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

PROVISIONAL SUMMARY RECORD OF THE 181st MEETING (CLOSED)

Held at Headquarters, New York,
on Monday, 8 March 1999, at 3.30 p.m.

Chairman: Mr. van WALSUM (Netherlands)

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~~The meeting~~ was called to order at 3.45 p.m.

MEMBER OF BAHRAIN
Chairman, the members of the Committee observed a
At the invitation of the
minute of silence

ADOPTION OF THE ~~Agenda~~ and COMM.20)

THE HAJJ (S/AC.25 ~~and~~ attention to the letter dated 2 March 1999 from the
The ~~CHAIRMAN~~ Iraq (S/AC.25/1999/COMM.17), in which the latter
Permanent Representative of Iraq for the Hajj must be made directly available to
once again insist ~~that~~ had subsequently confirmed, in a letter dated
Iraq. The Acting ~~CHAIRMAN~~ (COMM.20), that the situation had not changed and that
4 March 1999 (S/AC.25 ~~and~~ requested to approve such a request. The Permanent
the Committee was ~~asked~~ requested that he should be invited to appear
Representative of ~~Iraq~~ could explain his Government's views on the
before the Committee ~~and~~ the members of the Committee had felt that it would
pilgrimage. Unfortunately ~~the~~ representative of Iraq to appear at the current stage
not be appropriate ~~for~~
of the discussions

He had also ~~mentioned~~ ~~the~~ Chargé d'affaires of the Permanent Mission of
Saudi Arabia to ~~keep~~ ~~the~~ Chargé d'affaires had submitted a note
the Hajj. At that ~~time~~ which, however, did not address the main Iraqi
containing a possible ~~request~~ made available to participants before they left
request that funds ~~be~~

Mr. SMIRNOV (Federation) said that it was disappointing that
the proposal that the Permanent Representative of
the Committee, particularly in light of the
Security Council (S/1999/92) that countries
permitted to present their points of view to the
the Chairman to continue pursuing that
not all members had
Iraq be invited to
proposal by the Pres
affected by sanctions
Sanctions Committees

possibility. His delegation welcomed the proposal from Saudi Arabia and agreed that it should be presented to the Iraqi delegation.

Mr. BIGOT (France) said that he saw it as a positive development that Iraq had asked to be invited to meet with the Committee for the first time. It was also a positive sign that 14 members of the Committee did not object to such a meeting. He hoped that the Representative of Iraq could come before the Committee at a later date; such a dialogue could be very helpful in resolving numerous technical issues.

He took note of the opinion of the Legal Counsel that funds could not be transferred to Iraq under the existing resolutions. It should be possible, however, to amend those resolutions to allow the transfer of those funds if consensus could be reached in the Security Council.

Finally, he wondered if the Chairman had raised the idea with the delegation of Iraq that the proposed third party could be the Iraqi Red Crescent Society.

The CHAIRMAN said that he had mentioned that the International Red Cross and Red Crescent Societies were under consideration for that role, including, of course, the Iraqi branch.

Mr. MCGURGAN (United Kingdom) said that his delegation regretted that it would not be possible to hear from the Permanent Representative of Iraq. The question to be decided was how the Committee could best facilitate the arrangements for Iraqi pilgrims. He agreed with the representative of the Russian Federation that the note from Saudi Arabia should be brought to the attention of Iraq. The Chairman should also indicate that the Committee had not yet given up on its own proposal.

Mr. CONG Guang (China) said that his delegation would like to have the Permanent Representative of Iraq meet with the Committee. It also agreed with the Representative of France that the Security Council could amend its resolutions as the need arose.

Mr. HARVEY (Canada) said that his delegation saw inviting the Permanent Representative of Iraq to address the Committee as a step towards greater transparency.

Mr. YOUNG (United States of America) agreed that the Saudi Arabian proposal should be brought to the attention of the Iraqi Government. His

delegation regretted that the Government of Iraq had not accepted the Committee's proposals thus far.

While noting the interest expressed in inviting the Permanent Representative of Iraq to appear before the Committee, he said that such an invitation would be inappropriate at the present time since the Iraqi proposals were not in accordance with the relevant Security Council resolutions. However, his delegation would be prepared to consider such requests on a case-by-case basis.

