

Middle East

23. Items relating to the situation between Iraq and Kuwait

A. The situation between Iraq and Kuwait

Decision of 8 January 1993 (3161st meeting): statement by the President

At its 3161st meeting, on 8 January 1993, the Security Council resumed its consideration of the item. After the adoption of the agenda, the President (Japan) stated that, following consultations among the members of the Council, he had been authorized to make the following statement on behalf of the Council:¹

The Security Council is deeply disturbed by the Government of Iraq's recent notes to the Office of the Special Commission in Baghdad and to the Headquarters of the United Nations Iraq Kuwait Observation Mission (UNIKOM) that it will not allow the United Nations to transport its personnel into Iraqi territory using its own aircraft.

The Council refers to its resolution 687 (1991) of 3 April 1991 requiring Iraq to permit the Special Commission and the International Atomic Energy Agency (IAEA) to undertake immediate on site inspection of any locations designated by the Commission. The agreement on facilities, privileges and immunities between the Government of Iraq and the United Nations and resolutions 707 (1991) of 15 August 1991 and 715 (1991) of 11 October 1991 elaborated on Iraq's obligations by demanding, *inter alia*, that the Special Commission and the IAEA be allowed, as they determined necessary, to use their own aircraft throughout Iraq and any airfield in Iraq without interference or hindrance of any kind. Concerning UNIKOM, Iraq is obligated by resolution 687 (1991) and committed by an exchange of letters dated 15 April 1992 and 21 June 1992 to the unrestricted freedom of entry and exit without delay or hindrance of its personnel, property, supplies, equipment, spare parts and means of transport.

The implementation of the measures set out in the recent communications of the Iraqi Government would seriously impede the activities of the Special Commission, the IAEA and UNIKOM. Such restrictions constitute an unacceptable and material breach of the relevant provisions of resolution 687 (1991), which established the cease fire and provided the conditions essential to the restoration of peace and security in the region, as well as of other relevant resolutions and agreements.

The Council demands that the Government of Iraq abide by its obligations under all relevant Security Council resolutions

¹ S/25081.

and cooperate fully with the activities of the Special Commission, the IAEA and UNIKOM. In particular, it demands that the Government of Iraq not interfere with the currently envisaged United Nations flights. The Council warns the Government of Iraq, as it has done in this connection in the past, of the serious consequences which would ensue from failure to comply with its obligations.

By a letter dated 10 January 1993 addressed to the President of the Council,² the representative of Iraq transmitted a letter dated 9 January 1993 from the Minister for Foreign Affairs of Iraq, in which the latter specified that his Government's decision concerning the discontinuance of the use of foreign aircraft by the Special Commission was a temporary decision dictated by the United States threat to Iraq. His Government had already requested the Chairman of the Special Commission to use Iraqi aircraft for United Nations missions in Iraq and had discussed the matter with the Secretary-General. The Foreign Minister rejected as incorrect the allegations that Iraq had stopped or hampered the missions of the Special Commission in Iraq and noted that the dealings of the United Nations with a free and sovereign State ought to be marked by propriety.

Decision of 11 January 1993 (3162nd meeting): statement by the President

On 10 January 1993, the Secretary-General submitted to the Council a special report on the United Nations Iraq-Kuwait Observation Mission (UNIKOM),³ in which he reported a number of serious developments concerning the Mission. On 10 January 1993, some 200 Iraqis had forced entry into ammunition bunkers in a former Iraqi naval base at Umm Qasr, on Kuwaiti territory, and had taken away most of their contents, including 4 HY-2G anti-ship missiles, in contravention of the Security Council's decision of 3 November 1992,⁴ in which it was stipulated that the contents of the bunkers should be destroyed by or under the supervision of UNIKOM. He also noted that up to 500

² S/25086.

³ S/25085. See also S/25085/Add.1, dated 19 January 1993.

⁴ S/25085, annex III.

Iraqi personnel continued to dismantle prefabricated buildings also on Kuwaiti territory and to remove the parts, in violation of the procedure established by the Council for the removal of Iraqi property and assets and conveyed to the Secretary-General in a letter dated 8 January 1993.⁵ The Secretary-General further reported that, on 4 January 1993, Iraqi authorities had raised the question of the retrieval by them of the prefabricated buildings which Iraq had made available to UNIKOM in Camp Khor, although the government previously had agreed that the land and premises made available to UNIKOM should be made inviolate and subject to the exclusive control and authority of the United Nations. The Secretary-General noted that that was taking place at a time when the Council was already actively seized of other aspects of the situation, such as Iraq's ban against United Nations aircraft. While Iraq's cooperation was essential for UNIKOM to perform its tasks effectively, those developments cast doubt on Iraq's continued willingness to cooperate with UNIKOM and to abide by its commitments in that respect.

At its 3162nd meeting, on 11 January 1993, the Council included the special report of the Secretary-General⁶ in its agenda. Following the adoption of the agenda, the President drew the attention of the members of the Council to the letter dated 10 January 1993 from the representative of Iraq.⁷ He then stated that, following consultations among the members of the Council, he had been authorized to make the following statement on behalf of the Council:⁸

The Security Council notes that there have been a number of recent actions by Iraq as part of its pattern of flouting relevant Council resolutions. One was the series of border incidents involving the United Nations Iraq Kuwait Observation Mission (UNIKOM), another was the incident concerning the Special Commission and UNIKOM flights.

The Council is deeply concerned at the incidents reported in the special report of the Secretary-General of 10 January 1993 on UNIKOM. It recalls the provisions of its resolution 687 (1991) of 3 April 1991 that established the demilitarized zone between Iraq and Kuwait and demanded that both countries respect the inviolability of the international boundary between them. It reaffirms that the boundary was at the very core of the conflict and that, in resolutions 687 (1991) and 773 (1992) of 26 August 1992, it guaranteed the inviolability of the boundary

and undertook to take as appropriate all necessary measures to that end in accordance with the Charter of the United Nations.

The Council condemns the action taken by Iraq on 10 January 1993 to remove equipment by force from the Kuwaiti side of the demilitarized zone without prior consultation with UNIKOM, and through UNIKOM with the Kuwaiti authorities, as set out in the letter dated 8 January 1993 from the President of the Council to the Secretary-General. In particular, the Council draws attention to the removal by Iraq of four HY 2G anti ship missiles and other military equipment from the six bunkers in the former Iraqi naval base at Umm Qasr in Kuwaiti territory, in spite of the objections of UNIKOM and their efforts to prevent this. This action is a direct challenge to the authority of UNIKOM and amounts to clear-cut defiance by Iraq of the Council, which stipulated in the letter dated 3 November 1992 from its President to the Secretary-General that the military equipment in the six bunkers should be destroyed by or under the supervision of UNIKOM. The Council demands that the anti ship missiles and other military equipment removed by force from the six bunkers at Umm Qasr in Kuwaiti territory be returned immediately to the custody of UNIKOM for destruction, as previously decided.

The Council also condemns further Iraqi intrusions into the Kuwaiti side of the demilitarized zone on 11 January 1993. It demands that any future retrieval mission be in accordance with the terms set out in the letter dated 8 January 1993 from the President of the Council to the Secretary-General. On the UNIKOM facilities at Camp Khor, the Council stresses that the land and premises occupied by UNIKOM shall be inviolate and subject to the exclusive control and authority of the United Nations.

The Council invites the Secretary-General, as a first step, to explore on an urgent basis the possibilities for restoring UNIKOM to its full strength and to consider in an emergency such as this the need for rapid reinforcement as set out in paragraph 18 of his report of 12 June 1991, as well as any other suggestions that he might have to enhance the effectiveness of UNIKOM, and to report back to the Council.

The Council is also alarmed by Iraq's refusal to allow the United Nations to transport its Special Commission and UNIKOM personnel into Iraqi territory using its own aircraft. In this connection the Council reiterates the demand in its statement of 8 January 1993 that Iraq permit the Special Commission and UNIKOM to use their own aircraft to transport their personnel into Iraq. It rejects the arguments contained in the letter dated 9 January 1993 from the Minister for Foreign Affairs of Iraq to the President of the Security Council.

These latest developments concerning the activities of UNIKOM and the Special Commission constitute further material breaches of resolution 687 (1991), which established the ceasefire and provided the conditions essential for the restoration of peace and security in the region, as well as other relevant resolutions and agreements. The Council demands that Iraq cooperate fully with UNIKOM, the Special Commission and other United Nations agencies in carrying out their

⁵ *Ibid.*, annex I.

⁶ S/25085.

⁷ S/25086.

⁸ S/25091.

mandates, and again warns Iraq of the serious consequences that will flow from such continued defiance. The Council will remain actively seized of the matter.

Decision of 25 January 1993: statement by the President

Following consultations held on 25 January 1993, the President of the Security Council issued the following statement on behalf of the members of the Council:⁹

The members of the Security Council held informal consultations on 25 January 1993 pursuant to paragraph 21 of Council resolution 687 (1991).

After hearing all the opinions expressed in the course of the consultations, the President of the Council concluded that there was no agreement that the necessary conditions existed for a modification of the regimes established in paragraph 20 of resolution 687 (1991), as referred to in paragraph 21 of that resolution.

Decision of 5 February 1993 (3171st meeting): resolution 806 (1993)

On 18 January 1993, pursuant to the presidential statement of 11 January 1993, the Secretary-General submitted to the Council a further special report on UNIKOM,¹⁰ in which he suggested ways to enhance the effectiveness of the Mission. He noted that UNIKOM, whose observers were unarmed, had neither the authority nor the means to enforce the Council's decisions and relied on the cooperation of the Governments of Iraq and Kuwait. With regard to the incidents which had taken place in the area of operation since the beginning of the month, the Secretary-General stated that UNIKOM had performed the function for which it was designed and for which its strength was sufficient. Should the Council, however, decide that the UNIKOM mandate did not permit an adequate response to such violations and that it should be able to prevent and redress them, then UNIKOM would require the capacity to take physical action to prevent or, if that failed, to redress small-scale violations in the demilitarized zone; violations of the boundary between Iraq and Kuwait, for example by civilian police; and problems that might arise from the presence of Iraqi installations and Iraqi citizens and their assets in the demilitarized zone on the Kuwaiti

side of the newly demarcated boundary.¹¹ To be able to perform those tasks, UNIKOM would have to be provided with infantry in sufficient numbers to be present on the ground on a permanent basis, as well as with adequate airlift capacity and, as the case may be, with naval assets. UNIKOM could not be authorized to initiate enforcement action as it could not use its weapons, except in self-defence. The Secretary-General noted that both the Governments of Iraq and Kuwait would be expected to cooperate with the Mission. Without such cooperation, it would become impossible for the restructured Mission to carry out its functions, in which case the Council would need to consider alternative measures.

At its 3171st meeting, on 5 February 1993, the Council included the special report of the Secretary-General in its agenda. Following the adoption of the agenda, the President (Morocco), drew the attention of the members of the Council to a draft resolution prepared in the course of the Council's consultations.¹²

The draft resolution was then put to the vote and adopted unanimously as resolution 806 (1993), which reads:

The Security Council,

Reaffirming its resolution 687 (1991) of 3 April 1991, in particular paragraphs 2 to 5 thereof, and its resolutions 689 (1991) of 9 April 1991 and 773 (1992) of 26 August 1992, and its other resolutions on this matter,

Having considered the report of the Secretary-General of 18 and 19 January 1993,

Noting with approval that work is being completed on the realignment of the demilitarized zone referred to in paragraph 5 of resolution 687 (1991) to correspond to the international boundary demarcated by the United Nations Iraq Kuwait Boundary Demarcation Commission,

Deeply concerned at recent actions by Iraq in violation of relevant Security Council resolutions, including the series of border incidents involving the United Nations Iraq Kuwait Observation Mission,

Recalling the statements made by the President on behalf of the Council on 8 and 11 January 1993,

Acting under Chapter VII of the Charter of the United Nations,

1. *Underlines once again* its guarantee of the inviolability of the international boundary between the State of

⁹ S/25157.

