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CONCERNING THE SITUATION BETWEEN IRAQ AND KUWAIT

PROVISIONAL SUMMARY RECORD OF THE 163rd MEETING (CLOSED)

Held at Headquarters, New York,
on Tuesday, 18 November 1997, at 3.30 p.m.

Chairman:

Mr. MONTEIRO

(Portugal)

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The meeting was called to order at 4.10 p.m.

ADOPTION OF THE AGENDA

The agenda was adopted.

BRIEFING BY THE MULTINATIONAL INTERCEPTION FORCE (MIF) ON THE ENFORCEMENT OF SANCTIONS AGAINST IRAQ

At the invitation of the Chairman, Mr. Bordy, Rear Admiral, United States Navy, Multinational Interception Force, Mr. Bornholt, Military Adviser, Permanent Mission of Australia to the United Nations, Mr. Fraher, Military Adviser, Permanent Mission of New Zealand to the United Nations, Mr. Gibbons, Deputy Military Adviser, Permanent Mission of Canada to the United Nations, Mr. Heyvaert, Military Adviser, Permanent Mission of Belgium to the United Nations, Mr. Kilgour, British Assistant Chief of Staff for Maritime Operations, Mr. Lemon, Secretary, Multinational Interception Force, and Mr. Vleer, Assistant Naval Attaché, Royal Netherlands Embassy to the United States of America, took places at the Committee table.

Mr. BORDY (Rear Admiral, United States Navy, Multinational Interception Force), speaking on behalf of the Coordinator of MIF, said that he would provide an update on maritime sanctions enforcement and on the dramatic increase in gas oil smuggling which MIF had observed in the Gulf in the continuing attempt by the Iraqi leaders, with the complicity of Iran, to evade United Nations sanctions.

Most MIF activity occurred in the northern Arabian Gulf; MIF forces routinely operated within three maritime areas, MA-1, MA-2 and MA-3, and there was a separate area for ship training exercises. MIF generally maintained three ships in the northern Gulf, typically stationing one ship in each of the three maritime areas. Helicopters embarked on many of the MIF ships provided the capability to greatly expand the surface search area. Boardings and inspections were conducted in the vicinity of MA-3. If the operational situation required it, MIF would also deploy ships to the southern Gulf. On occasion it had conducted surge operations with up to six ships, with aircraft support.

Overall, 15 nations had contributed forces to MIF since the start of sanctions enforcement operations: Australia, Belgium, Canada, Netherlands, New Zealand, the United Kingdom and the United States of America had all provided forces over the past three years. The synergy provided by the mix of multinational ships and tactics had greatly enhanced the effectiveness of MIF operations. The forces routinely provided humanitarian medical assistance to sick or injured seamen on merchant vessels in the region. They also conducted search and rescue operations and provided assistance to vessels in distress.

Member States of the Gulf Cooperation Council (GCC) all provided essential logistic support to MIF operations. Vessels that were suspected of violating sanctions were diverted to their ports, and the proceeds from the sale of cargo seized from those vessels were deposited in the escrow accounts. In addition, naval personnel from Kuwait and the United Arab Emirates served as interpreters on MIF warships and participated in boardings and inspections at sea. The United Arab Emirates had just begun a new policy of confiscating vessels used in sanctions violations.

MIF had begun its work to facilitate the implementation of Security Council resolution 986 (1996) on 15 December 1996, with the arrival of the first tanker authorized to lift crude oil from the Mina Al Bakr oil terminal. Its first inspection of humanitarian shipments to Umm Qasr had taken place in March 1997. MIF had established policies to facilitate the flow of legitimate merchant traffic in and out of Iraq while deterring those who sought to avoid the sanctions regime. Where the MIF team had the authority to operate under international law, it had been successful in preventing the import of prohibited cargo, especially weapons and weapons components, into Iraq, and the export of prohibited cargo through international waters, and had done so with minimum interference with legitimate maritime commerce.

To date, MIF had queried over 24,300 vessels, boarded over 10,900 ships and diverted or turned away 634 cargoes that were in violation of the United Nations resolutions. In the Arabian Gulf, it had queried over 2,900 ships, boarded over 1,300 ships, and diverted or turned away 138 sanctions violators. Boardings had averaged 37 per month in 1996 and 57 per month in 1997. Inbound cargo had increased rapidly after March 1997, when the first large quantities of humanitarian goods had started arriving at Umm Qasr; based on estimates from data obtained from ship manifests, the average monthly tonnage of humanitarian

cargo bound for Umm Qasr had increased over fivefold compared with the period prior to the implementation of Security Council resolution 986 (1996).

