, his delegation had reason to believe that the Committee had approved of a transaction analogous to that cited by India. If that was not so, the matter was closed. It would be useful, however, to obtain an opinion from The Legal Counsel before attempting to find out whether there had been a precedent.

The CHAIRMAN said that, if he heard no objection, he would take it that the Committee agreed to submit the Indian request to The Legal Counsel.

It was so decided.

The CHAIRMAN drew attention to a letter dated 31 December 1990 from the Chargé d'affaires a.i. of the Permanent Mission of Kuwait addressed to the Vice-Chairman of the Committee (S/AC.25/1990/COMM.183), stating that the Sri Lankan Ministry of Foreign Affairs had submitted to the Kuwait Airways Corporation office in Colombo two letters from the Iraqi Embassy in Sri Lanka concerning the dissolution of that corporation and the transfer of all its assets to Iraqi Airways. In those letters, the Committee had been requested to seek information from the Sri Lankan Government regarding the steps it had taken to implement the provisions of the relevant resolutions of the Security Council and the International Civil Aviation Organization (ICAO).

Mr. WATSON (United States of America) said it would be useful for the Committee to inform the representative of the Sri Lankan Government of the provisions of paragraph 9 (a) of resolution 661 (1990) and paragraph 9 of

he resolution 670 (1990), which stipulated that all States must protect the assets of the legitimate Government of Kuwait and its agencies.

The CHAIRMAN proposed that the Committee should transmit the contents of the letter in question to Sri Lanka and seek further information from the Sri Lankan authorities in that connection.

It was so decided.

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ch The CHAIRMAN drew attention to two letters dated 4 and 9 January 1991 respectively from the Permanent Representative of Tunisia to the United Nations addressed to the Chairman of the Committee (S/AC.25/1991/COMM.6 and COMM.12), indicating that the vessel Balkis, flying the Iraqi flag, had loaded a consignment of medicines intended as humanitarian assistance to the Iraqi people in the Tunisian port of La Goulette on 5 January 1991. He also drew attention to a letter from the Chargé d'affaires a.i. of the Permanent Mission of Algeria addressed to the Chairman (S/AC.25/1991/COMM.20), stating that pharmaceuticals had been loaded in Algiers onto the ship in question and that an Algerian customs inspection had shown that the ship was carrying food for its crew members only. He drew attention also to a letter dated 11 January 1991 from the Permanent Representative of Tunisia addressed to him (S/AC.25/1991/COMM.21), informing the Committee that medicines and infant formula had been loaded onto that ship.

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an Mr. WATSON (United States of America) said that document S/AC.25/1991/COMM.21 indicated, for the first time, that the vessel in question was also carrying 10 tons of infants' milk formula. Infants' milk, however, could not be considered medicine under the World Health Organization definition. The sanctions set forth in resolution 661 (1990) were thus applicable to that product. Shipping it to Iraq or Kuwait was a violation of the embargo. The vessel must therefore unload its cargo before continuing its voyage.

an  
e Sir David HANNAY (United Kingdom) said that he, too, found the two letters to be contradictory, as one seemed to indicate that the vessel was transporting pharmaceuticals only and the other listed at least one product to which the sanctions set forth in Security Council resolution 661 (1990) were applicable. In that connection, The Legal Counsel had stated that the Secretary-General did not agree with the Iraqi authorities that humanitarian circumstances had arisen. That observation applied to the case at hand, and it would be helpful if everyone had a clear understanding of the legal implications.

The CHAIRMAN said that the case at hand confirmed the need for the Committee to determine whether humanitarian circumstances had indeed arisen, in the light of communications it might receive from the Executive Office of the Secretary-General. He recalled that, under Security Council resolution 666 (1990), the Committee would have to take a decision on the question. If he heard no

objection, he would take it that the Committee wished to take note of the communications submitted to it.

It was so decided.

## Z. Provisional Summary Record of the 25th Meeting (closed), 23 January 1991

Source: S/AC.25/SR.25, 31 January 1991

Chairman: Mr. HOHENFELLNER (Austria)

### CONTENTS

Adoption of the agenda

Review of the implementation of Security Council resolution 661 (1990)

Implementation of Security Council resolution 670 (1990)

Foodstuffs and delivery of foodstuffs: Security Council resolutions 661 (1990), paragraph 3 (c), and 666 (1990)

Communications pursuant to Security Council resolution 665 (1990)

Other matters

#### ADOPTION OF THE AGENDA

The agenda was adopted.