¹⁰ S/25123 and Add.1.

¹¹ S/25123, para. 5.

¹² S/25244.

Kuwait and the Republic of Iraq and its decision to take as appropriate all necessary measures to that end in accordance with the Charter of the United Nations, as provided for in paragraph 4 of resolution 687 (1991);

2. *Approves* the report of the Secretary-General, and decides to extend the terms of reference of the United Nations Iraq-Kuwait Observation Mission to include the functions contained in paragraph 5 of the report;

3. *Requests* the Secretary-General to plan and execute a phased deployment of the strengthening of the Mission, taking into account the need for economy and other relevant factors and to report to the Council on any step he intends to take following an initial deployment;

4. *Reaffirms* that the question of termination or continuation of the Mission and the modalities of the Mission will continue to be reviewed every six months pursuant to paragraphs 2 and 3 of resolution 689 (1991), the next review to take place in April 1993;

5. *Decides* to remain seized of the matter.

**Decision of 29 March 1993: statement by
the President**

Following consultations held on 23 and 29 March 1993, the President of the Council issued the following statement on behalf of the members of the Council:¹³

The members of the Security Council held informal consultations on 23 and 29 March 1993 pursuant to paragraphs 21 and 28 of Council resolution 687 (1991) and paragraph 6 of Council resolution 700 (1991).

After hearing all the opinions expressed in the course of the consultations, the President of the Council concluded that there was no agreement that the necessary conditions existed for a modification of the regimes established in paragraph 20 of resolution 687 (1991), as referred to in paragraph 21 of that resolution; in paragraphs 22 to 25 of resolution 687 (1991), as referred to in paragraph 28 of that resolution; and in paragraph 6 of resolution 700 (1991).

**Decision of 13 April 1993: letter from
the President to the Secretary-General**

On 2 April 1993, pursuant to resolution 689 (1991), the Secretary-General submitted to the Council a report on UNIKOM covering the period from 1 October 1992 to 31 March 1993.¹⁴ The Secretary-General observed that, while the UNIKOM area of operations had, for the most part, been calm during the past six months, the events of January 1993 had

demonstrated the value of the United Nations presence on the border between Iraq and Kuwait as well as the need that it continue. He therefore recommended to the Council that it maintain UNIKOM for a further six-month period.¹⁵ The Secretary-General added that it had not been possible so far to identify a Member State which was in a position to provide the mechanized infantry battalion to be deployed in the first phase of the strengthening of UNIKOM in accordance with resolution 806 (1993) of 5 February 1993.¹⁶

By a letter dated 13 April 1993,¹⁷ the President of the Council (Pakistan) informed the Secretary-General of the following:

In accordance with the provisions of Security Council resolution 689 (1991) of 3 April 1991, and in the light of your report, the members of the Council have reviewed the question of termination or continuation of the United Nations Iraq Kuwait Observation Mission (UNIKOM), as well as its modalities of operation.

I have the honour to inform you that the members of the Council concur with your recommendations, in particular that contained in paragraph 32 of your report.

With reference to paragraph 33 of your report, the members of the Council urge you to continue your efforts to identify a troop contributor for the mechanized infantry battalion to be deployed in the first phase of strengthening UNIKOM in accordance with resolution 806 (1993) of 5 February 1993.

**Decision of 24 May 1993: statement by
the President**

Following consultations held on 24 May 1993, the President of the Council (Russian Federation) issued the following statement on behalf of the members of the Council:¹⁸

The members of the Security Council held informal consultations on 24 May 1993 pursuant to paragraph 21 of resolution 687 (1991).

After hearing all the opinions expressed in the course of the consultations, the President of the Council concluded that there was no agreement that the necessary conditions existed for a modification of the regimes established in paragraph 20 of resolution 687 (1991), as referred to in paragraph 21 of that resolution.

¹⁵ Ibid., para. 32.

¹⁶ Ibid., para. 33.

¹⁷ S/25588.

¹⁸ S/25830.

¹³ S/25480.

¹⁴ S/25514.

**Decision of 27 May 1993 (3224th meeting):
resolution 833 (1993)**

By a letter dated 21 May 1993 addressed to the President of the Council,¹⁹ the Secretary-General transmitted the final report on the demarcation of the international boundary between the Republic of Iraq and the State of Kuwait by the United Nations Iraq-Kuwait Boundary Demarcation Commission, dated 20 May 1993, conveying the final results of the work of the Commission, together with the list of geographic coordinates demarcating the boundary and the map of the area.²⁰ The Secretary-General recalled that, in accordance with its mandate and terms of reference, the Commission was called to perform a technical and not a political task and had made every effort to strictly confine itself to that objective. Through the technical process of demarcation, the Commission was not reallocating territory between Iraq and Kuwait, but had performed the technical task necessary to demarcate the international boundary between the two countries set out in the “Agreed Minutes between the State of Kuwait and the Republic of Iraq regarding the restoration of friendly relations, recognition and related matters” signed at Baghdad on 4 October 1963.²¹ He noted that the geographic coordinates established by the Commission were final and pointed out that, in accordance with resolution 687 (1991), both Iraq and Kuwait should respect the international boundary’s inviolability, which would be guaranteed by the Council. Noting further that the demarcation of the international boundary had direct implications for the implementation of resolution 687 (1991) relating to the establishment of a demilitarized zone along that boundary, the Secretary-General reported that he was instructing UNIKOM to finalize the realignment of that zone with the entire international boundary demarcated by the Commission. He would also make the necessary arrangements for maintenance of the physical representation of the boundary, as recommended by the Commission.²² He believed that the work of the Commission would have a beneficial effect on the restoration of international peace and security in the area concerned.

At its 3224th meeting, on 27 May 1993, the Council included the letter from the Secretary-General

in its agenda. Following the adoption of the agenda, the President (Russian Federation), drew the attention of the members of the Council to a draft resolution prepared in the course of the Council’s consultations.²³

Speaking in explanation of vote, the representative of Venezuela stated that the process of demarcation of the Iraq-Kuwait boundary was being carried out in the special circumstances following Iraq’s invasion of Kuwait, which posed a threat to international peace and security and which had been condemned by the international community. In that context, Venezuela understood that the draft resolution was not intended in any way to establish any precedent affecting the general principle set forth in Article 33 of the Charter, according to which it was the parties directly involved in a dispute who must negotiate and reach necessary agreement to overcome their differences.²⁴

The draft resolution was then put to the vote and adopted unanimously as resolution 833 (1993), which reads:

The Security Council,

Reaffirming its resolution 687 (1991) of 3 April 1991, in particular paragraphs 2 to 4 thereof, and its resolutions 689 (1991) of 9 April 1991, 773 (1992) of 26 August 1992, and 806 (1993) of 5 February 1993,

Recalling the report of the Secretary-General of 2 May 1991 concerning the establishment of the United Nations Iraq Kuwait Boundary Demarcation Commission, the subsequent exchange of letters between the Secretary-General and the President of the Security Council dated 6 and 13 May 1991, and the acceptance of the report by Iraq and Kuwait,

Having considered the letter dated 21 May 1993 from the Secretary-General to the President of the Security Council transmitting the final report of the Commission,

Recalling in this connection that through the demarcation process the Commission was not reallocating territory between Kuwait and Iraq, but was simply carrying out the technical task necessary to demarcate for the first time the precise coordinates of the boundary set out in the “Agreed Minutes between the State of Kuwait and the Republic of Iraq regarding the restoration of friendly relations, recognition and related matters” signed by them on 4 October 1963, and that this task was carried out in the special circumstances following Iraq’s invasion of Kuwait and pursuant to resolution 687 (1991) and the report of the Secretary-General regarding implementation of paragraph 3 of that resolution,

¹⁹ S/25811 and Add.1.

²⁰ S/25811, annex.

²¹ United Nations, *Treaty Series*, vol. 485, No. 7063.

²² S/25811, annex, section X.C.

²³ S/25852.

²⁴ S/PV.3224, pp. 3-6.

Reminding Iraq of its obligations under resolution 687 (1991), in particular paragraph 2 thereof, and under other relevant resolutions of the Council, and of its acceptance of the Council resolutions adopted pursuant to Chapter VII of the Charter of the United Nations, which acceptance forms the basis for the ceasefire,

Noting with approval the Secretary-General's instruction to the United Nations Iraq-Kuwait Observation Mission to finalize the realignment of the demilitarized zone with the entire international boundary between Iraq and Kuwait demarcated by the Commission,

Welcoming the Secretary-General's decision to make the necessary arrangements for the maintenance of the physical representation of the boundary, as recommended by the Commission in section X.C of its report, until other technical arrangements are established between Iraq and Kuwait for this purpose,

Acting under Chapter VII of the Charter,

1. *Welcomes* the letter dated 21 May 1993 from the Secretary-General to the President of the Council and the 20 May 1993 report of the United Nations Iraq-Kuwait Boundary Demarcation Commission transmitted therewith;

2. *Welcomes also* the successful conclusion of the work of the Commission;

3. *Expresses its appreciation* to the Commission for its work on the land part of the boundary as well as the Khawr 'Abd Allah or offshore section of the boundary, and welcomes its demarcation decisions;

4. *Reaffirms* that the decisions of the Commission regarding the demarcation of the boundary are final;

5. *Demands* that Iraq and Kuwait, in accordance with international law and relevant Security Council resolutions, respect the inviolability of the international boundary, as demarcated by the Commission, and the right to navigational access;

6. *Underlines and reaffirms its decision* to guarantee the inviolability of the above mentioned international boundary which has now been finally demarcated by the Commission and to take as appropriate all necessary measures to that end in accordance with the Charter of the United Nations, as provided for in paragraph 4 of resolution 687 (1991) and paragraph 4 of resolution 773 (1992);

7. *Decides* to remain seized of the matter.

After the vote, the representative of Brazil recalled that his country had consistently supported action taken by the United Nations with a view to ensuring full respect for the sovereignty and territorial integrity of Kuwait. Any attempt to challenge that sovereignty and integrity was unacceptable. It was the understanding of his Government that the decisions

taken by the Council concerning the international boundary between Iraq and Kuwait in resolution 687 (1991) and subsequent resolutions could be justified only in the light of the exceptional and unique circumstances in which those decisions had been taken and did not establish a precedent for future action by the Council in other matters pertaining to the definition or demarcation of boundaries between Member States. Brazil's support for resolution 833 (1993) and other decisions in that matter was without prejudice to its reservations regarding the competence of the Council in questions related to the definition or demarcation of boundaries between Member States, which should be settled directly by the States concerned.²⁵

Similarly, the representative of China stated, with respect to the question of boundaries, that the countries concerned should, in accordance with international law and the Charter, seek a peaceful solution in agreements or treaties arrived at through negotiation and consultation. The existing demarcation of the boundary between Iraq and Kuwait was a special case arising from the specific historical circumstances involved and, as such, was not generally applicable. For that reason, the Council's invocation of Chapter VII of the Charter with respect to the demarcation of the disputed boundary between the two countries must not be viewed as setting a precedent.²⁶

Other speakers said that the delimitation of the boundary would have a beneficial impact on peace and security in the region.²⁷ Some noted that the Commission had carried out the technical task of demarcating a boundary and that it had not attributed any territory to one side or the other and had not encroached on the sovereignty of either State in any way.²⁸

**Decision of 18 June 1993 (3242nd meeting):
statement by the President**

By a note dated 16 June 1993,²⁹ the Secretary-General transmitted to the Council a report submitted by the Executive Chairman of the Special Commission

²⁵ Ibid., pp. 8-9.

²⁶ Ibid, p. 12.

²⁷ Ibid., pp. 6-7 (United Kingdom); pp. 7-8 (France); pp. 9-11 (Hungary); pp. 11-12 (United States); p. 13 (New Zealand); pp. 13-14 (Djibouti); and pp. 14-15 (Spain).