Mr. E. M. AL-DOSARI (Bahrain) said that, because of the short time remaining before the Hajj, the Saudi proposal would be helpful in encouraging the Iraqi Government to participate in the discussions. The legal framework must be carefully defined, as the concept of the third party had not yet been endorsed.

The CHAIRMAN said that he intended to contact the Saudi Arabian authorities again regarding their proposal. He also asked the United States to reconsider its position regarding the proposal to invite the representative of Iraq to meet with the Committee, in the light of the note by the President of the Security Council.

NOTE VERBALE DATED 5 AUGUST 1996 FROM TURKEY (continued)
(S/AC.25/1996/COMM.7649)

The CHAIRMAN drew attention to the note verbale dated 5 August 1996 from Turkey (S/AC.25/1996/COMM.7649) concerning the resumption of the importation of petroleum and petroleum products from Iraq. At the 178th meeting of the Committee, it had been decided that the Permanent Mission of Turkey should be requested to provide an update on the matter. Since the promised update had yet to be received, he suggested that the item should be deferred until the update was available.

Mr. BIGOT (France) wondered whether there were substantive reasons for the delay, and whether the request was still valid in the context of the current situation.

Mr. E. M. AL-DOSARI (Bahrain) suggested that the Permanent Mission of Turkey should be requested to correct or reformulate its request in the context of current circumstances.

The CHAIRMAN said that he would contact the Permanent Representative of Turkey and enquire whether there was a problem in providing the update and when the Committee could expect to receive it.

NOTE VERBALE DATED 23 NOVEMBER 1998 FROM LEBANON (continued)
(S/AC.25/1998/COMM.158)

The CHAIRMAN drew attention to the note verbale dated 23 November 1998 from Lebanon concerning the release of funds (S/AC.25/1998/COMM.158). At the 178th meeting some Committee members had expressed the view that the matter should be decided on a bilateral basis; others had said that it was the Committee's responsibility to deal with the matter. Perhaps the Permanent Representative of Lebanon should seek clarification directly from the Office of Legal Affairs.

Mr. BIGOT (France) stressed that the implementation of financial sanctions was within the Committee's purview and could not be decided on a purely bilateral basis. If the Committee preferred to wait for a legal opinion before deciding on the matter, his delegation could support that course of action.

Mr. MCGURGAN (United Kingdom) said that, when faced with similar requests in the past, the Committee had simply replied that it was not competent to authorize the release of frozen assets. Since the note verbale referred to branches of the Bank of New York and Rafidain Bank (in London), discussions between the Lebanese and British authorities might be useful. It was his impression that depositors were entitled to their funds if they could prove that they were Lebanese citizens.

Mr. E. M. AL-DOSARI (Bahrain) said that the Committee should deal with the request itself.

Mr. SMIRNOV (Russian Federation) said that there were a number of formulations the Committee could use when, as in the present case, there was no consensus. In any event no explicit reference should be made to the opinion of the Legal Counsel.

Mr. BIGOT (France) said that the Committee was not being requested to decide on the release of funds but rather to express its views on the legality of freezing the funds under the United Nations sanctions regime.

Mr. MCGURGAN (United Kingdom) pointed out that the note verbale clearly requested the Committee to consider releasing the funds to the

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depositors. The Committee should reply, explaining that, in accordance with the relevant Security Council resolutions, it was not authorized to do so.

Mr. YOUNG (United States of America) supported the proposal. It was his understanding that the funds were owed to Lebanese commercial interests pursuant to letters of credit issued by a particular bank, and to Lebanese depositors. As the funds were being held in blocked Iraqi accounts, it was not appropriate to release them.

Mr. CONG Guang (China) said that, in view of the differing views of Committee members, the Legal Counsel's opinion should be sought as a basis for further discussion.

Mr. BIGOT (France) urged Committee members to consider going beyond standard practice with a view to improving the work of the Committee. It was well known that the Committee had abandoned control over financial sanctions, including the freezing of assets. In the interest of achieving a pragmatic solution, the Chairman should meet informally with the Permanent Representative of Lebanon to clarify the intent of the letter.

The CHAIRMAN proposed that, he should start by drafting a letter based on precedent and standard practice and submit it to the Committee. The Committee could then decide what changes were necessary in the light of the particular situation.

Mr. McGURGAN (United Kingdom) supported that approach.