However, the number of vessels intercepted for gas oil violations in international waters had declined significantly since March 1997; since August, there had been no diversions at all, the reason being that gas oil smugglers were staying within Iranian territorial waters where MIF had no authority to act. The smugglers followed a route from Abu Flus, down the Shatt Al Arab, and then immediately into the Iranian territorial sea, staying inside Iranian waters, all the way to the southern Gulf or beyond, thereby circumventing the MIF forces deployed in the northern Gulf.

There were a number of key components in the smugglers' network. First, there was the port of Abu Flus, where gas oil produced at Iraqi refineries was loaded on barges, cargo ships and coastal tankers; recent improvements at Abu Flus had made loading faster and easier, allowing larger tankers to use the port. Second, there was Arvand One, an Iranian checkpoint, run by the Iranian Revolutionary Guards, strategically positioned at the mouth of the Shatt Al Arab. All ships had to report to Arvand One; smugglers were allowed to proceed after officials there had confirmed that a transfer of funds had been made by the vessel's owner to pay for Iranian protection and falsified paperwork. The third component was the lookout network, made up of fishing vessels which warned smugglers exiting the Shatt Al Arab of MIF ships operating in the vicinity and the fourth component was falsified paperwork; forged certificates of origin were used so that MIF or customs officials would clear the vessels.

Another technique was for ships to move into the Strait of Hormuz, an international waterway, then transit directly from one nation's territorial seas into another's. The smugglers then moved on to their port of destination, or to an offshore transfer area where the illegal cargoes were transferred to a larger vessel. The waters off Bandar Abbas and Fuhirah were being used increasingly for such transfers.

Everyone involved made huge profits by evading maritime sanctions. Iraq charged a very low price for gas oil in Abu Flus, about \$50 per metric ton. The smugglers paid a protection fee to the Iranians at Arvand One of about \$55 per metric ton. Finally, the smugglers sold the gas oil on the open market for an average price of \$160-200 per metric ton. A typical smuggler in a small barge

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owed by an old fishing vessel could make a profit of \$110,000 in four days. MIF estimated that Iraq had made about \$7 million and Iran \$15 million, in 1996, and that they would make about \$75 million and \$80 million respectively in 1997.

Gas oil smuggling continued to increase sharply. In 1996, an estimated 260,000 metric tons of gas oil had been smuggled out of Iraq. Thus far in 1997, over 1.1 million metric tons had left Iraq. If the trend continued, Iraq would export nearly 1.5 million metric tons of gas oil in 1997. Iraq's profits were used to purchase prohibited cargo that was smuggled back into Iraq through Iranian waters. There was a risk that such cargo could include weapons and components of weapons of mass destruction. Moreover, the smuggling posed an increasing risk to the Gulf environment. Many of the ships and barges used were not seaworthy, and oil spills and slicks had occurred.

The smuggling would continue as long as Iraq provided the gas oil. The money Iraq gained from the illegal trade furthered its efforts to purchase prohibited goods, spare parts for its weapons, and dual-use items. MIF forces, working with the GCC States, had been extremely effective in enforcing United Nations sanctions in international waters, and preventing the import of illegal weapons, prohibited goods and technology. MIF could not be fully effective, however, as long as Iran allowed smugglers to transit to and from Iraq through its territorial sea.

Mr. BORNHOLT (Military Adviser, Permanent Mission of Australia to the United Nations) said that Australia fully support Mr. Bordy's presentation; MIF operations in the Persian Gulf were difficult and, at times, extremely hazardous. The continued success of multinational efforts to enforce the United Nations sanctions depended on full cooperation of all the parties in the region, not just those which wished to be involved.

Mr. HEYVAERT (Military Adviser, Permanent Mission of Belgium to the United Nations) and Mr. FRAHER (Military Adviser, Permanent Mission of New Zealand to the United Nations) said that their Governments fully supported the comments made by Mr. Bordy.

Mr. GIBBONS (Deputy Military Adviser, Permanent Mission of Canada to the United Nations) said that he fully supported the briefing; Canada had participated in the MIF operations in the recent past and would be participating again in 1998.

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Mr. VLEER (Assistant Naval Attaché, Royal Netherlands Embassy to the United States of America) said that he supported the statement made by Mr. Bordy; the Netherlands planned to increase the presence of its naval units in the Gulf.

Mr. KILGOUR (Assistant Chief of Staff for Maritime Operations, United Kingdom) said that he endorsed the statement made by Mr. Bordy; the Royal Navy routinely allocated two ships to the Gulf theatre and had recently received a report that an illegal carrier had passed in transit through Iranian territorial waters.

Mr. MCGURGAN (United Kingdom) said that he was pleased that Mr. Bordy had given due recognition to the Gulf States which were assisting MIF. The presentation had borne out what he had reported to the Committee at its previous meeting.