²⁸ Ibid., pp. 7-8 (France); pp. 9-11 (Hungary); and pp. 13-14 (Djibouti).

²⁹ S/25960.

established pursuant to paragraph 9 (b) (i) of resolution 687 (1991),³⁰ in which the latter presented an account of the Government of Iraq's attitude on certain aspects of implementation of its obligations under section C of that resolution and subsequent relevant resolutions and agreements. The Executive Chairman reported on the refusal of the Government of Iraq to accept installation by the Special Commission of monitoring cameras at rocket test sites and to move chemical weapons production equipment to a designated site for destruction. He noted that Iraq's obstruction in those two instances was a further failure by Iraq to fulfil its obligations under resolution 687 (1991) and other relevant decisions of the Council resolutions and agreements with the Special Commission. Furthermore, Iraq's insistence that the Special Commission limit itself to activities under resolution 687 (1991) was a direct challenge to the authority of the Security Council and the force of its resolutions adopted under Chapter VII of the Charter. The Executive Chairman concluded by stating that such developments fitted with a general pattern of statements and behaviour on the part of Iraq concerning those aspects of resolution 687 (1991) and subsequent resolutions which dealt with the long-term monitoring of Iraq's obligations not to reacquire the weapons capabilities prohibited under the terms of the ceasefire resolution. While not explicitly rejecting the monitoring provisions, Iraq's actions in seeking to renegotiate their terms had, in effect, prevented the initiation of implementation of the plans for ongoing monitoring and verification adopted under resolution 715 (1991) and amounted to a de facto rejection of the Council's resolutions and decisions in that regard.

At its 3242nd meeting, on 18 June 1993, the Council included the note by the Secretary-General in its agenda. After the adoption of the agenda, the President (Spain) stated that, following consultations among the members of the Council, he had been authorized to make the following statement on behalf of the Council:³¹

The Security Council is deeply concerned by the de facto refusal of the Government of Iraq to accept installation by the United Nations Special Commission of monitoring devices at rocket test sites and to transport chemical-weapons-related equipment to a designated site for destruction, as set out in a

³⁰ *Ibid.*, annex.

³¹ S/25970.

report from the Executive Chairman of the Special Commission to the President of the Security Council.

The Council refers to its resolution 687 (1991) of 3 April 1991 requiring Iraq to permit the Special Commission and the International Atomic Energy Agency (IAEA) to undertake immediate on-site inspection of any locations designated by the Commission. The agreement on facilities, privileges and immunities between the Government of Iraq and the United Nations, and Council resolutions 707 (1991) of 15 August 1991 and 715 (1991) of 11 October 1991 clearly establish Iraq's obligation to accept the presence of monitoring equipment designated by the Special Commission and that it is for the Special Commission alone to determine which items must be destroyed under paragraph 9 of resolution 687 (1991).

Iraq must accept installation by the Special Commission of monitoring devices at the rocket test sites in question and transport the chemical-weapons-related equipment concerned to a designated site for destruction.

The Council reminds Iraq that in resolution 715 (1991) it approved plans for monitoring by the Special Commission and the IAEA which clearly require Iraq to accept the presence of such monitoring equipment at Iraqi sites, designated by the Special Commission, to ensure continuing compliance with its obligations under resolution 687 (1991).

Iraq's refusal to comply with decisions of the Special Commission, as set out in the report of the Executive Chairman, constitutes a material and unacceptable breach of the relevant provisions of resolution 687 (1991), which established the ceasefire and provided the conditions essential to the restoration of peace and security in the region, as well as violation of resolutions 707 (1991) and 715 (1991) and the plans for future ongoing monitoring and verification approved thereunder. In this context, the Council recalls its statements of 8 and 11 January 1993, and warns the Government of Iraq of the serious consequences of material breaches of resolution 687 (1991) and violations of its obligations under resolution 715 (1991) and the above-mentioned plans.

The Council reminds the Government of Iraq of its obligations under Security Council resolutions and its undertakings to provide for the safety of inspection personnel and equipment. The Council demands that the Government of Iraq immediately comply with its obligations under resolutions 687 (1991), 707 (1991) and 715 (1991) and cease its attempts to restrict the Commission's inspection rights and operational capabilities.

**Decision of 28 June 1993 (3246th meeting):
statement by the President**

By a letter dated 7 June 1993 addressed to the Secretary-General,³² the representative of Iraq transmitted a letter dated 6 June 1993 from the

³² S/25905.

Minister for Foreign Affairs of Iraq, in which the latter conveyed his Government's initial viewpoint on resolution 833 (1993). He drew attention to a number of shortcomings in the work of the United Nations Iraq-Kuwait Boundary Demarcation Commission, with regard to its decision on the demarcation of the offshore boundary in the Khawr Abdullah and the endorsement thereof by the Council in resolution 833 (1993). He contended that the improper intervention and influence on the work of the Commission in that matter had given rise to a number of legal questions, including that the Council had no right, pursuant to its functions and powers under the Charter, to impose a boundary delimitation on a Member State because, under international law, that sphere of competence was governed by the principle of agreement between the States concerned and because it had, with the precision legally required, no relation to questions of the maintenance of international peace and security that were the sphere of competence of the Council. He further contended that the Council had thus acted *ultra vires*. Regarding the overall outcome of the work of the Commission and resolution 833 (1993), the Minister reaffirmed his Government's position according to which the decisions adopted by the Commission represented, *inter alia*, a purely political decision imposed by the Powers dominating the Security Council and the United Nations, which would constitute a dangerous precedent contrary in substance and consequences to the duties and responsibilities entrusted to the Council by the Charter.³³

By a letter dated 16 June 1993, addressed to the Secretary-General,³⁴ the representative of Kuwait transmitted the text of a statement issued by the Kuwaiti Council of Ministers whereby Kuwait affirmed, *inter alia*, that it would honour and be bound by resolution 833 (1993) and all relevant Security Council resolutions.

At its 3246th meeting, on 28 June 1993, the Council resumed its consideration of the item. Following the adoption of the agenda, the President drew the attention of the members of the Council to the above-mentioned letters from the representatives of Iraq and Kuwait. He then stated that, following consultations among the members of the Council, he

had been authorized to make the following statement on behalf of the Council:³⁵

The Security Council has noted with particular concern the letter dated 6 June 1993 from the Minister for Foreign Affairs of the Republic of Iraq to the Secretary-General concerning resolution 833 (1993) of 27 May 1993.

The Council recalls in this connection that the United Nations Iraq-Kuwait Boundary Demarcation Commission did not reallocate territory between Kuwait and Iraq, but simply carried out the technical task necessary to demarcate the precise coordinates for the first time, on the basis of the "Agreed Minutes between the State of Kuwait and the Republic of Iraq regarding the restoration of friendly relations, recognition and related matters" signed by them on 4 October 1963, which was registered with the United Nations. The Council reminds Iraq that the Boundary Demarcation Commission acted on the basis of resolution 687 (1991) of 3 April 1991 and the Secretary-General's report on implementing paragraph 3 of that resolution, both of which were formally accepted by Iraq. In its resolution 833 (1993), the Council reaffirmed that the decisions of the Commission were final and demanded that Iraq and Kuwait respect the inviolability of the international boundary as demarcated by the Commission and the right to navigational access.

The Council also reminds Iraq of its acceptance of resolution 687 (1991), which forms the basis for the ceasefire. The Council wishes to stress to Iraq the inviolability of the international boundary between Iraq and Kuwait, demarcated by the Commission and guaranteed by the Council pursuant to resolutions 687 (1991), 773 (1992) of 26 August 1992 and 833 (1993), and the serious consequences that would ensue from any breach thereof.

**Decision of 21 July 1993: statement by
the President**

On 21 July 1993, after consultations with the members of the Council, the President made the following statement on behalf of the members of the Council:³⁶

The members of the Security Council held informal consultations on 21 July 1993 pursuant to paragraphs 21 and 28 of resolution 687 (1991) and paragraph 6 of resolution 700 (1991).

After hearing all the opinions expressed in the course of the consultations, the President of the Council concluded that there was no agreement that the necessary conditions existed for a modification of the regimes established in paragraph 20 of resolution 687 (1991), as referred to in paragraph 21 of that resolution; in paragraphs 22 to 25 of resolution 687 (1991), as

³³ See letter dated 21 May 1992 from the Minister for Foreign Affairs of Iraq addressed to the Secretary-General (S/24044).

³⁴ S/25963.

³⁵ S/26006.

³⁶ S/26126.

referred to in paragraph 28 of that resolution; and in paragraph 6 of resolution 700 (1991).

Decision of 20 September 1993: statement by the President

On 20 September 1993, after consultations with the members of the Council, the President made the following statement on behalf of the members of the Council:³⁷

The members of the Security Council held informal consultations on 20 September 1993 pursuant to paragraph 21 of resolution 687 (1991).

After hearing all the opinions expressed in the course of the consultations, the President of the Council concluded that there was no agreement that the necessary conditions existed for a modification of the regimes established in paragraph 20 of resolution 687 (1991), as referred to in paragraph 21 of that resolution.

Decision of 11 October 1993: letter from the President to the Secretary-General

On 1 October 1993, pursuant to resolution 689 (1991), the Secretary-General submitted to the Council a report on UNIKOM covering the period from 1 April to 30 September 1993.³⁸ The Secretary-General reported that the UNIKOM area of operations had been calm during the past six months and that the Mission had received the cooperation of both Iraqi and Kuwaiti authorities in discharging its responsibilities. However, the calm along the Iraq-Kuwait border should not obscure the fact that tensions persisted and peace had yet to be restored in the area. Noting that the presence of UNIKOM remained an important factor of stability along the border, he recommended that the Mission be maintained for a further six-month period.³⁹ He noted with appreciation the decision of the Government of Kuwait to defray the cost of two thirds of the UNIKOM budget.

By a letter dated 11 October 1993,⁴⁰ the President of the Council (Brazil) informed the Secretary-General of the following:

In accordance with the provisions of Security Council resolution 689 (1991) and in the light of your report, the members of the Council have reviewed the question of

³⁷ S/26474.

³⁸ S/26520.

³⁹ *Ibid.*, para. 22.

⁴⁰ S/26566.

termination or continuation of the United Nations Iraq Kuwait Observation Mission, as well as its modalities of operation.

I have the honour to inform you that the members of the Council concur with your recommendations, in particular that contained in paragraph 22 of your report.

Decision of 18 November 1993: statement by the President

On 18 November 1993, after consultations among members of the Council, the President (Cape Verde) issued the following statement on behalf of the Council:⁴¹

The members of the Security Council held informal consultations on 18 November 1993 pursuant to paragraphs 21 and 28 of resolution 687 (1991) and paragraph 6 of resolution 700 (1991).

After hearing all the opinions expressed in the course of the consultations, the President of the Council concluded that there was no agreement that the necessary conditions existed for a modification of the regimes established in paragraph 20 of resolution 687 (1991), as referred to in paragraph 21 of that resolution; in paragraphs 22 to 25 of resolution 687 (1991), as referred to in paragraph 28 of that resolution; and in paragraph 6 of resolution 700 (1991).

Decision of 23 November 1993 (3319th meeting): statement by the President

At its 3319th meeting, on 23 November 1993, the Council resumed its consideration of the item. Following the adoption of the agenda, the President drew the Council's attention to two letters dated 16 November 1993 and another letter dated 22 November 1993 addressed to the President of the Council by the representative of Kuwait,⁴² and to a letter dated 15 November 1993 addressed to the President of the Council by the representative of Iraq,⁴³ in which the representatives of Iraq and Kuwait, respectively, alleged violations of the demilitarized zone along the Iraq-Kuwait boundary. The President then stated that, following consultations among the members of the Council, he had been authorized to make the following statement on behalf of the Council:⁴⁴

The Security Council is seriously concerned about recent violations of the Iraq-Kuwait boundary as reported by the

⁴¹ S/26768.

