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SECURITY COUNCIL COMMITTEE ESTABLISHED BY RESOLUTION 661 (1990)
CONCERNING THE SITUATION BETWEEN IRAQ AND KUWAIT

PROVISIONAL SUMMARY RECORD OF THE 121st MEETING (CLOSED)

Held at Headquarters, New York,
on Wednesday, 22 February 1995, at 3 p.m.

Chairman:

Mr. Graf zu RANTZAU

(Germany)

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The meeting was called to order at 3.15 p.m.

ADOPTION OF THE AGENDA

The agenda was adopted.

LLOYD'S REGISTER'S ONSHORE OPERATION IN PORT AQABA IN CONNECTION WITH THE IMPLEMENTATION OF SECURITY COUNCIL RESOLUTION 661 (1990) (continued)

At the invitation of the Chairman, Mr. Whitehead (Lloyd's Register) took a place at the Committee table.

Mr. WHITEHEAD (Lloyd's Register) said that offshore inspection arrangements had been replaced with an onshore regime. Lloyd's Register currently covered all inward- and outward-bound cargo ships using the port, and the onshore method of inspection had proved extremely effective.

Between September 1994 and January 1995 a total of 500 ships had been seen discharging, 201 loading, and 2,060 containers had been examined. Inspections were being conducted 24 hours a day, seven days a week. Inspectors carried out random checks and had complete access to all items in containers. In addition they were able to check manifests received in advance against the actual contents of containers.

The inspectors had found no violations of the sanctions regime, and the frequent queries that had arisen had been speedily resolved. All Iraq-bound cargo was routinely inspected, and spot-checks were carried out on all other cargo entering and leaving the port. Lloyd's Register had developed a grid reference system that made it possible to determine the exact whereabouts of all containers passing through Aqaba.

The Jordanian authorities had sought to reduce the number of staff involved in the operation in keeping with the decline in the volume of shipping. There was local concern about the drop in port revenue resulting from the decline in transit traffic. Lloyd's Register was constantly reviewing staff levels with the Jordanians, but there was a feeling that the current arrangements were working well and that any changes would harm the operation.

In conclusion, he noted that the success of the onshore inspection was largely attributable to the high level of local cooperation which Lloyd's had been offered during implementation of the regime.

Mrs. JONES (United States of America) asked whether Lloyd's Register intended to use X-ray machines in its inspections.

Mr. WHITEHEAD (Lloyd's Register) said that X-rays were currently not a practical option since the amount of equipment needed to provide adequate coverage would result in a dramatic increase in staffing levels. X-ray inspection would also lead to a duplication of work since any suspect containers would have to be searched by hand anyway.

Mr. Whitehead withdrew.

COMMUNICATIONS UNDER THE "NO-OBJECTION" PROCEDURE

Mr. AL-BATTASHI (Oman) urged the Committee to show sympathy and mercy on the matter of food and medical imports to Iraq. The most vulnerable groups in Iraqi society were those hit hardest by sanctions, and the rigid interpretation of the sanctions regime by some States had actually led to deaths there. The objections that had been raised to communications S/AC.25/1995/COMM.36 (filters) and S/AC.25/1995/COMM.107 (pumps and electrical equipment) were a case in point, since the items in question were for filtering drinking water and generating electricity and therefore had a direct humanitarian purpose.

MATTERS CARRIED OVER FROM PREVIOUS MEETINGS

S/AC.25/1994/COMM.6173

The CHAIRMAN drew attention to the letter dated 28 November 1994 from Jordan (S/AC.25/1994/COMM.6173) concerning a request to import what were known as "prayer disks" from Iraq, and said that he was still awaiting clarification from the Jordanian ambassador on a number of points regarding prayer disks.

Mr. AL-BATTASHI (Oman) said he saw no reason to object to the export of prayer disks from Iraq to Jordan since the items in question were of a religious and therefore humanitarian nature. If anyone suspected that Iraq was somehow profiting from such exports, the Committee should put in place mechanisms to ensure that any commercial gain derived therefrom did not accrue to Iraq.

