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

PROVISIONAL SUMMARY RECORD OF THE 179th MEETING (CLOSED)

Held at Headquarters, New York,
on Tuesday, 23 February 1999, at 4.30 p.m.

Chairman: Mr. van WALSUM (Netherlands)

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Corrections to this record should be submitted in one of the working languages. They should be set forth in a memorandum and also incorporated in a copy of the record. They should be sent within one week of the date of this document to the Chief, Official Records Editing Section, room DC2-750, 2 United Nations Plaza.



The meeting was called to order at 4.45 p.m.

ADOPTION OF THE AGENDA

The agenda was adopted.

LETTERS DATED 3 DECEMBER 1998 AND 9 FEBRUARY 1999 FROM IRAQ
(S/AC.25/1998/COMM.165 and S/AC.25/1999/COMM.8)

The CHAIRMAN drew the Committee's attention to two letters dated 3 December 1998 and 9 February 1999 from Iraq requesting the Committee's approval for the transfer of funds to cover the costs of travel to Mecca by Iraqi pilgrims (S/AC.25/1998/COMM.165 and S/AC.25/1999/COMM.8).

At the most recent informal meeting held at the expert level, there had been support for a two-track approach involving the distribution of a draft letter to the Permanent Representative of Iraq under the "no-objection" procedure, and the pursuit of informal consultations between himself and the Permanent Representative. Two delegations had placed the letter on hold. In view of the importance of reaching a consensus as expeditiously as possible, the Committee was invited to make its views known in that regard.

The International Committee of the Red Cross (ICRC) had requested not to be mentioned by name in the letter and the draft had accordingly been amended.

Informal consultations between himself and the Permanent Representative of Iraq had been postponed until the following day to allow the current meeting to be held and to enable the Committee to instruct him as appropriate.

Mr. BIGOT (France) confirmed that his delegation had requested the draft letter to be put on hold for procedural reasons. It had been his delegation's understanding that the Chairman would hold informal consultations with the Permanent Representative of Iraq in order to enable the Committee to determine the appropriateness of the letter. Given that a consensus solution was in the interests of all parties concerned, the Committee should proceed with the utmost discretion.

The draft letter certainly represented a significant improvement on the previous year's response to the issue. His delegation was in favour of the simplest solution, namely direct transferral of funds to the Iraqi authorities with assurances from the latter that spending would be subject to the necessary controls.

Judging from past experience, Iraq would be more likely to respond positively if the Committee were to proceed informally. In view of the urgency of the issue, it was to be regretted that no informal consultations had been held since the previous meeting.

Mr. CONG Guang (China) said that the issue should be resolved as expeditiously as possible, through quiet diplomacy. China had no objection to the draft letter, but was concerned that it should not be used for any other purpose than achieving a solution. He expressed the hope that the Chairman would hold informal consultations with the Permanent Representative of Iraq before sending the letter. It was regrettable that no such consultations had, as yet, been held, despite having been requested at the previous meeting.

The CHAIRMAN assured the Committee that he had met informally with the current Permanent Representative of Iraq on two occasions. At the first such meeting, held over a month previously, the Permanent Representative had indicated that the only practicable solution would be for the funds to be transferred directly to the Central Bank of Iraq, with assurances from the Iraqi Government that spending would be closely monitored. He had informed the Permanent Representative that, according to the Legal Counsel, such a procedure would not be in conformity with the relevant Security Council resolutions, and that an alternative solution would have to be sought. At the second meeting, which had been no more than a courtesy call, the Permanent Representative had appeared fully aware of what was being discussed in the Committee, and had said that he was not in favour of involving the ICRC. When reminded that the red cross symbolized the coat of arms of Switzerland and not the Christian cross, the Permanent Representative had assured him that the Iraqi authorities were most grateful to ICRC and understood the latter's wish not to be mentioned as a third party. It was thus that he had been alerted to the need to amend the draft.

Mr. SMIRNOV (Russian Federation) expressed support for the positions expressed by the representatives of France and China. The reason that Security Council resolution 1153 (1998), which provided for the authorization of expenditure relating to the Hajj to be met by funds in the escrow account, had not been implemented was not because of the Legal Counsel's opinion but because of the absence of consensus in the Committee. It was, however, a significant achievement that no member had any fundamental objection to the draft letter.