⁴² S/26758, S/26786 and S/26784.

⁴³ S/26755.

⁴⁴ S/26787.

United Nations Iraq-Kuwait Observation Mission (UNIKOM), most notably those on 16 and 20 November 1993, when large numbers of Iraqi nationals crossed the boundary illegally. The Council holds the Government of Iraq responsible for these breaches of paragraph 2 of resolution 687 (1991) of 3 April 1991.

The Council reminds Iraq of its obligations under resolution 687 (1991), the acceptance of which forms the basis of the ceasefire, and under other relevant resolutions of the Council, including most recently resolution 833 (1993) of 27 May 1993.

The Council demands that Iraq, in accordance with international law and relevant Council resolutions, respect the inviolability of the international boundary and take all necessary measures to prevent any violations of that boundary.

Decision of 3 December 1993: letter from the President to the representative of Iraq

By a letter dated 26 November 1993, addressed to the President of the Council,⁴⁵ the representative of Iraq transmitted a letter of the same date from the Minister for Foreign Affairs of Iraq, conveying Iraq's decision to accept its obligations under resolution 715 (1991) and to comply with the provisions of the plans for monitoring and verification as contained therein. With its acceptance of resolution 715 (1991) and following other positive developments, his Government hoped that the Council would discharge its obligations towards it under resolution 687 (1991) and trusted, above all, that paragraph 22 of that resolution would be implemented speedily and in full and without obstacles, restrictions or additional conditions.

By a letter dated 3 December 1993,⁴⁶ the President of the Council (China) informed the representative of Iraq of the following:

I have the honour to acknowledge receipt of your communication dated 26 November 1993.

You thereby sent me the letter addressed to me by the Minister for Foreign Affairs of Iraq, which conveys to me unconditional acknowledgement of Iraq's obligations under resolution 715 (1991) of 11 October 1991.

The members of the Council welcome this development. They will continue to follow closely Iraq's cooperation with the Special Commission and the International Atomic Energy Agency as they carry out the plans for ongoing monitoring and verification over a sustained period.

⁴⁵ S/26811.

⁴⁶ S/26841.

Decision of 18 January 1994: statement by the President

After consultations held on 18 January 1994, the President of the Council (Czech Republic) issued the following statement on behalf of the members of the Council:⁴⁷

The members of the Security Council held informal consultations on 18 January 1994 pursuant to paragraph 21 of resolution 687 (1991) of 3 April 1991.

After hearing all the opinions expressed in the course of the consultations, the President concluded that there was no agreement that the necessary conditions existed for a modification of the regime established in paragraph 20 of resolution 687 (1991), as referred to in paragraph 21 of that resolution.

Decision of 4 March 1994 (3343rd meeting): resolution 899 (1994)

By a letter dated 22 February 1994 addressed to the President of the Council,⁴⁸ the Secretary-General referred to his letter of 23 November 1992 to the President of the Council, in which he had brought to the Council's attention some issues arising from the demarcation of the Iraq-Kuwait boundary and, in particular, the matter of the Iraqi private citizens and their assets which had remained on Kuwaiti territory. The Secretary-General noted that encouraging developments had taken place for the resolution of that matter. Kuwait had agreed to pay into a trust fund an amount of compensation to those Iraqi nationals affected by the demarcation. The Secretary-General was confident that the Council would concur with his view that the compensation payments would fall within the definition of "payments exclusively for strictly ... humanitarian purposes" provided for in resolution 661 (1990) as an exception to the general prohibition against the remittal of funds to persons or bodies within Iraq.

At its 3343rd meeting, on 4 March 1994, the Council included the letter from the Secretary-General in its agenda. Following the adoption of the agenda, the President (France) drew the attention of the members of the Council to a draft resolution prepared in the course of the Council's prior consultations.⁴⁹

⁴⁷ S/PRST/1994/3.

⁴⁸ S/1994/240.

⁴⁹ S/1994/252.

The draft resolution was then put to the vote and adopted unanimously as resolution 899 (1994), which reads:

The Security Council,

Recalling its resolution 833 (1993) of 27 May 1993,

Having considered the letter from the Secretary-General dated 22 February 1994 concerning the matter of the Iraqi private citizens and their assets which remained on Kuwaiti territory following the demarcation of the international boundary between Iraq and Kuwait, and welcoming the developments and arrangements described therein,

Acting under Chapter VII of the Charter of the United Nations,

Decides that the compensation payments to be made pursuant to the arrangements described in the letter from the Secretary-General dated 22 February 1994 may be remitted to the private citizens concerned in Iraq, notwithstanding the provisions of resolution 661 (1990) of 2 August 1990.

Decision of 8 April 1994: letter from the President to the Secretary-General

On 4 April 1994, pursuant to resolution 689 (1991), the Secretary-General submitted to the Council a report on UNIKOM covering the period from 1 October 1993 to 31 March 1994.⁵⁰ The Secretary-General reported that during the last six months, the UNIKOM area of operations had, for the most part, been calm. He noted that the resolution of the issue arising from the demarcation of the Iraq-Kuwait boundary concerning the Iraqi nationals and their assets remaining in Kuwaiti territory had significantly reduced tension in the area and that the reinforced capacity of UNIKOM, together with arrangements on the ground, were factors contributing to stability. He cautioned, however, that tension still persisted and that incidents in the area indicated the value of the United Nations presence, as well as the need for it to continue. The Secretary-General therefore recommended that the Council maintain UNIKOM for a further 12 months.

By a letter dated 8 April 1994,⁵¹ the President of the Council (New Zealand) informed the Secretary-General of the following:

In accordance with the provisions of Security Council resolution 689 (1991) of 9 April 1991 and in the light of your report of 4 April 1994, the members of the Security Council have reviewed the question of termination or continuation of the

⁵⁰ S/1994/388.

⁵¹ S/1994/411.

United Nations Iraq-Kuwait Observation Mission, as well as its modalities of operation.

I have the honour to inform you that the members of the Council concur with your recommendation that the Mission be maintained. In accordance with resolution 689 (1991), they have decided to review the question once again by 8 October 1994.

Decision of 11 May 1994: letter from the President to the Secretary-General

By a letter dated 28 April 1994 addressed to the President of the Council,⁵² the Secretary-General brought to the Council's attention his concern over the financial emergency which the United Nations Compensation Commission was facing after almost three years of intensive work to fulfil its mandate. The Secretary-General suggested, in that regard, that the Council might wish to consider exploring ways in which funds might be obtained for the Compensation Fund from such sources including Iraq's petroleum and petroleum products that were in some countries after the embargo and were impounded, sold or used months after the adoption of resolution 778 (1992). He further stated that he would be prepared, at the Council's request, to seek from oil companies information which would make it possible to identify funds due to Iraq for shipments of oil prior to the imposition of sanctions by the Council and arrange their transfer to the United Nations escrow account. He concluded by urging the Council to act swiftly to facilitate the transfer to the Compensation Fund of Iraqi oil-related frozen funds or proceeds from the sale of oil.

By a letter dated 11 May 1994,⁵³ the President of the Council (Nigeria) informed the Secretary-General of the following:

The members of the Council have considered your letter of 28 April 1994 relating to the financial emergency of the United Nations Compensation Commission. The members of the Council share the concerns expressed in your letter and agree with the proposal in your letter, while requesting you to keep the States concerned duly informed of your démarches.

Decision of 21 July 1994: letter from the President to the Secretary-General

By a letter dated 11 July 1994, addressed to the President of the Council,⁵⁴ the Secretary-General transmitted to the Council the text of a letter which he

⁵² S/1994/566.

⁵³ S/1994/567.

⁵⁴ S/1994/907.

had sent to a number of Governments to seek all relevant information from petroleum companies and their subsidiaries under their respective jurisdiction regarding the whereabouts and amounts of Iraqi petroleum and petroleum products imported by those companies on or after June 1990, pursuant to the letter from the President of the Council dated 11 May 1994.⁵⁵

By a letter dated 21 July 1994,⁵⁶ the President of the Council (Pakistan) informed the Secretary-General of the following:

I have the honour to inform you that your letter dated 11 July 1994 concerning the United Nations Compensation Commission has been brought to the attention of the members of the Security Council.

**Decision of 7 October 1994: letter from
the President to the Secretary-General**

On 29 September 1994, pursuant to resolution 689 (1991), the Secretary-General submitted to the Council a report on UNIKOM covering the period from 1 April to 29 September 1994.⁵⁷ The Secretary-General reported that during the period under review the situation in the demilitarized zone had been very calm. UNIKOM had enjoyed the effective cooperation of the Iraqi and Kuwaiti authorities in carrying out its functions and had contributed to the calm which had prevailed along the Iraq-Kuwait border. He recommended that the Mission be maintained.

By a letter dated 7 October 1994,⁵⁸ the President of the Council (United Kingdom) informed the Secretary-General of the following:

In accordance with the provisions of Security Council resolution 689 (1991) of 9 April 1991 and in the light of your report of 29 September 1994, the members of the Security Council have reviewed the question of termination or continuation of the United Nations Iraq-Kuwait Observation Mission, as well as its modalities of operation.

I have the honour to inform you that the members of the Council concur with your recommendation that the Mission be maintained. In accordance with resolution 689 (1991), they have decided to review the question once again by 8 April 1995.

⁵⁵ S.1994/567.

⁵⁶ S/1994/908.

⁵⁷ S/1994/1111

⁵⁸ S/1994/1141.

**Decision of 8 October 1994 (3435th meeting):
statement by the President**

By a letter dated 6 October 1994 addressed to the President of the Council,⁵⁹ the representative of Kuwait drew the Council's attention to a statement issued on the same day by the Revolution Command Council of Iraq.⁶⁰ According to the representative of Kuwait, the statement was a clear and unequivocal threat directed not only at Kuwait but also at the relations between Iraq and the United Nations with regard to Iraq's compliance with the Security Council resolutions concerning the Iraqi aggression against Kuwait. He warned that the Iraqi regime might be seeking to evade its legal responsibilities under resolution 687 (1991) and carry out another act of aggression against the sovereignty and independence of Kuwait. It therefore called upon the Council to exercise its authority and respond to such threat, to condemn it and ask Iraq to refrain from repeating it while fulfilling all its obligations under the relevant resolutions of the Council.

At its 3435th meeting, on 8 October 1994, the Council resumed its consideration of the item. Following the adoption of the agenda, the President drew the attention of the members of the Council to the letter from the representative of Kuwait. He then stated that, following consultations among the members of the Council, he had been authorized to make the following statement on behalf of the Council:⁶¹

The Security Council notes with grave concern the statement issued on 6 October 1994 by the Revolution Command Council of Iraq. It underlines the complete unacceptability of the implication therein that Iraq may withdraw cooperation from the United Nations Special Commission. The Council emphasizes the necessity of full implementation of all its relevant resolutions, including full cooperation by Iraq, without interference, with the Special Commission's vital mission.

The Council has also received with grave concern reports that substantial numbers of Iraqi troops, including units of the Iraqi Republican Guard, are being redeployed in the direction of the border with Kuwait.

The Council therefore requests the Secretary-General to ensure that the United Nations Iraq-Kuwait Observation Mission redoubles its vigilance and reports immediately any violation of

⁵⁹ S/1994/1137.

⁶⁰ Ibid., annex.

⁶¹ S/PRST/1994/58.

the demilitarized zone established under resolution 687 (1991) of 3 April 1991 or any potentially hostile action.

The Council reaffirms its commitment to the sovereignty and territorial integrity of Kuwait. It underlines Iraq's full responsibility to accept all the obligations contained in all its relevant resolutions and to comply fully therewith.