Mrs. JONES (United States of America) noted that Security Council resolution 661 (1990) stipulated that all exports from Iraq should be blocked. There were no exceptions to that rule.

Mr. AL-BATTASHI (Oman) proposed that the United States authorities should reconsider the issue in a humanitarian light while simultaneously taking into consideration measures designed to prevent Iraq from profiting by such exports.

Mr. HILDNER (Germany), supported by Mr. GATILOV (Russian Federation) and Mr. FLORES (Honduras), agreed that the issue was essentially a humanitarian one and moved that it should be postponed until the next meeting pending further clarification from the Jordanian ambassador.

It was so decided.

S/AC.25/1994/COMM.6298

The CHAIRMAN drew attention to the letter dated 14 December 1994 from the United States (S/AC.25/1994/COMM.6298) concerning United States naval activities in the Gulf.

Mrs. JONES (United States of America) noted that, owing to the complexities involved in diverting ships to certain Gulf ports in connection with suspected sanctions breaking, a number of Gulf States were beginning to show "sanctions fatigue". Her delegation believed it would be helpful for the Committee to remind Gulf States of their obligations under relevant Security Council resolutions to enforce sanctions against Iraq.

Mr. PHILIPP (France) said that it was not the Committee's mandate to send such a letter and his delegation would not approve it.

Mr. AL-BATTASHI (Oman) indicated that it was improper to make such impositions on sovereign States, and his delegation resented the implication that Gulf States were being lax in enforcing the sanctions regime. He therefore requested that the item should be struck off the agenda.

The CHAIRMAN suggested that, since there appeared to be no consensus, further consideration of the item should be postponed to the next meeting.

Mr. AL-BATTASHI (Oman) said that his delegation would appreciate legal clarification of the position. If a delegation objected to an item, there could be no consensus and precedent dictated that any such item should be struck off.

The CHAIRMAN said that the item had been placed on the agenda by consensus and could only be removed in the same way.

Mr. CHEN (China) said that, if there were no further developments in the situation, there was no point in keeping the item on the agenda.

Mr. GATILOV (Russian Federation) said that his delegation also objected to sending such a letter. In that regard, he supported the statement made by the Chinese delegation.

Mrs. JONES (United States of America) said that her delegation could not help but bow to the consensus on removing the matter from the agenda. However, it would continue to provide frequent updates on the activities of the Multinational Interception Force.

Mr. AL-BATTASHI (Oman) thanked the United States delegation for its spirit of cooperation and reaffirmed that his delegation would cooperate fully with any other request that that delegation might make in future, which he hoped would include full information.

S/AC.25/1995/COMM.150

The CHAIRMAN drew attention to a letter dated 21 December 1994 from Turkey (S/AC.25/1995/COMM.150) concerning a query on commercial claims against Iraq. As agreed at the previous meeting of the Committee, he had approached the Permanent Representative of Turkey and informed him about the Committee's view that nothing in the sanctions regime prohibited Iraq from repaying its debts provided that frozen assets were not touched. The Permanent Representative of Turkey had informed him that he would prefer a written response; so if it was agreeable to the Committee, he would address a letter to the Permanent Representative of Turkey along those lines.

It was so decided.

S/AC.25/1995/COMM.97

The CHAIRMAN drew attention to a letter dated 6 January 1995 from the United Kingdom (S/AC.25/1995/COMM.97) concerning a wreck-clearance project in the Mediterranean waters. As that item had been deferred from the previous meeting at the request of the United Kingdom delegation, he wondered whether that delegation was now ready to provide more information thereon.

Mrs. ARON (United Kingdom), explaining the background to her delegation's request, said that Challenger Marine and Wijsmuller Salvage BV had entered into a joint venture to carry out the salvage operations under the supervision of the International Maritime Organization (IMO). The overriding concerns were navigational safety and environmental hazards. As to the issue of

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funding, IMO had made it a condition of its working arrangement with Challenger Marine and Wijsmuller Salvage BV that no claim would be made to the United Nations on completion of the operation. The proceeds of the sale of any wreck and/or cargo would be paid in full into the United Nations escrow account. The project had the approval of Iraq as well as Kuwait and, apart from IMO, it would be overseen by the Regional Organization for the Protection of the Marine Environment (ROPME).