Mr. BIGOT (France) said that he could not agree with the proposal, which favoured a legalistic over a pragmatic solution. It was therefore pointless for the Chairman to draft a letter. Either the Chairman should meet with the Permanent Representative of Lebanon or the Committee should seek the opinion of the Legal Counsel.

The CHAIRMAN said that the matter would be carried over to the next meeting.

LETTER DATED 23 DECEMBER 1998 FROM THE DEAN OF THE DIPLOMATIC CORPS IN BAGHDAD
(continued) (S/AC.25/1998/COMM.181)

The CHAIRMAN drew attention to a letter dated 23 December 1998 from the Dean of the diplomatic corps in Baghdad (S/AC.25/1998/Comm.181) concerning air travel to and from Baghdad for diplomats and their families. Following the Committee's discussion at its 178th meeting, he had contacted Mr. Miyet, Under-

Secretary-General for Peacekeeping Operations, who had indicated that there were no United Nations flights at the present time.

Mr. SMIRNOV (Russian Federation) said that the real question was how to ensure that persons who were not subject to the sanctions regime were afforded the possibility of travelling by air. The use of United Nations flights and of flights on regular aircraft, which would also be used for medical purposes, had already been proposed. His delegation would appreciate it if the matter could be studied further.

Mr. BIGOT (France) supported the remarks made by the representative of the Russian Federation and requested the Chairman to establish informal contact with the representatives of Jordan and the United Arab Emirates, both of which had proposed to organize humanitarian flights on a regular basis. He believed that it would be proper to inform the Dean of the diplomatic corps that the Committee was considering the issue.

Mr. RANI (Malaysia) agreed with the comments made by the Russian Federation and urged the Committee to make every effort to facilitate air travel for colleagues in the diplomatic corps, noting, inter alia, that the distance between Baghdad and Amman was 1,000 km.

Mr. CONG Guang (China) expressed full agreement with the remarks made by the representative of Malaysia and suggested that the Chairman should convene an expert meeting on the question.

Mr. YOUNG (United States of America) reiterated that his delegation was willing to approve flights by diplomats on a case-by-case basis if circumstances precluded their ability to travel overland. Should the United Nations decide in future to increase United Nations flights, his delegation would not object.

Mr. BIGOT (France) said that it would be useful to hear the Chairman's views on the proposals by Jordan and the United Arab Emirates, particularly since there were no United Nations flights at the present time.

Mr. MCGURGAN (United Kingdom) said that his delegation shared the views and concerns expressed by the representative of the United States adding that it would be premature at that point to contact the Permanent Representative of Jordan and the United Arab Emirates.

Mr. CONG Guang (China) requested the Chairman's views concerning his delegation's proposal to hold an expert meeting.

The CHAIRMAN said that he would be agreeable to an expert meeting, but it was not yet clear which matters were to be discussed in a formal meeting and which were to be discussed informally at the expert level.

He noted that no consensus had been reached on contacting the representatives of Jordan and the United Arab Emirates but that there was general agreement on drafting a letter to the Dean of the diplomatic corps.
LETTER DATED 25 JANUARY 1999 FROM THE INTERNATIONAL ATOMIC ENERGY AGENCY (IAEA)
(S/AC.25/1999/COMM.5)

The CHAIRMAN drew attention to the request from IAEA for clearance to implement seven new technical cooperation projects in Iraq.

Mr. McGURGAN (United Kingdom) said that before approving the request, his delegation would need more information on possible monitoring, and on the potential dual use nature of the items.

Mr. BIGOT (France) suggested that the cooperation of IAEA be sought to ensure monitoring. If humanitarian observers were not available, United Nations agencies in the field might be called upon to perform that role. Some of the programmes, such as the screening of newborns for thyroid deficiency, were obviously humanitarian in nature. The demand for monitoring was valid, but should have been made earlier. Time was of the essence.

The CHAIRMAN said that the request for further clarifications would be formulated in such a way as to minimize further delay.

It was so decided.

LETTER DATED 16 FEBRUARY 1999 FROM OMAN (S/AC.25/1999/COMM.14)

The CHAIRMAN drew attention to the letter from Oman in which the Government of the Sultanate of Oman proposed to establish a special escrow account in Oman for depositing the proceeds of the sale of an illegal oil cargo.

Mr. BIGOT (France) said that he would join a consensus, but that he failed to understand the reasoning behind the request.