**Decision of 15 October 1994 (3438th meeting):
resolution 949 (1994)**

By a letter dated 10 October 1994 addressed to the President of the Council,⁶² the representative of Iraq transmitted the text of a statement to the press issued on the same day by the Minister for Foreign Affairs of Iraq, whereby, in view of a number of facts and at the request of a number of friends, and without questioning Iraq's sovereignty and freedom of action within its national territory, it had been decided to redeploy units of the Republican Guard in Basra to different positions in the rear in order to complete planned exercises. According to the statement, it was hoped that such diplomatic efforts would produce tangible results in the form of a lifting of the sanctions and the affirmation of Iraq's rights.

By a letter dated 14 October 1994 addressed to the President of the Council,⁶³ the representatives of Iraq and the Russian Federation transmitted the text of a joint communiqué on the outcome of the meeting held on 13 October 1994 between the President of Iraq and the Minister for Foreign Affairs of the Russian Federation. The joint communiqué provided, *inter alia*, that the Russian Federation had advocated the adoption of decisive measures to prevent an escalation of the tension and to resume the political and diplomatic efforts that would ultimately bring security and real stability to the region, the lifting of the sanctions against Iraq and the establishment of good-neighbourly relations between Iraq and Kuwait. Iraq had announced officially that, on 12 October 1994, it had completed the withdrawal of its troops to rearguard positions and had affirmed its readiness to resolve in a positive manner the issue of recognizing Kuwait's sovereignty and borders, as laid down in resolution 833 (1993). The joint communiqué further provided that, following Iraq's official recognition of Kuwait's sovereignty and borders, the Russian Federation would support the official start of the long-term monitoring provided for in resolution 715 (1991) and the simultaneous initiation

of a limited test period, which should not exceed six months, to verify the effectiveness of the monitoring, after which the Council would take a decision concerning the implementation of paragraph 22 of resolution 687 (1991) in its entirety, without imposing further conditions. The Russian Federation affirmed that, subject to Iraq's implementation of the relevant resolutions, it would advocate the lifting of other sanctions.

By a letter dated 14 October 1994, addressed to the President of the Council,⁶⁴ the representative of Kuwait transmitted the text of a statement issued on the same day by the Kuwaiti Council of Ministers concerning the most recent Iraqi military threat to Kuwait and to the States of the region, as well as media reports concerning the joint communiqué issued, on 13 October 1994, by Iraq and the Russian Federation. The statement of the Council of Ministers provided, *inter alia*, that Kuwait, while appreciating the efforts of the Russian Federation, considered that the persistent mobilization of Iraqi military forces in their current positions continued to pose a serious threat to its security and sovereignty. It also considered that the talk of lifting the economic sanctions, imposed on the Iraqi regime contrived by the latter following the recent escalation, represented a reward for its action and encouragement to continue violating Security Council resolutions. Kuwait therefore requested the Council to take effective steps under Chapter VII of the Charter to guarantee its security, respect for its sovereignty and independence and the integrity of its international frontiers, and the security of the States of the region.

At its 3438th meeting, on 15 October 1994, the Council resumed its consideration of the item. Following the adoption of the agenda, the Council invited the representative of Kuwait, at his request, to participate in the discussion, without the right to vote. The President drew the attention of the members of the Council to a draft resolution submitted by Argentina, France, Oman, Rwanda, the United Kingdom and the United States,⁶⁵ and read out revisions that had been made to the draft in its provisional form. He also drew their attention to the above-mentioned letters and to a letter dated 6 October 1994 addressed to the President of the Security Council by the representative of

⁶² S/1994/1149.

⁶³ S/1994/1173.

⁶⁴ S/1994/1165.

⁶⁵ S/1994/1164.

Kuwait,⁶⁶ and a letter dated 14 October 1994 addressed to the Secretary-General by the representative of Saudi Arabia,⁶⁷ transmitting the final declaration issued by the Ministerial Council of the Gulf Cooperation Council, at a special session, held on 12 October 1994, at the request of Kuwait.

Speaking in explanation of vote, the representative of Nigeria stated that his Government took note of the announcement by the Government of Iraq that it was redeploying its forces to different positions. In that light he would support the draft resolution before the Council.⁶⁸

The representative of the Russian Federation recalled that his delegation had suggested that the Security Council not take any decisions on Iraq until the Minister for Foreign Affairs of the Russian Federation had completed his visit to the region and had come to New York to participate in the Council's meeting. He noted with regret that the Council had acted hastily when it had been possible to wait a few hours. At the same time, the sponsors of the draft resolution did take into account some of the Russian Federation's concerns and, in particular, the draft did not contain any provisions that could have served as justification for the use of force. It was important that the draft resolution reflect the results of the visit of the Minister for Foreign Affairs to the region and, in particular, that it welcome diplomatic efforts to find a political solution to the crisis, as well as Iraq's willingness to resolve positively the question of the recognition of the sovereignty and borders of Kuwait.⁶⁹

The draft resolution, as orally revised in its provisional form, was then put to the vote an adopted unanimously as resolution 949 (1994), which reads:

The Security Council,

Recalling all its previous relevant resolutions, and reaffirming resolutions 678 (1990) of 29 November 1990, 686 (1991) of 2 March 1991, 687 (1991) of 3 April 1991, 689 (1991) of 9 April 1991 and 833 (1993) of 27 May 1993, and in particular paragraph 2 of resolution 678 (1990),

Recalling that Iraq's acceptance of resolution 687 (1991), adopted pursuant to Chapter VII of the Charter of the United Nations, forms the basis of the ceasefire,

Noting past Iraqi threats and instances of actual use of force against its neighbours,

Recognizing that any hostile or provocative action directed against its neighbours by the Government of Iraq constitutes a threat to peace and security in the region,

Welcoming all diplomatic and other efforts to resolve the crisis,

Determined to prevent Iraq from resorting to threats and intimidation of its neighbours and the United Nations,

Underlining the fact that it will consider Iraq fully responsible for the serious consequences of any failure to fulfil the demands in the present resolution,

Noting that Iraq has affirmed its readiness to resolve in a positive manner the issue of recognizing Kuwait's sovereignty and its borders as endorsed by resolution 833 (1993), but underlining the fact that Iraq must unequivocally commit itself by full and formal constitutional procedures to respect Kuwait's sovereignty, territorial integrity and borders, as required by resolutions 687 (1991) and 833 (1993),

Reaffirming the commitment of all Member States to the sovereignty, territorial integrity and political independence of Kuwait and Iraq,

Reaffirming its presidential statement of 8 October 1994,

Taking note of the letter dated 6 October 1994 from the Permanent Representative of Kuwait to the United Nations, regarding the statement by the Revolution Command Council of Iraq of 6 October 1994,

Taking note also of the letter dated 10 October 1994 from the Permanent Representative of Iraq to the United Nations, announcing that the Government of Iraq had decided to withdraw the troops recently deployed in the direction of the border with Kuwait,

Acting under Chapter VII of the Charter of the United Nations,

1. *Condemns* recent military deployments by Iraq in the direction of the border with Kuwait;
2. *Demands* that Iraq immediately complete the withdrawal of all military units recently deployed to southern Iraq to their original positions;
3. *Demands* that Iraq not again utilize its military or any other forces in a hostile or provocative manner to threaten either its neighbours or United Nations operations in Iraq;
4. *Demands* therefore that Iraq not redeploy to the south the units referred to in paragraph 2 above or take any other action to enhance its military capacity in southern Iraq;
5. *Demands* that Iraq cooperate fully with the United Nations Special Commission;
6. *Decides* to remain actively seized of the matter.

⁶⁶ S/1994/1137.

⁶⁷ S/1994/1162.

⁶⁸ S/PV.3438, pp. 2-3.

⁶⁹ *Ibid.*, pp. 3-4.

After the vote, the representative of the United States stated that the Iraqi deployment of troops to Kuwait's border was a blatant attempt by Iraq to bully the Security Council into negotiating on its terms the lifting of oil-export sanctions. Had Iraq complied with all resolutions and proven its "peaceful intentions", the easing of sanctions would have occurred in its own proper time. The speaker further stated that Iraq's statement, about its readiness to recognize Kuwaiti sovereignty and borders, was unconvincing. That statement needed to be followed by unambiguous action through a formal recognition of Kuwait's sovereignty, territorial integrity and borders in the same constitutional manner as it had purported to annex Kuwait. Iraq must withdraw all military units deployed to the south to their original positions, and must not take any actions to enhance its military capabilities in southern Iraq. It must never again use its military to threaten its neighbours or the United Nations operation and it must cooperate with the Special Commission. The speaker concluded by stating that, pursuant to the Council's resolutions and Article 51 of the Charter, her Government would take all appropriate action if Iraq failed to comply with the demands of resolution 949 (1994).⁷⁰

Similarly, the representative of France stated that Iraq must fully withdraw the forces it had deployed in recent days in the direction of the Kuwaiti border and abstain in the future from undertaking similar actions. He noted that the resolution required that Iraq refrain from adopting a hostile or provocative stance with regard to its neighbours and the United Nations. It would be the task of the Council to take up any action on the part of Iraq which could be regarded as non-compliance with resolution 949 (1994). He further noted that resolution 949 (1994) properly reminded Iraq of all its obligations. Those relating to the fate of prisoners and missing persons as well as those relating to the respect of human rights in Iraq remained of the greatest importance to the French authorities.⁷¹

According to the representative of New Zealand, Iraq's recent deployment of troops constituted a threat to regional peace and security. The situation was further compounded by the fact that Iraq defied its legal obligations under the Charter by virtue of the Council's resolutions. In the face of such an aggressive

threat, it was necessary for the Council to again exercise its responsibilities under Chapter VII of the Charter. New Zealand rejected the argument that Iraq was free to deploy its forces, however it wished, within its borders. Given its past aggressive wars, its equivocation about the sovereignty of its neighbours and its recent threatening moves, the Council had a responsibility to take certain protective measures, including requiring Iraq not to redeploy its forces to the south again.⁷²

The representative of China recalled that his Government had all along stood for a peaceful settlement of the problems left over from the Gulf war, on the basis of the full implementation of the relevant resolutions of the Council, so as to achieve lasting peace and stability in the region, as early as possible. He reaffirmed that Kuwait's sovereignty and territorial integrity should be respected by the international community and urged Iraq to continue to cooperate with the United Nations in fully and practically implementing the Council's relevant resolutions in order to create favourable conditions for the early easing and lifting of sanctions. He stressed that his delegation's support for resolution 949 (1994) did not signify any change in its reservations regarding other relevant resolutions, including resolution 678 (1990).⁷³

The President, speaking in his capacity as the representative of the United Kingdom, stated that the presidential statement of 8 October 1994 and resolution 949 (1994) represented a classic example of preventive diplomacy. With regard to Iraq's attempt to justify its behaviour by speaking of its sovereign right to deploy its troops wherever it liked within its own territory, he quoted Article 2(4) of the Charter as requiring all Member States to refrain "from the threat or use of force against the territorial integrity or political independence of any state". Iraq's recent military deployment was a threat to Kuwait and represented a breach of the provisions of the Charter. He noted that the Council also required, *inter alia*, that Iraq remedy its human rights situation and cease any involvement in State-sponsored terrorism. He further deplored the suffering of the Iraqi people, for which the President of Iraq, not the United Nations, was responsible.⁷⁴

⁷⁰ *Ibid.*, pp. 4-6.

⁷¹ *Ibid.*, p. 6.

⁷² *Ibid.*, p. 9.

⁷³ *Ibid.*, pp. 9-10.

⁷⁴ *Ibid.*, pp. 11-12.