As far as the location of the shipwrecks were concerned, all but three of the 18 tankers were located in Iraqi waters. The Ministry of Transport and Communications of Iraq had confirmed that an agreement had been reached on the project and the proposed wreck clearance. Formal notice would be given to the Government of Iraq by IMO after approval by the sanctions Committee. The two tankers Ain Zalah and Rumaila were situated in the demilitarized zone inside Kuwaiti territorial waters. Kuwait had already approached IMO, the Security Council and ROPME for assistance in averting massive pollution from the wrecks. The tanker Amuriyah was located in international waters and Kuwait had an application before the Committee to salvage it.

As to the nature and ownership of the shipwrecks, all were former Iraqi-flagged vessels. IMO would ensure that the project documents contained appropriate provisions for pollution prevention, response and contingency arrangements. In general terms, it would be stipulated in the management agreement that the companies involved should undertake full financial responsibility for the work carried out under the project.

The CHAIRMAN, noting that several letters had been received from Kuwait referring to one of the wrecks, Amuriyah, suggested that the items should be considered together.

Mr. PHILIPP (France) said that his delegation could give its consent in principle to the United Kingdom request, although it would like the item to remain on the agenda until the next meeting so that final agreement could be reached. That would also allow his country's authorities to consider the matter further.

Mr. HILDNER (Germany), noting that his delegation attributed great importance to the protection of the marine environment, approved the request. He looked forward to a progress report at the next meeting.

Mr. AL-BATTASHI (Oman) said that, since the information provided by the United Kingdom delegation allayed any fears or doubts that his delegation had, it would approve the request. He also endorsed the statement made by the German delegation. Concerning the Kuwaiti request, the subject was more complicated and might require more research. However, he would join in any consensus on that issue.

Ms. HAKIM (Indonesia) said that the Committee should give its approval to the United Kingdom request.

Mr. FLORES (Honduras) and Mr. MARRAPODI (Italy) said that they were ready to approve both the United Kingdom and the Kuwaiti requests at the current meeting.

Mrs. JONES (United States of America), noting the importance of the environmental issue, said that her delegation was also prepared to approve both requests at the current meeting. She welcomed Kuwait's decision to support the original United Kingdom request. Her delegation believed that the financing mechanism proposed by Challenger Marine and Wijsmuller Salvage BV was acceptable under the resolutions.

Mr. GATILOV (Russian Federation) said that his delegation had no objection in principle to granting the request of the United Kingdom delegation.

The CHAIRMAN said that, in view of the urgency of the matter, members of the Committee should endeavour to secure final instructions from their Governments to enable the Committee to take a final decision at its next meeting.

NEW MATTERS

S/AC.25/1995/COMM.517

The CHAIRMAN drew attention to a letter dated 23 January 1995 from the Russian Federation seeking the Committee's authorization to return to Iraq a turbine rotor that had been sent for repair in Russia. Since the rotor in question was essential for the generation of much-needed power and its return did not involve any payment to Iraq, the Committee should consider it favourably.

Mr. GATILOV (Russian Federation) said that the essence of his Government's request was purely humanitarian. It was a matter of returning to Iraq a high-pressure rotor from a turbine which had been under repair in Russia since 1990. Furthermore, the return of the turbine part to Iraq would help to

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improve the general humanitarian situation in that country, whose population was suffering from electric-power breakdowns to vital institutions such as hospitals and schools. He therefore urged the Committee to take a favourable view of his delegation's request.

Mrs. JONES (United States of America) said that her delegation was alarmed that the Government of Iraq still maintained an almost complete embargo on electricity supplies to the north of the country, affecting a great percentage of the population there. However, in view of the shortages of electricity in central and southern Iraq for the civilian population and given the legitimate humanitarian need, her delegation was willing to approve the request if the Committee so decided. Nevertheless, she wished to stipulate that the electricity generated by the turbine fitted with the repaired rotor should be used specifically for the civilian population in the south. Her delegation would therefore like to receive a report from a United Nations agency in the southern or central part of Iraq within six months of the installation of the turbine to inform the Committee of where the electricity which was being generated was used. Should any diversions to military installations or to Baghdad or other locations be noted, the Committee would look askance at future requests.