Mr. BROWN (United States of America) said that the briefing was very timely in view of the crisis over the United Nations Special Commission inspections. His Government and many others had stated their commitment to search for a diplomatic solution to the crisis. That meant finding ways of pressuring the Iraqi Government to comply with the relevant Security Council resolutions that did not involve the use of military force. One way would be to make the existing sanctions work more effectively, and to address serious sanctions violations.

Mr. SMIRNOV (Russian Federation) requested further information on the measures taken with regard to the receiving end of the smuggling route.

Mr. BORDY (Rear Admiral, United States Navy, Multinational Interception Force) said that at the beginning of the operations in the Gulf, documents found on some intercepted ships had clearly been forgeries. Currently, however, ships carried what appeared to be perfectly legal documents which stated that the merchandise came from Iran. Therefore, customs officials had no choice but to believe the shipmasters. The suggestion that the solution was to get destination countries to work harder, while seemingly simple, just did not work.

Mr. LEMON (Secretary, Multinational Interception Force) said that in addition to the customs officials in southern Gulf ports being faced with the problem of seemingly legitimate paperwork, a lot of cargo was off-loaded from smaller to larger vessels. It was then carried to distant destinations, or

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netimes fuel was mixed to attain a higher viscosity fuel, making it impossible differentiate between legitimate and illegitimate cargo. Furthermore, the legal activity cut into the legitimate trade in the area since it was capable considerably undercutting international competitors.

Mr. BIGOT (France) said that he did not understand how cargo could be transferred from one ship to another undetected and requested further clarification on the matter. As the cargo was to be sold somewhere, other shipowners, companies and countries were sure to be involved. He also wanted to know why MIF had not moved its operations closer to Umm Qasr if it had concluded that the traffic it could control was in that area. Finally, he would like to know whether MIF had any basis for believing that the profits from the smuggling trade were being used to purchase prohibited goods, or whether that was mere speculation.

Mr. BORDY (Rear Admiral, United States Navy, Multinational Interception Force) said that in the past MIF had found - and confiscated - dual-use and military parts on vessels bound for Iraq. Now that the vessels were staying within Iranian territorial waters, MIF could no longer intercept them. However, the vessels returning to Iraq were not returning empty, and although they might be carrying black market luxury items, there was no reason to believe that the need for military spare parts no longer existed.

Regarding the detection of the transfer of cargo, he said that counting large ships and coastal freighters, there were some 5,000 vessels in the region; MIF had only three. Clearly it could not intercept that amount of traffic, particularly given the system of lookouts that existed.

Mr. LEMON (Secretary, Multinational Interception Force) said that the MIF partners had approached the Government of the United Arab Emirates in an effort to encourage it to implement measures to combat the violation of the territorial waters of the United Arab Emirates. The Government had taken a number of measures and had announced that any vessel found to be engaged in smuggling would be seized and the cargo confiscated. It had recently delivered a cheque for \$4 million from the sale of seized cargo.

Mr. BIGOT (France) said that he had not had any particular country in mind but had simply wished to point out that there were sure to be many countries involved. He asked if there was a list of shipowners or companies

known to have bought merchandise or if there were countries protecting shipowners or companies.

Mr. BORDY (Rear Admiral, United States Navy, Multinational Interception Force) said that in many cases the shipowners were astonished to find out that their ship had been involved in smuggling, since they often leased their vessels out to shipping companies. Furthermore, even very small vessels could be involved in smuggling. There were definitely some companies involved, but it was up to each individual country to deal with matters under their own laws.

For reasons of simplification he had mentioned only one country, but he agreed with the representative of France that there were others involved. For example, one vessel had been tracked all the way to India. Since vessels flew flags of convenience MIF did not know where a ship was from unless the vessel was intercepted.

Mr. LEMON (Secretary, Multinational Interception Force) said that anyone who followed the international maritime activities in the Gulf region knew that it was very difficult to ascertain the ownership of vessels in the area as there was a complicated network of Iraqi and Iranian front companies working in the region.

Mr. ZHRAN (Egypt) said that he valued the efforts of MIF in implementing the sanctions regime. He noted from Mr. Bordy's earlier reply that MIF had no proof that Iraq was using the money obtained from smuggling to purchase prohibited goods. That was mere speculation.

Mr. BORDY (Rear Admiral, United States Navy, Multinational Interception Force), replying to a question from Mr. BROWN (United States of America), said that if Iran clamped down on the smugglers and prevented them from using its territorial waters, the smuggling would virtually cease.

Mr. CHEN Weixiong (China) asked whether MIF had received any complaints in situations in which it had stopped ships engaged in innocent traffic and, if so, how it handled such complaints.

Mr. BORDY (Rear Admiral, United States Navy, Multinational Interception Force) said that MIF rarely received complaints regarding its interceptions of ships. If all vessels complied with the cargo loading instructions provided by the United Nations, inspections could be conducted

quite quickly. The few times complaints had been received, the cargoes had not been loaded in compliance with those instructions.