There had been an understanding that informal consultations would be held at a number of levels, not merely between the Chairman and the Permanent Representative of Iraq, and his delegation was eagerly awaiting the outcome of the envisaged consultations.

The CHAIRMAN announced that an amended copy of the draft letter to Iraq was being circulated to all members. The reference to ICRC had been deleted and the second paragraph now referred simply to a "third party".

Mr. YOUNG (United States of America) commented that there appeared to be some disagreement over the outcome of the most recent meeting of experts. It had been his delegation's understanding that a two-track approach was being pursued, and that the sending of the letter did not depend on the outcome of the informal consultations. Both avenues must be pursued simultaneously; it was the urgency, not the delicacy of the issue, which was paramount. The lack of any objection to the substance of the draft letter was to be welcomed. The exchange must be continued in an open and transparent fashion, in the interests of all concerned. His delegation was pleased that progress appeared to be in sight.

Mr. LLOYD (United Kingdom) said that China's approval of the substance of the draft was to be very much welcomed; it was, indeed, important that no members had raised objections. The preferences expressed by France and Iraq were clearly not legal, therefore the Committee must focus on identifying an acceptable alternative procedure. His own delegation would prefer the letter to be submitted to Iraq in advance of the informal meeting, in order to ensure that a meaningful discussion could take place.

Mr. Ebrahim Mubarak AL-DOSARI (Bahrain) expressed support for the positions expressed by the representatives of France, China and the Russian Federation. The amendment to the draft was also to be welcomed, since it might facilitate consultations with the Iraqi side. The letter should, however, only be sent following informal consultations. His delegation agreed with the representative of China that the Committee must avoid politicizing a matter which was strictly religious; and supported the view of the representative of France that the Committee should be flexible regarding the transfer of funds. The issue was a humanitarian one, and it must be resolved expeditiously given that the pilgrimage season was due to commence some 30 days hence.

Mr. HADI (Malaysia) supported the suggestion that the Chairman should meet with the Permanent Representative of Iraq before sending the Committee's

letter. It was important to determine as quickly as possible whether the Committee's proposal to disburse funds to pilgrims through a humanitarian agency or other third party violated any provisions of the relevant Security Council resolutions. Although pilgrims would incur some expenses in preparing for their journey, the bulk of the funds should not be paid to them until they had left Iraq.

The CHAIRMAN said that the sooner the question of International Committee of the Red Cross (ICRC) involvement was resolved, the sooner other relevant details could be settled.

Mr. BIGOT (France) said that it was his understanding that the Committee had agreed to hear from the United Nations Humanitarian Coordinator in Iraq before his departure for Baghdad. The problem was not legal, but rather political; some members of the Committee were opposed to the direct transfer of funds to an Iraqi bank, a fact which complicated the Committee's task and made it more difficult to obtain the consent of the Iraqi authorities.

The Chairman seemed to imply that the ICRC had already been selected. In fact, at the Committee's recent informal meeting, the Organization of the Islamic Conference (OIC) had been mentioned as another possible intermediary.

The CHAIRMAN noted that the letter just circulated made it clear that ICRC was not the only possible third party. He was convinced that the letter should be sent the following day.

Mr. HARVEY (Canada) agreed, noting that the Committee had achieved consensus on the substance of the letter and had nothing to fear from transparency.

Mr. FERNANDES (Brazil) said that he saw no reason why the Chairman should not deliver the letter by hand to the Permanent Representative immediately after their meeting on the understanding that the Committee remained open to further discussion. He suggested that the International Federation of Red Cross and Red Crescent Societies might be a viable alternative to ICRC.

The CHAIRMAN said that he had already proposed that alternative to the Permanent Representative of Iraq.

Mr. THERON (Namibia) suggested that the Chairman should decide after his meeting with the Permanent Representative whether to deliver the letter or to consult further with the Committee.

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Ms. GONZÁLEZ POSSE (Argentina) noted that the purpose of both the Committee's letter and the Chairman's meeting with the Permanent Representative was to ascertain the Iraqi authorities' reaction to the Committee's revised proposal. He therefore suggested that the Chairman should raise the issues contained in the letter at that meeting.