The representative of Kuwait stated that, given the intentions of the Iraqi regime, the deployment of large units of the Iraqi army could not be considered a purely internal affairs or one that fell within the purview of inviolable sovereignty, particularly in the light of the statement issued on 6 October 1994 by the Revolution Command Council of Iraq. That statement contained a clear threat to Kuwait and the States of the region and an attack against the role and authority of the Council and the United Nations Special Commission. Because of these developments, and because of the threat they posed to the security and stability of the region, the Ministers for Foreign Affairs of the States of the Gulf Cooperation Council had held a special meeting in Kuwait and had taken practical steps to deter the aggressor. He noted that the resolution the Council had just adopted supported and reinforced these steps. He noted that resolution 949 (1994) arose from the Council's legal and political responsibilities for the maintenance of security and stability in the Gulf region, safeguarding the inviolability of the international borders between Kuwait and Iraq, preventing Iraq from using force and ensuring its acceptance of and compliance with all resolutions relating to its aggression against Kuwait. Resolution 949 (1994) was thus a proper expression of preventive diplomacy and use of the authority and means available to the Council to prevent any threat to peace and security and the need to warn against the consequences of such actions. As such, it was a practical deterrent to any repetition by Iraq of such actions.⁷⁵

Deliberations of 17 October 1994 (3439th meeting)

At its 3439th meeting, on 17 October 1994, the Council resumed its consideration of the item. Following the adoption of the agenda, the Council invited the representative of Kuwait to take a seat at the Council table, in accordance with the decision taken at its 3438th meeting. It also invited the representative of Iraq, at his request, to participate in the discussion without the right to vote.

The representative of the Russian Federation conveyed to the Council his impressions concerning the trip which he had just completed to the region of the Persian Gulf and his talks with the leaders of a

number of States, including Iraq and Kuwait. The aim of that trip was to defuse the crisis as well as to address the question of progress towards a comprehensive settlement in the region. Referring to the joint communiqué issued by Iraq and the Russian Federation on 13 October 1994,⁷⁶ he contended that Iraq, for the first time, had officially recognized the need for a positive resolution of the question of recognizing the sovereignty and borders of Kuwait in accordance with resolution 833(1993), without any preconditions. The document included the first acknowledgement that Iraq must comply with the relevant resolutions of the Council. The control period for the long-term monitoring of Iraq, in accordance with resolution 715 (1991), could begin after Iraq's official recognition of the sovereignty and borders of Kuwait. On condition that Iraq cooperated honestly with the United Nations, it would then be possible for the Council to take a decision on lifting the oil embargo, as provided in paragraph 22 of resolution 687 (1991), and to consider lifting or mitigating the remaining sanctions as Iraq complied with all the appropriate resolutions of the Council.

The speaker also expressed some views concerning the improvement of the Council's activities in settling crisis situations and conflicts on a broader level and in particular the use of sanctions. He noted that a whole range of instrumentalities had been elaborated that had shown the Council's effectiveness in exerting an impact on the parties to conflicts. To a great extent, that experience had been innovative. Sanctions remained the most powerful non-military means, in accordance with the Charter, of exerting an impact on those who violated the international legal order. The Russian Federation believed that certain corrections must be made in the Council's practice regarding the application of sanctions, including greater attention to ensuring that, when sanctions were adopted, a procedure was, at the same time, determined for halting or lifting them; that thought should be given to the question of how sanctions might be aimed at political élites, thereby reducing to a minimum the suffering of broad strata of the population; and the laying down clear humanitarian limits in determining sanctions. In that regard, the side-effects of sanctions on third countries should be taken into account more carefully, and attention paid to ensuring that those countries' neighbours, who were often already

⁷⁵ Ibid., pp. 12-14.

⁷⁶ S/1994/1173, annex.

suffering from the conflict situation, should not find themselves, in addition, the victims of the implementation of sanctions. He cited peacekeeping as another area where there were great extremes in terms of decision-making and where the practice of the Council could be improved as by avoiding the use of double standards in carrying out peacekeeping operations. He requested the members of the Council to give thought to further exchanges of opinions on the question of improving the work of the Council, including on those questions. In that connection, he welcomed a proposal by the President of Argentina to hold a meeting of the Council at the summit or ministerial or other level in January 1995.⁷⁷

The representative of France stated that his Government demanded that Iraq pledge solemnly, explicitly and unconditionally to respect the independence, sovereignty and territorial integrity of Kuwait as well as the inviolability of the international boundary. Furthermore, the Iraqi authorities would have to make these gestures by means of the same constitutional procedure it used to annex Kuwait. He stressed that more than a legal procedure, what was demanded of Iraq was a public political gesture showing that it was entering a new stage in its relations with Kuwait. Cooperation with the United Nations Special Commission was indispensable and a condition for the Council's continued consideration of the application of the sanctions it decreed. The lifting of the other sanctions imposed on Iraq — apart from the application in due course of paragraph 22 of resolution 687 (1991) — would depend on Iraq's fulfilment of all of its other obligations, including respect for the rights of minorities and, more generally, for human rights to which France attached the highest importance. France was very aware of the suffering endured by the Iraqi population and deplored the fact that the Government of Iraq had never wished to take advantage of the possibilities offered it under resolutions 706 (1991) and 712 (1991).⁷⁸

Similarly, the representative of the United States stated that Iraq must formally respect Kuwait's sovereignty, territorial integrity and borders in the same constitutional manner as it had purported to annex Kuwait. She welcomed statements by Council members according to which the only way forward to

the lifting of sanctions was through full implementation of all relevant resolutions. The Council should categorically reject the approach promoted by some whereby Iraq should be rewarded for partial compliance with some of its obligations. Iraq must not be led to believe that it could choose in an à la carte fashion among those obligations. She added that the threshold question the Council faced was not how long must Iraq cooperate with United Nations requirements on weapons of mass destruction before the oil embargo was suspended but rather whether Iraq would continue to cooperate with United Nations inspectors after the embargo was suspended. Turning to the question of sanctions generally, she agreed with the statement by the representative of the Russian Federation on the need to rationalize the Council's approach to sanctions and noted that the members of the Council were becoming increasingly engaged in a discussion aimed at improving the sanctions tool. She agreed also that guidelines should be established to ensure consistency and rationality in decisions on peacekeeping. Although the best choice to address many regional conflicts was a United Nations peacekeeping force, sometimes that was not the possible or responsible choice. Sometimes the best that could be done was to endorse a coalition of States to act on behalf of the Council. While the Council kept flexibility and a pragmatic approach, it should make sure that there was no double standard and that all peacekeeping operations, as well as those coalition forces legitimized by Council resolutions, took place or were created according to recognized international peacekeeping rules and with international observers present.⁷⁹

According to the representative of Spain, sanctions regimes were not an end in themselves but rather an instrument designed to obtain certain objectives delimited by the Council. As those objectives were met, the Council could and must draw the appropriate conclusions, bearing in mind, first and foremost, the principles defended by the international community and the effects on the populations concerned and on neighbouring countries. In the case of Iraq, it was incumbent upon the Iraqi authorities to improve the situation of their people by taking concrete steps to convince the international community of its peaceful intentions. At the same time, the Council must

⁷⁷ S/PV.3439, pp. 2-6.

⁷⁸ *Ibid.*, pp. 6-7.

⁷⁹ *Ibid.*, pp. 7-8.

be prepared to respond appropriately to an actual change in the attitude of the Iraqi authorities.⁸⁰

The President, speaking in his capacity as the representative of the United Kingdom, noted that much remained to be done before any general easing of the sanctions against Iraq could be contemplated. In that regard, there could be no question of package deals between the Council and Iraq. He noted that the plight of the Iraqi people was real and was no matter of indifference to the Council. In exchange for a declaration of acceptance by the representative of Iraq of the provisions of resolutions 706 (1991) and 712 (1991), he offered that the Council update these resolutions and give them renewed effect within the same week. With regard to the need in due course to lift the oil embargo, as referred to by some, he queried whether that was a desirable objective in its own right and raised a number of questions which needed to be answered before such a course of action could be pursued.⁸¹

The representative of Iraq called upon the Council to base its work on a number of documented fundamental facts concerning the situation under consideration. These included elements contained in the joint communiqué issued by Iraq and the Russian Federation on 13 October 1994, as well as the fact that the Iraqi forces that had recently been deployed and pulled back to their rear position were on Iraqi soil. Other facts were that Iraq had complied with section C of resolution 687 (1991) and had cooperated and continued to do so with the Special Commission and the International Atomic Energy Agency. The sound approach to that matter, consistent with the essence of the Council's resolutions, the Charter and the unanimous objective of the international community, namely the establishment of peace, security and stability in the region, was for the Council to keep these facts in sight and to work in accordance with the correct legal and equitable interpretation of its own resolutions so that it may uphold justice and safeguard the legitimate rights of all parties.⁸²

According to the representative of Kuwait, it had become clear that the Council regarded its relevant resolutions as one indivisible political and legal whole that allowed of no permissiveness. The Council could

not accept the practice of the Iraqi regime of selecting certain paragraphs that were irrelevant to the essence of the problem. He listed a number of obligations which had not yet been discharged by Iraq, including official recognition of Kuwait's sovereignty, independence and territorial integrity; recognition of Kuwait's international borders as laid down in resolution 833 (1993); the destruction of all Iraq's weapons of mass destruction; refraining from terrorism or from supporting terrorism; and refraining from pursuing a policy of suppressing or violating human rights. He also explained Kuwait's view concerning the following points: Iraq was under an obligation to implement unconditionally all relevant Security Council resolutions; any expression of intent to implement could not be accepted as a substitute for actual implementation; any formula that could be interpreted as making Iraq's compliance with the Council's demands contingent upon its receiving a promise from the Council to implement counter-obligations must be rejected; Iraq should not be allowed to negotiate with the Council or with any other party or parties concerning resolutions adopted by the Council or the means of implementing them; the notion that blackmail and the threat or use of force could result in the securing of rights by those who engage in such activities or could be used as a reason for shrugging off responsibilities should be rejected; Iraq should not be allowed to implement its obligations selectively or to refer those remaining for bilateral solution or to frameworks outside the Council; there was a need to make sure, through agreed controls, of the good intentions of Iraq. In the light of recent events, it was imperative that the Council gauge the implementation by Iraq of its obligations and that it develop controls and procedures to prevent it from renegeing on its commitments regarding implementation. He noted further that the suffering of the Iraqi people was caused by the Iraqi regime itself because of its refusal to implement its obligations and its rejection of the authorization given to it by the Council under resolutions 706 (1991) and 712 (1991).⁸³

⁸³ Ibid., pp. 15-18.

⁸⁰ Ibid., p. 12.

⁸¹ Ibid., pp. 13-14.

⁸² Ibid., pp. 14-15.

Decision of 16 November 1994 (3459th meeting): statement by the President

By a letter dated 13 November 1994 addressed to the Secretary-General,⁸⁴ the representative of Iraq transmitted a letter dated 12 November 1994 from the Minister for Foreign Affairs of Iraq transmitting copies of the Declaration of the Iraqi National Assembly of 10 November 1994 and Decree No. 200 of the Revolution Command Council of Iraq, which affirmed Iraq's recognition of the sovereignty, territorial integrity and political independence of Kuwait and of its international boundaries, as demarcated by the United Nations Iraq-Kuwait Boundary Demarcation Commission, in accordance with resolution 833 (1993). The Minister for Foreign Affairs stated that Iraq was proceeding from the premise that the Council would operate in accordance with the legal interpretation of its resolutions and consistent with the principles of justice and fairness, principally through the lifting of the comprehensive embargo and, as a first step, the implementation of paragraph 22 of resolution 687 (1991) in full and without further restrictions or conditions.

By a letter dated 13 November 1994,⁸⁵ addressed to the President of the Council, the representative of Kuwait transmitted a communiqué issued on 12 November 1994 by the Council of Ministers of Kuwait regarding the two decrees issued by the Iraqi National Assembly and the Revolution Command Council of 10 November 1994. The Council of Ministers affirmed that the aforementioned decrees were a step in the right direction towards Iraq's implementation of all relevant resolutions and a result of the insistence of the international community, as represented in the Security Council, on the necessity of such implementation and its affirmation of the political and legal unity enshrined in these resolutions. It further affirmed the importance and necessity of that step being followed by similar steps towards the implementation of all relevant resolutions, including resolution 949 (1994), in order that Iraq might prove its good intentions towards the State of Kuwait and neighbouring States.