REVIEW OF THE IMPLEMENTATION OF SECURITY COUNCIL RESOLUTION 661 (1990) (S/22075, S/22078 and S/22089; S/AC.25/1991/6, 8-11 and 13-15; S/AC.25/1991/COMM.31, S/AC.25/1990/COMM.65, 167 and 178; S/AC.25/1990/NOTE/40)

The CHAIRMAN said that since the Committee's previous meeting three additional replies to the Secretary-General's note verbale of 8 August 1990, and his reminders of 27 August and 20 December 1990, had been received, from Zambia, Rwanda and Panama, and were contained in documents S/22075, S/22078 and S/22089, respectively.

If he heard no objection, he would take it that the Committee decided to take note of those replies.

It was so decided.

The CHAIRMAN informed the Committee that eight additional replies to the questionnaire had been received, from the Syrian Arab Republic, Afghanistan, Denmark, Brunei Darussalam, Chile, Tunisia, Burkina Faso and the Philippines, and were contained in documents S/AC.25/1991/6, 8-11 and 13-15, respectively.

If he heard no objection he would take it that the Committee decided to take note of those replies.

It was so decided.



Mr. FLEISCHHAUER (Under-Secretary-General, The Legal Counsel) recalled that at its previous meeting the Committee had decided to request his advice on the matter dealt with in the letter dated 27 December 1990 from the Acting Permanent Representative of India to the United Nations addressed to the Vice-Chairman of the Committee (S/AC.25/1990/COMM.178). India was requesting the Committee's opinion as to whether it would be legally permissible for Indian companies to receive oil from Iraq in place of dues owed to them by that country. The letter indicated that companies which had been operating in Iraq and Kuwait before the outbreak of the crisis still had substantial assets and untransferable bank accounts in Iraq and had to receive outstanding dues in respect of projects completed before the imposition of sanctions against Iraq by the Security Council; and that the Government of Iraq would be prepared to supply oil in settlement of those dues and the companies involved would be prepared to accept it provided the Committee authorized the transaction.

In paragraph 3 (a) of Security Council resolution 661 (1990), the Council had decided that all States should prevent "the import into their territories of all commodities and products originating in Iraq or Kuwait exported therefrom after the date of the present resolution". That provision, which was binding upon all Member States, was very general and made no distinction between exports from Iraq or Kuwait which were part of a commercial transaction and exports for any other purpose, such as, for example, the set-off by Iraq of outstanding dues or other debts.

Paragraph 5 of resolution 661 (1990) called upon all States "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".

Taking into consideration the provisions to which he had just referred and assuming from the context of the letter that the oil in question was currently within the territory of Iraq, he was of the view that the importation of oil from Iraq as referred to in the letter would not be in conformity with Security Council resolution 661 (1990).

That view was confirmed by a recent case decided upon by the Committee and reported to the Secretary-General in a letter from the Chairman of the Committee dated 21 December 1990. When the Government of Iraq had offered to donate to the United Nations a quantity of oil, the countervalue of which would serve as a contribution to meet the budget deficit of the United Nations Relief and Works Agency for Palestine Refugees in the Middle East, the Committee had on that occasion expressed the view that the United Nations was not in a position to accept such an offer in the light of paragraph 3 (a) of Security Council resolution 661 (1990).

Lastly, the delivery of oil as referred to in the letter from India bore no resemblance to the case, discussed in 1990 by the Committee, of oil and oil products exported to Yemen and stored there prior to 2 August, and their delivery to third States.

Mr. MENON (India) asked the Legal Counsel whether the fact that the dues in question had existed before 2 August constituted a compensatory factor in India's appeal for authorization to import oil to offset the dues.

Mr. FLEISCHHAUER (Under-Secretary-General, The Legal Counsel) said that it made no difference if debts had been contracted before or after the invasion of Kuwait. Paragraph 3 (a) of resolution 661 (1990) was "fact-oriented". It did not go into the question of the purpose of the exports and did not make an exception for exports relating to an occurrence prior to 2 August. Paragraph 3 (a) was thus logically followed by paragraph 5. In the specific circumstances brought up by India, the situation was quite clear.