Mr. AL-BATTASHI (Oman) said that his delegation approved the request and felt that the matter of the distribution of electricity within any given State was strictly an internal matter subject to the sovereignty of that State. Consequently, the Committee should not consider that issue.

Mr. MALEBESWA (Botswana) said that his delegation also supported the request and, like the previous speaker, felt that any sovereign State should be allowed to determine how it used its own resources.

Mrs. ARON (United Kingdom) said that, while she would be willing to approve the Russian Federation's request, she felt that the condition attached by the United States delegation was reasonable. The Committee might consider contacting a United Nations agency active in Iraq to inquire about the feasibility of undertaking such a task; that agency could then make a general report thereon to the Committee.

The CHAIRMAN asked whether the Committee would, in principle, be in a position to approve the request at the current meeting. He understood the United States delegation's reservation as meaning that the Committee's approval

of requests should be compatible with the general framework set by the resolutions.

Mrs. JONES (United States of America) said that her delegation was prepared to approve the request provided that the United Nations issued a report within approximately six months on any improvements in the situation in the south of the country owing to the start-up of the plant or, conversely, on any diversions to military uses.

Mr. HILDNER (Germany) said that the Committee's approval of the request should be on the understanding that the electricity would be used only for civilian and humanitarian purposes. He did not see the United States proposal as a limitation of the sovereignty of Iraq in addition to that not already imposed by the sanctions regime.

Mr. GATILOV (Russian Federation) said he wondered what the contents of the Committee's letter of approval of his country's request would be.

Mr. WAN (Secretary of the Committee) said that the Committee might wish to reply that it had no objection to the return of the turbine rotor on the understanding that the electricity produced as a result of its installation would be used only for humanitarian purposes.

Mrs. JONES (United States of America) said that a draft along those lines could be circulated under the "no-objection" procedure; it should also mention the United Nations report so that it would be clear that, while there was an understanding that the item would be used for humanitarian purposes, there would be some monitoring at some point.

The CHAIRMAN said that a letter containing the formulations suggested by both the Secretariat and the United States delegation would be drafted and circulated under the "no-objection" procedure.

S/AC.25/1995/COMM.519

The CHAIRMAN drew attention to a letter dated 23 January 1995 from the United States concerning the conditions under which it would accept the opening of shipping services to Iraqi ports. That letter was specifically in response to a communication from Qatar on the opening of shipping services to Iraq, but could also apply to two other communications from Australia and the United Arab Emirates on the use of Iraqi ports which had been discussed at previous meetings of the Committee. If the Committee was agreeable, he would address an official

response to the Permanent Representative of Qatar along the lines suggested by the United States.

Mrs. JONES (United States of America) said that the conditions laid out in her delegation's letter were very clear and were all supported by the relevant Security Council resolutions.

Mrs. ARON (United Kingdom) said that, in her view, the United States proposed draft set out the situation exactly and was entirely in keeping with the Security Council resolutions. Her delegation therefore supported the sending of that letter.

Mr. AL-BATTASHI (Oman) said that the contents of the letter were completely in keeping with the provisions of the relevant Security Council resolutions. After the Committee had reached a consensus on the issue, the Secretariat could send the relevant letter very quickly to Qatar.

The CHAIRMAN said he took it that the Committee wished him to address an official response to the Permanent Representative of Qatar along the lines suggested by the United States.

It was so decided.

S/AC.25/1995/COMM.669

The CHAIRMAN drew attention to a letter dated 30 January 1995 from the Islamic Republic of Iran in response to the Committee's letter of inquiry which had been sent in connection with the United States letter alleging that trade activities were being conducted between the Islamic Republic of Iran and Iraq in contravention of the sanctions regime. He suggested that the Committee should take note of the communication.