At its 3459th meeting, on 16 November 1994, the Council resumed its consideration of the item. Following the adoption of the agenda, the President (United States) drew the attention of the members of

⁸⁴ S/1994/1288.

⁸⁵ S/1994/1291.

the Council to the above-mentioned letters from the representatives of Iraq and Kuwait. The President then stated that, following consultations among the members of the Council, she had been authorized to make the following statement on behalf of the Council:⁸⁶

The Security Council has received the letter dated 12 November 1994 addressed to the President of the Security Council by the Minister for Foreign Affairs of Iraq transmitting copies of Revolution Command Council decision No. 200 of 10 November 1994, signed by its Chairman, Mr. Saddam Hussein, and the declaration of the Iraqi National Assembly, also of 10 November 1994, which confirm Iraq's irrevocable and unqualified recognition of the sovereignty, territorial integrity and political independence of the State of Kuwait, and of the international boundary between the Republic of Iraq and the State of Kuwait as demarcated by the United Nations Iraq-Kuwait Boundary Demarcation Commission, and confirm Iraq's respect for the inviolability of that boundary, in accordance with Council resolution 833 (1993) of 27 May 1993.

The Council welcomes this development and the President has written to the Permanent Representative of Iraq accordingly in a letter dated 16 November 1994. The Council notes that Iraq has taken this action in compliance with Council resolution 833 (1993) and has unequivocally committed itself by full and formal constitutional procedures to respect Kuwait's sovereignty, territorial integrity and borders, as required by Council resolutions 687 (1991) of 3 April 1991, 833 (1993) and 949 (1994) of 15 October 1994.

The Council considers this decision by Iraq to be a significant step in the direction towards implementation of the relevant Council resolutions. In the above-mentioned letter, the President informed the Government of Iraq that the members of the Council will follow closely Iraq's implementation of its decision; they will also continue to keep under review Iraq's actions to complete its compliance with all the relevant Council resolutions.

Decision of 10 April 1995: letter from the President to the Secretary-General

On 31 March 1995, pursuant to resolution 689 (1991), the Secretary-General submitted to the Council a report on UNIKOM covering the period from 1 October 1994 to 31 March 1995.⁸⁷ The Secretary-General reported that, during the period under review, calm had generally prevailed along the border and in the demilitarized zone between Iraq and Kuwait. He noted that, in the performance of its functions, UNIKOM had enjoyed the effective cooperation of the

⁸⁶ S/PRST/1994/68.

⁸⁷ S/1995/251.

Iraqi and Kuwaiti authorities. He recommended that the Mission be maintained.

By a letter dated 10 April 1995,⁸⁸ the President of the Council (Czech Republic) informed the Secretary-General of the following:

In accordance with the provisions of Security Council resolution 689 (1991) and in the light of your report, the members of the Security Council have reviewed the question of termination or continuation of the United Nations Iraq-Kuwait Observation Mission, as well as its modalities of operation.

I have the honour to inform you that the members of the Council concur with your recommendation that the Mission be maintained. In accordance with resolution 689 (1991) they have decided to review the question once again by 7 October 1995.

I should also like to convey to you the view of the members of the Council that they have taken note of the statement in your report that "in the performance of its functions, ... [the Mission] has enjoyed the effective cooperation of the Iraqi and Kuwaiti authorities". The members stressed that Iraq and Kuwait should comply with their commitments to do everything necessary to facilitate fully the freedom of movement of the Mission necessary for the performance of its tasks. The members of the Council also expressed the hope that Iraq and Kuwait will heed the regulations and suggestions of the Mission designed to reduce the risk of incidents along the border.

**Decision of 14 April 1995 (3519th meeting):
resolution 986 (1995)**

At its 3519th meeting, on 14 April 1995, the Council resumed its consideration of the item. Following the adoption of the agenda, the Council invited the representative of Japan, at his request, to participate in the discussion, without the right to vote. The President drew the attention of the members of the Council to a draft resolution submitted by Argentina, Oman, Rwanda, the United Kingdom and the United States.⁸⁹

Speaking before the vote, the representative of Italy stated that his delegation's support for the draft resolution was based on the conviction that while sanctions remained one of the most effective tools provided by the Charter to enforce compliance with international law, they should not lead to the extreme consequence of inflicting misery and starvation on an entire civilian population. Furthermore, experience had shown that sanctions, if applied indiscriminately, tended to rally people around the targeted Government

rather than against it. That did not mean that sanctions should not be adopted or applied but that, to be effective, they should always be applied with caution and parsimony, and, above all, be precisely targeted in order to avoid serious negative side-effects. He noted also that the draft resolution resulted from a common effort to produce a balanced text which did not infringe on the sovereignty and territorial integrity of Iraq.⁹⁰

The representative of China stated that while Iraq should continue to cooperate in the implementation of the relevant resolutions, the Council should proceed to discuss, at an early date, the lifting of the oil embargo against Iraq, on the basis of humanitarian considerations and in the light of Iraq's implementation of the resolutions, so as to ease the humanitarian situation in Iraq. In addressing that matter, the sovereignty, territorial integrity and the political independence of all countries in the region, including Iraq, should be fully respected by the international community, as reaffirmed in the draft resolution before the Council. The main purpose of the draft resolution was the easing of the humanitarian situation in Iraq, which was merely a temporary measure. China's support for the draft resolution was based on the understanding that once the conditions were ripe, the Council should start to consider easing or removing the sanctions against Iraq. At the same time, China expressed reservations on the provisions in the draft resolution regarding the channel of shipment for Iraqi oil exports and the distribution of humanitarian funds to Iraq's three northern Governorates, both matters which were within the purview of Iraq's sovereignty and to which a proper solution should be found in consultation with Iraq to ensure the implementation of the mechanism embodied in the draft resolution.⁹¹

The representative of Honduras stated that in his delegation's view, a sanctions regime, when effectively applied, was an important tool for restoring international peace and security and was preferable to the use of force. However, when sanctions were imposed, one should consider specific measures to mitigate their impact on an innocent civilian population; the longer the sanctions took to achieve their intended effect, the more serious that impact became. While there must always be a humanitarian price to pay when sanctions were imposed, one should discuss measures to minimize

⁸⁸ S/1995/280.

⁸⁹ S/1995/292.

⁹⁰ S/PV.3519, pp. 2-3.

⁹¹ *Ibid.*, p. 3.

the harm done to vulnerable sectors of the affected society. In that connection, he noted that the decision to impose economic sanctions was taken within the framework of the international legal order. Account should therefore be taken of humanitarian law, which included norms relating to humanitarian assistance applied to different categories of protected persons.⁹²

The representative of Indonesia expressed his delegation's regret that the draft resolution before the Council fell short of its expectations. While the principles of sovereignty and territorial integrity had been incorporated into the draft resolution, he noted that its content was not consistent with those principles. In that regard, he drew attention to paragraph 6 which stipulated that "the larger share of the petroleum and petroleum products" should be shipped via the Kirkuk-Yumurtalik pipeline, stating that Iraq's sovereignty and integrity must be respected and that it should be able to decide on the use of its pipelines for transportation and production purposes. Furthermore, the application of Chapter VII of the Charter should be specifically addressed to peace and security in the region, and should not be applied so as to interfere in the internal affairs of Iraq. His delegation also expressed reservations regarding paragraph 8 (b), which described Iraq's obligation to complement the distribution of humanitarian relief and to provide an amount exceeding 10 per cent of its oil production revenue. The speaker pointed out that it would be more appropriate not to mention a specific amount to be allocated for the three northern Governorates within Iraq. That provision constituted an infringement on the principle of non-interference in the internal affairs of sovereign States, as it would provide encouragement to separatist movements in the northern part of Iraq. In his delegation's view, the humanitarian situation in Iraq should be dealt with in a comprehensive manner and humanitarian considerations should prevail. Having stated these reservations, Indonesia would support the draft resolution.⁹³

According to the representative of Nigeria, sanctions were not meant to be punitive of whole populations, but to modify the behaviour of the leadership of a country or of a party whose actions threatened international peace and security. An important aspect of the draft resolution was the need to respect explicitly the sovereignty and territorial

integrity of Iraq. Having insisted that Iraq must recognize the sovereignty and territorial integrity of its neighbours, the Council should not promote policies or take actions that could be construed as undermining the sovereignty and territorial integrity of Iraq. Care must also be taken that the draft resolution did not in any way prejudice or detract from the provisions of earlier resolutions. He noted further that, unlike resolutions 706 (1991) and 712 (1991), the present draft resolution was implementable. With reference to paragraph 6 of the draft text, his delegation would have wished further concessions, to the effect that no reference would be made to the proportion of the oil to be shipped through any particular pipeline. However, his delegation was fully aware that the situation under consideration was not a normal one: Iraq was in a unique position; it was under sanctions and therefore could not be given a veto over the Council's decisions. While the draft resolution was a humanitarian one, it was not unrelated to the larger issues concerning the situation between Iraq and Kuwait. Hence the need to recognize the basic principles of the Charter regarding the sovereignty, independence and territorial integrity of all States in the region as non-negotiable, and to reject unequivocally the use or threat of use of force to settle disputes between States.⁹⁴

The draft resolution was then put to the vote and adopted unanimously as resolution 986 (1995), which reads:

The Security Council,

Recalling its previous relevant resolutions,

Concerned by the serious nutritional and health situation of the Iraqi population, and by the risk of a further deterioration in this situation,

Convinced of the need to provide, as a temporary measure, for the humanitarian needs of the Iraqi people until the fulfilment by Iraq of the relevant Security Council resolutions, notably resolution 687 (1991) of 3 April 1991, allows the Council to take further action with regard to the prohibitions referred to in resolution 661 (1990) of 6 August 1990, in accordance with the provisions of those resolutions,

Convinced also of the need for equitable distribution of humanitarian relief to all segments of the Iraqi population throughout the country,

Reaffirming the commitment of all Member States to the sovereignty and territorial integrity of Iraq,

Acting under Chapter VII of the Charter of the United Nations,

⁹² *Ibid.*, p. 4.

⁹³ *Ibid.*, pp. 4-5.

⁹⁴ *Ibid.*, pp. 6-7.