The CHAIRMAN said that he would take it, if he heard no objection, that the Committee decided to take note of the Legal Counsel's opinion.

It was so decided.

The CHAIRMAN recalled that the Committee had authorized him, pursuant to Mr. James Ngobi's report (S/AC.25/1990/COMM.167) on his visit to Jordan at the invitation of the Jordanian Government, to consult the representative of Jordan on whether there should be any follow-up. He suggested the Committee should take the matter up again once a reply had been received from Jordan. He also wished to suggest that Mr. Ngobi's report, which had not been transmitted to Jordan, should be transmitted officially to the Permanent Representative of Jordan.

It was so decided.

IMPLEMENTATION OF SECURITY COUNCIL RESOLUTION 670 (1990) (S/21572 and S/21923; S/AC.25/1991/5 and 7; S/AC.25/1991/COMM.15, 27, 32, 34, 36, 39 and 40)

The CHAIRMAN drew attention to documents S/AC.25/1991/5 and 7, containing communications from Australia and the Syrian Arab Republic, respectively, regarding the implementation of Security Council resolution 670 (1990), and document S/AC.25/1991/COMM.15, containing a report from the United Kingdom regarding flights in connection with which the Committee had requested reports.

If he heard no objection, he would take it that the Committee decided to take note of those communications.

It was so decided.

The CHAIRMAN drew attention to document S/AC.25/1991/COMM.27, containing the text of a letter dated 15 January 1991 from the Permanent Representative of Tunisia to the United Nations addressed to him, notifying the Committee of a request by the Iraqi authorities for authorization for 10 Iraqi civil aircraft to fly through Tunisian airspace and to land. He also drew attention to document

S/AC.25/1991/COMM.34, which contained the text of a letter dated 18 January 1991 from the Permanent Representative of Tunisia to the United Nations addressed to him containing information regarding five Iraqi civil aircraft stationed in Tunis, and to document S/AC.25/1991/COMM.39, which contained the text of a letter dated 21 January 1991 from the Permanent Representative of Tunisia addressed to him, transmitting a clarification by the Tunisian authorities regarding media reports concerning movements by Iraqi civilian aircraft that had overflown Tunisian territory or landed at Tunisian airports. The statement indicated, *inter alia*, that the aircraft in question, according to the registers of the International Civil Aviation Organization (ICAO) and the aircraft registration numbers reported by Kuwait Airways, belonged to Iraqi Airways. He further drew attention to a letter from the Permanent Representative of Tunisia dated 23 January 1991 and contained in document S/AC.25/1991/COMM.40, which would be translated as soon as possible. In the mean time, he read out the letter in French so that the members of the Committee could hear the interpretation.

He also drew attention to document S/AC.25/1991/COMM.36 containing the text of a letter dated 18 January 1991 from the Permanent Representative of Mauritania to the United Nations addressed to him, notifying the Committee that Mauritania had acceded to a request by Iraq to allow the overflight and landing of two Iraqi Boeing 707 civilian aircraft, which had been inspected upon arrival and found to be empty.

He would take it, if he heard no objection, that the Committee wished to take note of those communications.

It was so decided.

Mr. RICHARDSON (United Kingdom) said that he was grateful for the clarification of a complex situation by Tunisia and Mauritania. It might be advisable, in future, to allow any Governments similarly concerned to have the list of the registration numbers and types of aircraft of the Kuwait Airways fleet expropriated by Iraq, as referred to by Kuwait in its letter dated 17 January 1991, contained in document S/AC.25/1991/COMM.32.

The CHAIRMAN said that, if he heard no objection, he would take it that the Committee wished to adopt the suggestion made by the representative of the United Kingdom.

It was so decided.

The CHAIRMAN said that the decision just taken by the Committee settled the matter raised by the Permanent Representative of Kuwait in his letter dated 17 January 1991, contained in the document just referred to, in which it was stated that the Iraqi authorities were seeking shelter for aircraft in some countries.