Mr. AL-BATTASHI (Oman) asked the Committee secretariat to explain why it had sent a facsimile message on 13 January 1995 to the Permanent Representative of the Islamic Republic of Iran in addition to the letter it had been authorized by the Committee to send to that Mission requesting information about the matter of provocations caused by certain ships, which letter was dated 23 December 1994. Concerning the response of the Islamic Republic of Iran, in his view it was a very clear and complete one. Therefore, as far as his delegation was concerned, the question was closed. However, it would be prepared to consider any other letter or complaint regarding violations of the sanctions regime.

Mr. WAN (Secretary of the Committee) said that the letter had been faxed for a second time simply because the Committee secretariat had had no confirmation that the original transmission had been received, and it often transpired that missions said that they had not received communications. The secretariat had already explained the matter to the Permanent Mission of the Islamic Republic of Iran.

Mr. AL-BATTASHI (Oman) said that it had not been his intention to criticize the secretariat. However, it might have been easier simply to have telephoned. Of course, in complex matters, it was not always possible for States to respond quickly.

Mrs. JONES (United States of America) said that there had been reports that trade continued between the Islamic Republic of Iran and Iraq, involving, in particular, shipments of Iraqi oil through Iranian ports with Iranian documentation. There were also indications that trade was taking place across the land border between the two countries. The Committee would also note that Iran's enforcement of the sanctions regime had often served to promote its own interests. For example, the Iranian authorities had seized Iraqi cargoes and sold them, without, however, paying the funds into the escrow account. Iran had also failed to cooperate with the Multinational Interception Force, claiming that it had no authority. Her delegation did not view the Iranian response as at all adequate.

Mr. PHILIPP (France) said that the Iranian Government's reply seemed satisfactory to his delegation, and that no further response should be sought. Nevertheless, the Committee should remain ready to study any similar allegations on a case-by-case basis.

Mr. AL-BATTASHI (Oman) asked what exactly would happen if the Committee took note of the communication.

The CHAIRMAN said that a letter would be sent indicating the Committee's action. Should new information emerge, the Committee could decide whether to authorize the Chair to make further approaches to the Iranian authorities.

Mr. AL-BATTASHI (Oman) said that his delegation supported the sending of such a letter, on the understanding that the matter was now closed, unless new information made it necessary for delegations to inquire further.

The CHAIRMAN said that he would take it that the Committee wished to take note of the communication.

S/AC.25/1995/COMM.628

The CHAIRMAN drew attention to a request from Iraq (S/AC.25/1995/COMM.628) for the release of frozen assets of the Central Bank of Iraq held by the Bank for International Settlements.

At its 117th meeting the Committee had considered a note from the Chairman in connection with the use of Iraqi frozen assets held by the Bank for International Settlements. It had been decided that such assets might be released only by way of the sub-account of the escrow account established by Security Council resolutions 706 (1991) and 712 (1991). The Bank had been advised that the release of frozen assets in connection with the cost of court proceedings was prohibited by the Security Council.

The letter from Iraq now before the Committee made a similar request and questioned the legality of the Committee's earlier decision.

Mr. HILDNER (Germany) said that there was no reason for the Committee to alter its original position.

The CHAIRMAN said he would take it that the Committee wished to maintain its position on the matter.

S/AC.25/1995/COMM.433 and 591

The CHAIRMAN drew attention to two reports from Jordan (S/AC.25/1995/COMM.433 and 591) on traffic in food and medical supplies via Jordan to Iraq.

Mrs. JONES (United States of America) said that her delegation had noted discrepancies in such reports in the past, in view of which it was important to look at them very carefully.

The CHAIRMAN said he would take it that the Committee wished to take note of the communications.

S/AC.25/1995/COMM.627

The CHAIRMAN drew attention to a report (S/AC.25/1995/COMM.627) on the activities of Lloyd's register in Port Aqaba. He would take it that the Committee wished to take note of the report.