Mr. SMIRNOV (Russian Federation) joined with the representative of France. Given that the disposal of such funds was governed by established procedure, consideration of the item should be deferred to enable the opinion of the Office of the Controller to be sought.

Mr. E. M. AL-DOSARI (Bahrain) proposed that informal discussions should be held with the Permanent Representative of the Sultanate of Oman; the Committee could then resume its consideration of the item at the next meeting.

The CHAIRMAN took it that the Committee wished to proceed along the lines suggested.

It was so decided.

LETTER DATED 9 FEBRUARY 1999 FROM THE EXECUTIVE DIRECTOR OF THE OFFICE OF THE IRAQ PROGRAMME (OIP) (S/AC.25/1999/COMM.18)

LETTER DATED 25 FEBRUARY 1999 FROM THE EXECUTIVE DIRECTOR OF THE OFFICE OF THE IRAQ PROGRAMME (OIP) (S/AC.25/1999/COMM.19)

LETTER DATED 16 FEBRUARY 1999 FROM IRAQ (S/AC.25/1999/COMM.11)

LETTER DATED 16 FEBRUARY 1999 FROM THE UNDER-SECRETARY-GENERAL FOR MANAGEMENT (S/AC.25/1999/COMM.12)

COMMUNICATIONS DATED 5 JANUARY AND 23 FEBRUARY 1999 FROM JORDAN (S/AC.25/1999/COMMS.1 AND 15)

LETTER DATED 24 JANUARY 1999 FROM IRAQ (S/AC.25/1999/COMM.6)

The CHAIRMAN suggested that consideration of the above items be deferred in view of time constraints.

It was so decided.

COMMUNICATIONS UNDER THE "NO-OBJECTION" PROCEDURE

Mr. WAN Jingzhang (Secretary of the Committee) described the "no-objection" procedure which had been introduced in ~~1993~~ to cope with the increasing volume of applications, and to enable all members to comment on the status of applications. The secretariat of the Committee was awaiting the Committee's instructions on how to respond to the 1,500 items on the list; applicants were as yet unaware that their applications were being blocked.

OIP regularly circulated all relevant documents to members prior to meetings. Since February 1996, only copies of language versions not yet circulated had been provided at meetings, members having been requested to bring their own copies.

Mr. BIGOT (France) proposed that the procedure should be reviewed. Discussions were made difficult if all delegations did not have the necessary documents before them. Furthermore, States should be informed if their applications were being held or blocked. Approximately 80 per cent of goods covered by the 661 procedure were currently on hold, including simple goods such as building materials and cosmetics, as well as humanitarian donations from non-

governmental organizations (NGOs). The rules should be changed to allow the current communications to be discussed at every meeting if necessary.

Mr. YOUNG (United States of America) said that the whole point was surely to expedite work by circulating communications under the "no-objection" procedure rather than placing them as items on the agenda. There was, moreover, a fundamental difference between goods under the two procedures.

Mr. MCGURGAN (United Kingdom) said that if he had understood correctly, the representative of France would agree to the 1,500 communications being processed provided certain documents were made available at the next meeting.

Mr. BIGOT (France) explained that he had not been referring to the 1,500 items on the status list. He had meant that documents should be circulated in good time so that new requests under the 661 procedure might be given proper, rather than routine consideration at the next meeting.

Mr. MCGURGAN (United Kingdom) asked whether the representative of France meant that each delegation should bring thousands of documents to meetings with a view to holding a substantial debate on each item. He would be reluctant to change established procedures which had been introduced to streamline work.

Mr. BIGOT (France) maintained that all documents on the status list should be made available to members at meetings. It was not as if they were full-length reports.

The CHAIRMAN said that the discussion would be resumed at the expert level.

It was so decided.

OTHER MATTERS

Mr. YOUNG (United States of America) asked whether anything had been done in relation to his delegation's proposal regarding a plan of action for moving US\$ 275 million of medical supplies not distributed by the Government of Iraq.

Mr. ASPLUND (Director of the Office of the Iraq Programme (OIP)) said that his Office was involved in intense discussions with the Iraqi authorities to develop such a plan of action with the cooperation of the Humanitarian Coordinator in Iraq.

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The CHAIRMAN, responding to a question from Mr. BIGOT (France), said that a reply to his earlier request for information on operational expenditures of OIP and UNSCOM was not yet available.

The meeting rose at 5.45 p.m.