Mr. YOUNG (United States of America) said that since the letter would be discussed at the Chairman's meeting with the Permanent Representative, it did not really matter at what point it was delivered. If the Iraqi Government refused to cooperate with the Committee, the Committee must inform the international community that it had done its best but that the Iraqi authorities had not responded to its overtures.

He looked forward to the Humanitarian Coordinator's comments. In the meantime, he suggested that the Chairman should ask the Saudi Mission to inform the Committee of its requirements for Iraqi pilgrims. It was time to begin work on an actual plan for the distribution of cash and vouchers in a manner consistent with the relevant Security Council resolutions and, as the representative of Malaysia had suggested, to seek a legal opinion on the proposal to distribute funds through a third party.

The CHAIRMAN said that he planned to contact the Permanent Representative of Saudi Arabia as soon as possible after sending the letter.

Mr. LLOYD (United Kingdom) said that he would welcome the Humanitarian Coordinator's views on the situation. He agreed with the representative of Argentina that it was important for the Chairman to raise some of the Committee's concerns, including those mentioned by the representatives of Malaysia and France, during his meeting with the Permanent Representative of Iraq.

Mr. BIGOT (France) said that certain members of the Committee might have misunderstood his position. The representative of the United States of America had rightly stated that the Committee must seek a solution through negotiation with the Government of Iraq. It would be useful for the Chairman to inform the Committee of the results of his meeting with the Permanent Representative of Iraq and, in particular, whether the Iraqi authorities would prefer an alternative to ICRC - perhaps OIC or a non-governmental organization active in that country - as intermediary in the disbursement of funds. He agreed

that the Committee should seek a legal opinion on its proposal and that the Chairman should speak with the Permanent Representative of Saudi Arabia.

Mr. CONG Guang (China) said that there were four possible outcomes of the Chairman's meeting with the Permanent Representative of Iraq. The Iraqi authorities might accept the Committee's proposal, in which case the letter need not be sent; they might reject the proposal, in which case it would be useless to send the letter; they might wish to study the proposal and to respond at a later date; or they might propose other alternatives. In any case, the Chairman should inform the Committee of the results of his meeting so that members could decide whether to change the language of the letter before sending it.

Mr. Ebrahim Mubarak AL-DOSARI (Bahrain) stressed that the Hajj would begin in less than one month and that Saudi authorities closed the borders to pilgrims one week in advance. The Committee must focus on arranging for the transfer of the necessary funds; that should be the sole purpose of requesting additional information in a letter. If the request for additional information was a pretext for deferring a decision on the transfer of funds, his delegation would have difficulty in supporting it.

Mr. SMIRNOV (Russian Federation) commended the analysis by the representative of China. Noting with concern that the Committee, after a week of meetings, had been unable to finalize the technical aspects of a humanitarian and religious pilgrimage that had very little to do with the sanctions regime, he wondered whether all the discussion of form and procedure was actually masking a substantive issue. The Committee should do its utmost to make the appropriate arrangements for the transfer of funds, consistent with its mandate outlined in Security Council resolutions 1153 (1998) and 1210 (1998). Stressing that time was of the essence, he agreed with the representative of Namibia that the Committee should rely on the Chairman's judgement; depending on the outcome of the latter's meeting with the Permanent Representative of Iraq, the Committee could, if necessary, reconvene in order to arrive at a solution. His delegation was prepared to do whatever was necessary to that end.

Mr. YOUNG (United States of America), commenting on the analysis by the representative of China, said that perhaps the issue was not procedural after all but substantive. He believed that it would be appropriate to submit the letter in any of the four scenarios outlined by the representative of China. With a view to accelerating the preparations for the Hajj, the Chairman, in his

meeting with the Permanent Representative of Iraq, might request a list of all pilgrims and their transportation arrangements. It might also be useful to contact the Permanent Mission of Jordan in that connection and to request information on modes of transportation from the Saudi authorities. That would lay the groundwork for the Committee to approve flights and deal with monitoring, observation and other responsibilities. The question of funding obviously required further discussion.