S/AC.25/1995/COMM.901

The CHAIRMAN drew attention to a letter from the Sudan (S/AC.25/1995/COMM.901) concerning meat exports to Iraq. Although the Committee had earlier granted general approval for Sudan Airways' meat exports to Iraq, it had also set a number of conditions. Contrary to those conditions, four Iraqi citizens had been found on board a Sudanese flight on 4 July 1994 from Baghdad to Khartoum. The Committee had subsequently suspended the flights, and letters had been sent to the Sudanese and the Iraqi authorities drawing attention to that serious breach of Security Council resolution 670 (1990). Concern had also been expressed to the Secretary-General of the United Nations over the fact that the former representative of the United Nations Development Programme in Khartoum, who had inspected the flight on behalf of the United Nations, had permitted the four Iraqis to travel.

The Permanent Representative of the Sudan had subsequently asked for approval for the flights to continue, pointing out that the exports were humanitarian in nature and that the company involved was on the brink of bankruptcy, and stating that the Sudanese authorities would do their utmost to prevent any recurrence of the incident. The Permanent Representative had also noted that it had been UNDP that had actually given permission for the Iraqi citizens to travel. In view of the humanitarian nature of the shipments, the Committee might wish to look favourably on the Sudanese request.

Mrs. JONES (United States of America) agreed that the shipments were humanitarian and should not be blocked. There was, however, no need for such shipments to be transported by air - land transport would be adequate. The earlier incident demonstrated the bad faith of the Iraqi Government and its willingness to make use of humanitarian flights for propaganda purposes. Her delegation could not support renewal of the flights.

Mr. AL-BATTASHI (Oman) asked why the representative of UNDP had authorized the transportation of the four Iraqi citizens, since the flights were restricted to exports of food. An explanation should be sought from the UNDP office in Khartoum. His delegation supported the appeal for renewal of the flights on humanitarian grounds. It was impractical to suggest that the meat could be exported overland.

Mr. WAN (Secretary of the Committee) said that confusion might have arisen because UNDP, on a prior occasion, had sought authorization for the

transportation of some staff of the Sudanese company on the first flight. Approval had been granted, and might have been misunderstood by UNDP as constituting blanket approval for the transportation of passengers. The previous Chairman had sent a letter to the Secretary-General in connection with the incident.

Mr. AL-BATTASHI (Oman) asked for the matter to be placed on the agenda for the following meeting.

The CHAIRMAN said that the Committee would proceed accordingly.

S/AC.25/1995/COMM.902

The CHAIRMAN drew attention to a request from the International Atomic Energy Agency (IAEA) (S/AC.25/1995/COMM.902) in connection with five technical cooperation projects in Iraq. Since IAEA would be responsible for control and monitoring, he would take it that the Committee wished to approve the request.

S/AC.25/1995/COMM.1005

The CHAIRMAN drew attention to a report from the United States (S/AC.25/1995/COMM.1005) on actions taken by the Multinational Interception Force. He would take it that the Committee took note of the report.

S/AC.25/1995/COMM.1043 and 1044

The CHAIRMAN drew attention to a letter from Iraq (S/AC.25/1995/COMM.1043) and a letter from the Food and Agriculture Organization of the United Nations (FAO) (S/AC.25/1995/COMM.1044) regarding locust-control campaigns in Iraq. In the past, the Committee had generally granted approval on condition that the aircraft were piloted by non-Iraqi pilots under FAO supervision, that FAO provided 72 hours' advance notice of each operation, and that all necessary safety measures were taken. The Committee might wish to act in accordance with its earlier practice.

Mrs. JONES (United States of America) said that it should be made clear that the operation was to be under the control of FAO and that any equipment brought into Iraq by FAO in connection with the operation must be removed once the operation had concluded.

The CHAIRMAN said that the Committee would proceed accordingly.

OTHER MATTERS

The CHAIRMAN said that he had received a letter from the Executive Chairman of UNSCOM enclosing the latest version of the import/export mechanism jointly proposed by UNSCOM and IAEA in accordance with Security Council

resolution 715 (1991). The communication had been circulated to all members, and the highly technical annexes would be circulated once they had been translated into all official languages.

The meeting rose at 5.45 p.m.