Mr. LEMON (Secretary, Multinational Interception Force) said that he had recently participated in an MIF inspection of a large inbound bulk grain carrier. The master of the vessel, who had transited the area several times, had said that all vessel masters operating in the area understood the rules regarding cargo loading and that when those rules were followed inspections proceeded expeditiously.

The CHAIRMAN thanked the representatives of the Multilateral Interception Force for the information they had provided.

Mr. Bordy, Mr. Bornholt, Mr. Fraher, Mr. Gibbons, Mr. Heyvaert, Mr. Kilgour, Mr. Lemon and Mr. Vleer withdrew.

Mr. SMIRNOV (Russian Federation) said that while he was aware that MIF followed a set of rules governing cargo inspections, he was unaware of the existence of specific United Nations rules on the matter; he would welcome clarification from the Secretariat.

Mr. BROWN (United States of America) said that the rules to which the MIF Coordinator had referred were those issued by MIF as notices to mariners, the standard form of notification used by Governments to advise shippers of conditions in territorial waters or certain areas of the high seas. The rules originating with MIF advised shippers of procedures instituted pursuant to Security Council resolution 665 (1990), which most likely explained why the MIF Coordinator had referred to them as United Nations instructions.

Mr. STEPHANIDES (Deputy Director, Security Council Affairs Division) said that he would provide the information requested by the representative of the Russian Federation at the Committee's next meeting.

The CHAIRMAN suggested that he should present the information reported by MIF at the current meeting to the Permanent Representative of the Islamic Republic of Iran and request his Government's comments thereon. He would report back to the Committee once he had received a reply.

Mr. BIGOT (France) said that in the light of past experience he did not think that there was much point in asking the Government of the Islamic Republic of Iran to comment on the information presented. It would, however, be useful for the Committee to invite all countries involved in the matters raised

at briefings by MIF to participate as observers in those meetings so that they could reply promptly to the information supplied by MIF.

Mr. MCGURGAN (United Kingdom) said that it would definitely be desirable for the Chairman to transmit the new information to the Permanent Representative of the Islamic Republic of Iran; he should also indicate that a written response would be preferable.

Mr. BROWN (United States of America) said that, despite repeated requests, the Iranian Government had thus far failed to inform the Committee of any actions taken to ensure compliance with the sanctions against Iraq. The Committee had every right to expect the Islamic Republic of Iran to enforce the relevant Security Council resolutions. Other countries in the region had been cooperative when informed of alleged sanctions violations in their territories. In contrast, the Islamic Republic of Iran had provided nothing but vague replies claiming to have dealt with what it considered to be isolated violations of sanctions.

Mr. SMIRNOV (Russian Federation) said that it was inappropriate for the Committee to single out the Islamic Republic of Iran. In the interests of a balanced and equitable approach, the Chairman also should contact other countries reported by MIF to be involved in some manner in illegal shipments to or from Iraq.

The Government of the Islamic Republic of Iran had in fact submitted a written reply on 3 December 1996 acknowledging that its territorial waters had been used for illegal shipments and stating, inter alia, that the results of its investigations into the situation would be conveyed to the Committee as soon as possible. The Chairman should request those results when he contacted the Permanent Representative of the Islamic Republic of Iran.

Mr. MCGURGAN (United Kingdom) said that the reply to which the representative of the Russian Federation had referred was nearly a year old and that it was entirely appropriate for the Committee to present the Islamic Republic of Iran with the new information received from MIF. The Chairman also should approach the countries whose ports had been reported to have received goods from Iraq.

Mr. ZAHRAN (Egypt) noted that the information provided by MIF referred to two countries which were not in the region. He had full confidence in the Chairman's ability to handle the matter appropriately.

The CHAIRMAN said that he would ask the Permanent Representative of the Islamic Republic of Iran for a written reply concerning the matters raised by MIF at the current meeting, as well as for the information which the Government had said in its letter of 3 December 1996 would be forthcoming.

He would announce in the briefings he was about to give upon the adjournment of the current meeting that he planned to contact the Permanent Representative of the Islamic Republic of Iran as well as the other countries mentioned at the current briefing.

IMPLEMENTATION OF SECURITY COUNCIL RESOLUTION 1137 (1997)

The CHAIRMAN said that the Secretariat had begun work on the procedures for the implementation of paragraph 4 of Security Council resolution 1137 (1997) calling for travel restrictions on certain Iraqi personnel and that the Committee would soon be able to hold an expert meeting to discuss the matter.

Mr. MCGURGAN (United Kingdom) thanked the Secretariat for the work it had done thus far on that issue and expressed the hope that the expert meeting could be convened as soon as possible.

The meeting rose at 5.55 p.m.