Mr. LENARČIČ (Slovenia) said that the Chairman should emphasize to the Permanent Representative of Iraq that Committee members agreed on the substance of the letter. It might even be expedient for the Chairman to read out the letter or submit it unofficially to the Permanent Representative in order to apprise him of its content and obtain feedback as rapidly as possible.

Mr. CONG Guang (China) supported the proposal.

Mr. HADI (Malaysia), referring to the proposal by the representative of the United States concerning preparations for the pilgrimage, said that, in view of the time factor, centralized travel, lodging and food arrangements might accelerate the process. In that connection, he suggested that all travel should be arranged by air rather than overland.

The CHAIRMAN said that the preparations were far more complicated than that. For example, monies must be provided for gifts to friends and family of pilgrims who stayed behind.

Mr. LLOYD (United Kingdom) said that, while it had seemed at the outset that the discussion would be procedural, there were serious problems with the letter that must now be clarified. He proposed that at his meeting the next day, the Chairman should assess whether or not to submit the Committee's letter officially. If necessary, the Committee could consider the matter again.

The CHAIRMAN said that he had intended to proceed in that manner.

Mr. BIGOT (France) noted that, while there was agreement that the Chairman should convey the content of the letter to the Permanent Representative of Iraq, particularly with regard to the use of a third party, the required consensus for addressing an official letter did not exist. The Committee should be informed of the outcome of the Chairman's meeting and proceed accordingly. Since the purpose of the current meeting had been to avoid misunderstandings, he did not wish to leave it with fresh misunderstandings.

The CHAIRMAN said that, while a majority of Committee members were in favour of addressing a letter officially, there was no consensus on the issue. There was, however, consensus on the need for the Chairman to convey the Committee's views. He would do that either by paraphrasing the letter, reading it out or handing it to the Permanent Representative of Iraq on an unofficial basis.

Mr. VON SPONECK (United Nations Humanitarian Coordinator in Iraq) said that he was encouraged by the sense of urgency expressed by the representatives of Malaysia, the United States and others who had made suggestions regarding preparations for the pilgrimage. For many people, the opportunity to perform the Hajj would fulfil a lifetime dream and he hoped that a repetition of the previous year's delays would not occur. The Rafidain Bank, which had branches in Amman and Baghdad, had been proposed as an alternative to the Central Bank of Iraq. There had been much discussion of dignity and of the importance of avoiding any appearance that the pilgrimage by Iraqis was being financed externally. He expressed surprise that ICRC, which dealt with war-related issues, had been proposed as a third party. The International Federation of Red Cross and Red Crescent Societies, a neutral international organization, would be a far better alternative.

OTHER MATTERS

Mr. YOUNG (United States of America) said that it was his delegation's understanding that a six-month supply of medicines and medical supplies was stored in warehouses in Iraq. It would be useful for the Committee to see the inventory of those supplies and to hear what measures the Office of the Iraq Programme intended to take in that regard, since the quantity of supplies in storage exceeded all those procured under phase IV. He also requested an update on whether the Government of Iraq had submitted new contracts for the targeted nutritional supplies recommended by the Secretary-General. Lastly, he stressed that, in allocating the revenue from the oil-for-food programme, disproportionate cuts in the priority sectors of food and medicines must be avoided.

Mr. CONG Guang (China) recalled that his delegation had requested a briefing, at some convenient time, from the Secretariat, on the more than 100 applications that had been withheld.

Mr. BIGOT (France), referring to the comments by the representative of the United States, said that it was not surprising that distribution procedures in Iraq should be affected by the prolonged sanctions regime. He noted that the distribution of vital water purification equipment had declined in phase IV even though available funding had increased by 50 per cent and requested a meeting with the Secretariat in order to clarify the matter on a priority basis.

The CHAIRMAN said that the Committee's draft report to the Security Council would be considered the following morning.

Mr. LLOYD (United Kingdom) suggested that, for the sake of balance, specific reference should be made in the draft report to the Hajj, for the Committee had devoted several meetings to discussion of that issue. He noted that an entire paragraph was devoted to the reimbursement mechanism, to which the Committee had devoted only one meeting.

The meeting rose at 6.40 p.m.