FOODSTUFFS AND DELIVERY OF FOODSTUFFS: SECURITY COUNCIL RESOLUTIONS 661 (1990), PARAGRAPH 3 (c), AND 666 (1990) (S/AC.25/1991/COMM.26 and 37; S/AC.25/1990/NOTE/59)

The CHAIRMAN, referring to the letter dated 29 November 1990 addressed by him to the Secretary-General (S/AC.25/1990/NOTE/59), recalled that the Committee had decided at its previous meeting that he should remain in contact with the Secretary-General's Office on the matter of sending a humanitarian mission to Iraq and Kuwait, and should communicate immediately to the Committee any information that became available with regard to the food situation there. The members now had before them document S/AC.25/1991/COMM.37, containing a note by the Secretary of the Committee transmitting the text of a letter dated 16 January 1991 from the representative of the Director-General of the World Health Organization (WHO) to the United Nations addressed to the Assistant Secretary-General, Executive Assistant to the Secretary-General, enclosing a letter dated 14 January 1991 from the Ministry of Health of Iraq addressed to the Office of the Director-General of WHO and to the Office of the Executive Director of the United Nations Children's Fund (UNICEF). By that letter, the Ministry of Health had extended invitations to WHO and UNICEF to send their representatives to Iraq to witness at first hand the shortages of drugs, medical necessities, food and milk. WHO, in view of the prevailing circumstances, had seen fit to solicit the Secretary-General's opinion. The Office of the Secretary-General had, in turn, brought the matter to the attention of the Committee.

In his view, the invitations extended by Iraq constituted a very important step to which effect should be given as soon as possible. He therefore suggested that the Committee should inform the Secretary-General that, as soon as circumstances permitted, the Committee would welcome missions to Iraq and Kuwait by WHO and UNICEF, since they would in its view be highly useful. He also suggested that the Secretary-General should be asked to communicate the Committee's views to WHO.

Mr. AL-ALFI (Yemen) asked whether the Chairman was suggesting that the Secretary-General should be asked to proceed now as suggested, or whether the Committee would have to meet again on the matter.

The CHAIRMAN said that he was suggesting that the Secretary-General should be asked to inform WHO that the Committee would like it to proceed as suggested as soon as possible, but not at the moment, for security reasons.

Mr. WILKINSON (United States) said that he had no objection in principle to the Chairman's suggestions but would like a reference to be made to Security Council resolutions 666 (1990) and 661 (1990) as the framework in which the Committee was going forward in that instance.

Mr. RICHARDSON (United Kingdom) said that he concurred with the Chairman's suggestions and agreed with the representative of the United States. There was also one other possibility: the International Committee of the Red Cross (ICRC), which had not been specifically referred to in the communications just

mentioned, could also be involved at a later stage, although its primary task now was to verify the implementation of the third Geneva Convention relative to the Treatment of Prisoners of War.

The CHAIRMAN, noting that a press communiqué by the Secretary-General's spokesman had indicated that the Secretary-General had spoken with representatives of the ICRC as well as WHO and UNICEF, said that the Committee could certainly mention the ICRC as well in its request to the Secretary-General.

Mr. DEREYMAEKER (Belgium) said that, as a pre-condition, Iraq should guarantee access to information essential to an evaluation of the situation on the ground, and the possibility of verifying whether assistance was properly channelled

The CHAIRMAN said that under Security Council resolution 666 (1990) one of the Committee's primary tasks was to determine whether humanitarian circumstances had arisen. Under that resolution, a determination would also be made as to whether food assistance reached the intended beneficiaries. However, for the time being the initial, information-gathering phase was still in progress. In that connection, it would be vital for the Secretary-General to advise the Committee when security conditions permitted WHO and UNICEF to conduct a mission in Iraq.

If he heard no objection, he would take it that the Committee wished to inform the Secretary-General that it would welcome missions to Iraq and Kuwait by WHO and UNICEF as soon as circumstances permitted and to request the Secretary-General to communicate the Committee's views to WHO.

It was so decided.

The CHAIRMAN drew attention to document S/AC.25/1991/COMM.26, containing the text of a note verbale dated 14 January 1991 from the Permanent Mission of Jordan to the United Nations addressed to him. In that communication, the Jordanian Government requested permission for a Jordanian firm, the National Development Organization, to send food supplies every three months to its employees in the city of Kirkuk, Iraq. He had been informed by the Permanent Representative of Jordan that Jordan would clarify whether or not the workers in question remained in Iraq voluntarily and what the proposed method of delivering and distributing the food was.

He wished to suggest that the Committee should take up the matter again at the earliest possible date after receiving the necessary clarification from the Jordanian delegation.

It was so decided.

COMMUNICATIONS PURSUANT TO SECURITY COUNCIL RESOLUTION 665 (1990)  
(S/AC.25/1991/COMM.25 and 30)

The CHAIRMAN drew attention to document S/AC.25/1991/COMM.25, containing the text of a note verbale dated 14 January 1991 from the Permanent Mission of

Jordan to the United Nations. The note complained that United States Navy ships were intercepting vessels bound for and departing from the port of Aqaba in order to take on board Jordanian exports or unload goods destined for the Jordanian market.

Mr. WILKINSON (United States of America) recognized the hardships imposed on Governments, firms and individuals by the measures taken to implement the trade embargo against Iraq in accordance with the relevant Security Council resolutions. The United States and approximately 13 other nations were attempting to implement the embargo without unduly compromising the passage of goods and commodities that were not prohibited by Security Council resolutions. In the process, thousands of ships had been intercepted but the vast majority had been allowed to proceed. When vessels were stopped, an effort was made to ensure that their cargo and destination corresponded to the information contained in the shipping documents. The international maritime community had been clearly notified of those requirements, which had been in effect since August 1990 and which must remain in place in order to achieve the objectives of Security Council resolution 665 (1990). In that context, it was regrettable that the Jordanian Government found it necessary to register a complaint.

Mr. DELON (France) said that the French Navy was monitoring the embargo in all areas, but particularly in the Gulf of Aqaba. The French Ambassador to Jordan had assured the authorities there that, in carrying out its mission, the French Navy had no unfriendly feelings towards Jordan. Rather, the French warships sought only to ascertain the nature of the cargo, on the basis of specific documents drawn up for that purpose. A system for the exchange of information between the French and Jordanian authorities had been set up in order to resolve any difficulties which might arise and it appeared to be functioning satisfactorily. His delegation had consistently reported to the Security Council on its activities in connection with the embargo. In conclusion, he too wished to refer to Security Council resolution 665 (1990), which requested States to assist those States monitoring compliance with the embargo (para. 3).

The CHAIRMAN said that, in its letter of complaint, Jordan had also referred to actions by Greece and Spain. He wished to suggest that the Committee should authorize him to seek information from the delegations of Greece and Spain, which were not members of the Committee, before it took a decision on the matter.

Mr. AL-ALFI (Yemen), referring to the second and third paragraphs of the Jordanian letter, said that the question was not whether the inspections were in compliance with Security Council resolution 665 (1990) but, rather, what the term "area" meant. An opinion from the Legal Counsel would be very helpful in that connection. According to the second paragraph of the Jordanian letter, the Gulf of Aqaba did not fall within the area in question.

Mr. WILKINSON (United States of America) said that the Security Council resolutions were clear and could be interpreted by the Council itself without a legal opinion. Only days after the adoption of Security Council resolution 665 (1990), warships had begun inspecting vessels in the Gulf of Agaba, which had been the route for 60 per cent of Iraq's maritime commerce before the invasion of Kuwait. As the French representative had indicated, the nations monitoring compliance with the embargo had duly reported their activities to the Security Council. Throughout the process, the Security Council had accepted the factual reports submitted to it, clearly demonstrating that the embargo was being conducted in conformity with its resolutions. Requesting a legal interpretation after the fact was neither necessary nor appropriate under the circumstances.

Mr. AL-ALFI (Yemen) expressed surprise that there should be apprehension about seeking an opinion from the Legal Counsel. Ordinarily the Legal Counsel's views facilitated the Committee's work.

The CHAIRMAN said that, if he heard no objection, he would take it that the Committee wished to authorize him to contact representatives of Greece and Spain before it took a decision on the matter.

It was so decided.

The CHAIRMAN drew attention to document S/AC.25/1991/COMM.30, containing the text of a letter dated 15 January 1991 from the Permanent Representative of Canada to the United Nations addressed to him, concerning activities undertaken by the Canadian armed forces in the Gulf region in order to facilitate the monitoring of sanctions imposed by Security Council resolution 661 (1990), submitted pursuant to paragraph 4 of Security Council resolution 665 (1990).

If he heard no objection, he would take it that the Committee wished to take note of that communication.

It was so decided.

OTHER MATTERS (S/AC.25/1991/COMM.6, 12, 20, 21, 29, 35 and 38, and S/AC.25/1990/COMM.183)

The CHAIRMAN recalled that at its previous meeting the Committee had decided to communicate the text of the letter dated 31 December 1990 from the Chargé d'affaires of the Permanent Mission of Kuwait to the United Nations addressed to the Vice-Chairman (S/AC.25/1990/COMM.183) to Sri Lanka and to seek further information on the matter raised in it. A letter dated 16 January 1991 had subsequently been received from the Permanent Representative of Sri Lanka to the United Nations refuting the information contained in the letter dated 31 December 1990 from Kuwait (S/AC.25/1991/COMM.29). The Committee also had before it document S/AC.25/1991/COMM.35, which contained a letter dated 21 January 1991 from the Secretary of the Committee transmitting the text of a letter dated

9 January 1991 from the President of the Council of ICAO addressed to the Secretary-General, in which the President had indicated inter alia that in the light of the communication received from Sri Lanka, the Sri Lankan authorities appeared to be fully complying with the appropriate Security Council resolutions and with the resolution of the twenty-eighth (extraordinary) session of the ICAO Assembly. In the light of the communications from Sri Lanka and ICAO, there appeared to be no need to request further information from Sri Lanka. He therefore suggested that the Committee should decide to bring the letters dated 16 January 1991 from Sri Lanka (S/AC.25/1991/COMM.29) and 9 January 1991 from ICAO (S/AC.25/1991/COMM.35) to the attention of Kuwait.

It was so decided.

The CHAIRMAN drew attention to document S/AC.25/1991/COMM.38, which contained the text of letters dated 16 and 18 January 1991, respectively, from the representative of the Director-General of the World Health Organization (WHO) to the United Nations addressed to him. In response to his request for a list of pharmaceuticals/medical supplies that could be sent to Iraq without violating the sanctions, WHO, in its letter dated 16 January 1990, had transmitted the relevant pages of its publication "The new emergency health kit", published in late December 1990, and a copy of the model list "Essential drugs", published in the WHO technical report series No. 796 in 1990. A limited number of copies of those documents were available in English.

He noted that in the annex to its letter dated 18 January, WHO had transmitted two short explanations of the two uses being made of infant formula. In addition, copies of the documents "The Use of Artificial Milks in Relief Actions", published by the ICRC and the League of Red Cross and Red Crescent Societies, which covered the use being made of infant formula, and UNHCR's "Policy for Acceptance, Distribution and Use of Milk Products in Refugee Feeding Programmes" had also been provided and were available in English.

Mr. LOZINSKY (Union of Soviet Socialist Republics) said he would like clarification as to how the WHO conclusions should be interpreted. The annex to the letter dated 18 January indicated that breast milk could be replaced by bona fide breast-milk substitutes, including infant formula. He wondered what other substitutes could be included under infant formula, and whether they were included in the shipments of powdered milk mentioned by the permanent representatives of Bulgaria and Tunisia (S/AC.25/1990/COMM.8 and 171, and S/AC.25/1991/COMM.12 and 21, respectively).

The CHAIRMAN said that he would ask WHO for clarification and duly inform the Committee at its next meeting.

If he heard no objection he would take it that the Committee wished to take



note of the information provided in the letters dated 16 and 18 January 1991, respectively, from WHO.

It was so decided:

Mr. AL-ALFI (Yemen) said that in order to comply with Security Council resolution 661 (1990) Yemen had been compelled to prevent some ships from docking or unloading in its territory. Those ships were still at sea and, because they carried fuel and foodstuffs, posed the threat of an ecological catastrophe that must not be ignored. He would raise the issue in detail at a later date in writing