1. *Authorizes* States, notwithstanding the provisions of paragraphs 3 (a), 3 (b) and 4 of resolution 661 (1990) and subsequent relevant resolutions, to permit the import of petroleum and petroleum products originating in Iraq, including financial and other essential transactions directly relating thereto, sufficient to produce a sum not exceeding a total of one billion United States dollars every ninety days for the purposes set out in this resolution and subject to the following conditions:

(a) Approval by the Security Council Committee established pursuant to resolution 661 (1990) in order to ensure the transparency of each transaction and its conformity with the other provisions of the present resolution, after submission of an application by the State concerned, endorsed by the Government of Iraq, for each proposed purchase of Iraqi petroleum and petroleum products, including details of the purchase price at fair market value, the export route, the opening of a letter of credit payable to the escrow account to be established by the Secretary-General for the purposes of the present resolution, and of any other directly related financial or other essential transaction;

(b) Payment of the full amount of each purchase of Iraqi petroleum and petroleum products directly by the purchaser in the State concerned into the escrow account to be established by the Secretary-General for the purposes of the present resolution;

2. *Authorizes* Turkey, notwithstanding the provisions of paragraphs 3 (a), 3 (b) and 4 of resolution 661 (1990) and the provisions of paragraph 1 above, to permit the import of petroleum and petroleum products originating in Iraq sufficient, after the deduction of the percentage referred to in paragraph 8 (c) below for the Compensation Fund, to meet the pipeline tariff charges, verified as reasonable by the independent inspection agents referred to in paragraph 6 below, for the transport of Iraqi petroleum and petroleum products through the Kirkuk-Yumurtalik pipeline in Turkey authorized by paragraph 1 above;

3. *Decides* that paragraphs 1 and 2 of the present resolution shall come into force at 0001 hours eastern standard time on the day after the President of the Council has informed the members of the Council that he has received the report from the Secretary-General requested in paragraph 13 below, and shall remain in force for an initial period of one hundred and eighty days unless the Council takes other relevant action with regard to the provisions of resolution 661 (1990);

4. *Also decides* to conduct a thorough review of all aspects of the implementation of the present resolution ninety days after the entry into force of paragraph 1 above and again prior to the end of the initial one hundred and eighty-day period, on receipt of the reports referred to in paragraphs 11 and 12 below, and expresses its intention, prior to the end of the one hundred and eighty-day period, to consider favourably renewal of the provisions of the present resolution, provided that the reports referred to in paragraphs 11 and 12 below indicate that those provisions are being satisfactorily implemented;

5. *Further decides* that the remaining paragraphs of the present resolution shall come into force forthwith;

6. *Directs* the Committee established by resolution 661 (1990) to monitor the sale of petroleum and petroleum products to be exported by Iraq via the Kirkuk-Yumurtalik pipeline from Iraq to Turkey and from the Mina al-Bakr oil terminal, with the assistance of independent inspection agents appointed by the Secretary-General, who will keep the Committee informed of the amount of petroleum and petroleum products exported from Iraq after the date of entry into force of paragraph 1 of the present resolution and will verify that the purchase price of the petroleum and petroleum products is reasonable in the light of prevailing market conditions, and that, for the purposes of the arrangements set out in the present resolution, the larger share of the petroleum and petroleum products is shipped via the Kirkuk Yumurtalik pipeline and the remainder is exported from the Mina al Bakr oil terminal;

7. *Requests* the Secretary-General to establish an escrow account for the purposes of the present resolution, to appoint independent and certified public accountants to audit it and to keep the Government of Iraq fully informed;

8. *Decides* that the funds in the escrow account shall be used to meet the humanitarian needs of the Iraqi population and for the following other purposes, and requests the Secretary-General to use the funds deposited in the escrow account:

(a) To finance the export to Iraq, in accordance with the procedures of the Committee established pursuant to resolution 661 (1990), of medicine, health supplies, foodstuffs, and materials and supplies for essential civilian needs, as referred to in paragraph 20 of resolution 687 (1991) provided that:

(i) Each export of goods is at the request of the Government of Iraq;

(ii) Iraq effectively guarantees their equitable distribution, on the basis of a plan submitted to and approved by the Secretary-General, including a description of the goods to be purchased;

(iii) The Secretary-General receives authenticated confirmation that the exported goods concerned have arrived in Iraq;

(b) To complement, in view of the exceptional circumstances prevailing in the three governorates mentioned below, the distribution by the Government of Iraq of goods imported under the present resolution, in order to ensure an equitable distribution of humanitarian relief to all segments of the Iraqi population throughout the country, by providing between 130 and 150 million United States dollars every ninety days to the United Nations Inter-Agency Humanitarian Programme operating within the sovereign territory of Iraq in the three northern governorates of Dihouk, Arbil and Suleimaniyeh, except that if less than one billion United States dollars worth of petroleum or petroleum products is sold during any ninety-day period, the Secretary-General may provide a proportionately smaller amount for this purpose;

(c) To transfer to the Compensation Fund the same percentage of the funds deposited in the escrow account as that decided by the Council in paragraph 2 of resolution 705 (1991) of 15 August 1991;

(d) To meet the costs to the United Nations of the independent inspection agents and the certified public accountants and the activities associated with implementation of the present resolution;

(e) To meet the current operating costs of the Special Commission, pending subsequent payment in full of the costs of carrying out the tasks authorized by section C of resolution 687 (1991);

(f) To meet any reasonable expenses, other than expenses payable in Iraq, which are determined by the Committee established by resolution 661 (1990) to be directly related to the export by Iraq of petroleum and petroleum products permitted under paragraph 1 above or to the export to Iraq, and activities directly necessary therefor, of the parts and equipment permitted under paragraph 9 below;

(g) To make available up to 10 million United States dollars every ninety days from the funds deposited in the escrow account for the payments envisaged under paragraph 6 of resolution 778 (1992) of 2 October 1992;

9. *Authorizes* States to permit, notwithstanding the provisions of paragraph 3 (c) of resolution 661 (1990):

(a) The export to Iraq of the parts and equipment which are essential for the safe operation of the Kirkuk Yumurtalik pipeline system in Iraq, subject to the prior approval by the Committee established by resolution 661 (1990) of each export contract;

(b) Activities directly necessary for the exports authorized under subparagraph (a) above, including financial transactions related thereto;

10. *Decides* that, since the costs of the exports and activities authorized under paragraph 9 above are precluded by paragraph 4 of resolution 661 (1990) and by paragraph 11 of resolution 778 (1992) from being met from funds frozen in accordance with those provisions, the cost of such exports and activities may, until funds begin to be paid into the escrow account established for the purposes of the present resolution, and following approval in each case by the Committee established pursuant to resolution 661 (1990), exceptionally be financed by letters of credit drawn against future oil sales the proceeds of which are to be deposited in the escrow account;

11. *Requests* the Secretary-General to report to the Council ninety days after the date of entry into force of paragraph 1 above, and again prior to the end of the initial one hundred and eighty-day period, on the basis of observation by United Nations personnel in Iraq and on the basis of consultations with the Government of Iraq, on whether Iraq has ensured the equitable distribution of medicine, health supplies, foodstuffs, and materials and supplies for essential civilian

needs, financed in accordance with paragraph 8 (a) above, including in his reports any observations he may have on the adequacy of the revenues to meet Iraq's humanitarian needs and on Iraq's capacity to export sufficient quantities of petroleum and petroleum products to produce the sum referred to in paragraph 1 above;

12. *Requests* the Committee established pursuant to resolution 661 (1990), in close coordination with the Secretary-General, to develop expedited procedures as necessary to implement the arrangements in paragraphs 1, 2, 6, 8, 9 and 10 of the present resolution and to report to the Council ninety days after the date of entry into force of paragraph 1 above and again prior to the end of the initial one hundred and eighty-day period on the implementation of those arrangements;

13. *Requests* the Secretary-General to take the actions necessary to ensure the effective implementation of the present resolution, authorizes him to enter into any necessary arrangements or agreements, and requests him to report to the Council when he has done so;

14. *Decides* that petroleum and petroleum products subject to the present resolution shall while under Iraqi title be immune from legal proceedings and not be subject to any form of attachment, garnishment or execution, and that all States shall take any steps that may be necessary under their respective domestic legal systems to assure this protection and to ensure that the proceeds of the sale are not diverted from the purposes laid down in the present resolution;

15. *Affirms* that the escrow account established for the purposes of the present resolution enjoys the privileges and immunities of the United Nations;

16. *Affirms* that all persons appointed by the Secretary-General for the purpose of implementing the present resolution enjoy privileges and immunities as experts on mission for the United Nations in accordance with the Convention on the Privileges and Immunities of the United Nations, and requires the Government of Iraq to allow them full freedom of movement and all necessary facilities for the discharge of their duties in the implementation of the present resolution;

17. *Affirms* that nothing in the present resolution affects Iraq's duty scrupulously to adhere to all its obligations concerning servicing and repayment of its foreign debt, in accordance with the appropriate international mechanisms;

18. *Also affirms* that nothing in the present resolution should be construed as infringing the sovereignty or territorial integrity of Iraq;

19. *Decides* to remain seized of the matter.

Speaking after the vote, the representative of Argentina stated that resolution 986 (1995), which constituted an exception to the sanctions regime imposed on Iraq, had a humanitarian objective: it was designed to alleviate the humanitarian situation of all the Iraqi people. He recalled, in that regard, that his

delegation had proposed the elaboration of a temporary, simple and flexible regime to replace the regime established under resolutions 706 (1991) and 712 (1991), which had the same purpose but which had never been implemented by the Government of Iraq.⁹⁵

The representative of the United States stated that the drafting of resolution 986 (1995) had been guided by the following principles. Firstly, the purpose of the resolution was to address humanitarian needs, not to meet political or other extraneous objectives. Secondly, the resolution was not an easing or lifting of sanctions, but an exception to the sanctions regime for a specified purpose. Thirdly, the resolution was to be greatly simplified, building on both the positive and negative lessons from resolutions 706 (1991) and 712 (1991) and other experiences. Lastly, full account had to be taken of the fact that Iraq had not proven trustworthy in implementing previous resolutions. She noted further that resolution 986 (1995) did not prejudice in any way any subsequent actions the Council might take with regard to Iraq's attitude vis-à-vis all the Council's resolutions.⁹⁶

Similarly, the representative of the United Kingdom stated that the aim of the sponsors of resolution 986 (1995) was purely humanitarian. Iraq would remain subject to a regime of sanctions imposed under Chapter VII of the Charter until it complied fully with all the Council's relevant resolutions. That was why the sponsors of the resolution had provided for independent inspections agents to ensure that Iraq did not export more oil than it is entitled to under the provisions of that resolution and did not under-price it. They had insisted that all the proceeds of the oil sales should be deposited in an escrow account. The Secretary-General had also been asked to ensure that there was equitable distribution of the humanitarian assistance to all the Iraqi people. The Council had been compelled in that resolution to allocate a certain amount to be spent in the three northern Governorates of Iraq to ensure that all Iraqis, and not some of them, benefited from the sale of the oil provided for in that resolution. He noted also that in case there were shortcomings in the resolution, a review of all aspects of the scheme had been provided three months after it started.⁹⁷

⁹⁵ Ibid., pp. 8-9.

⁹⁶ Ibid., pp. 10-11.

⁹⁷ Ibid., pp. 11-12.

The representative of France stated that resolution 986 (1995) responded to a serious humanitarian situation, it respected Iraq's sovereignty and territorial integrity, and it did not prejudice decisions the Council would take towards reducing or lifting the sanctions once the necessary conditions were met. France believed that sanctions were not a punishment but, rather, were designed to induce a State to behave in a certain way. The effects of sanctions on the peoples must therefore be attenuated, as much as possible, with regard to the resolution. He noted, in particular, that the Council had chosen to revise the general conditions for the implementation of resolution 986 (1995) three months after the start of its entry into force, on the basis of a report from the Secretary-General. He further stressed that the resolution did not affect the implementation, when the time came, of paragraph 22 of resolution 687 (1991), or of the other texts relating to the reduction or lifting of the sanctions. The regime established under resolution 986 (1995) was valid solely within the framework of the arrangements of that resolution.⁹⁸

The representative of the Russian Federation stated that his country was extremely concerned over the acute humanitarian situation in Iraq, which had reached the critical mark because of the effects of sanctions, and believed that those sanctions must be eased in response to the constructive steps already taken by Iraq. He further stated that it was important that resolution 986 (1995) affirmed the obligation of all States to respect the sovereignty and territorial integrity of Iraq and provided for the Government of Iraq to participate in agreeing specific ways of implementing that act of humanitarian relief. The resolution clearly stated that its measures were temporary and did not substitute for any future agreement to lift the oil embargo, pursuant to paragraph 22 of resolution 687 (1991). With specific reference to paragraph 6 of the resolution, which touched on issues in the bilateral relations between Iraq and Turkey, he noted that such issues should be resolved within that framework.⁹⁹

The President, speaking in his capacity as the representative of the Czech Republic, noted that the Council, by adopting resolution 986 (1995), was not prejudging further developments that, in the future,

⁹⁸ Ibid., pp. 12-13.

⁹⁹ Ibid., p. 14.

might lead to the modification of the sanctions regime. In particular, the resolution did not preclude the implementation of paragraph 22 of resolution 687 (1991) and reaffirmed the sovereignty and territorial integrity of Iraq. He further noted that doubts had sometimes been cast on the entire philosophy of sanctions, precisely because many observers felt that their burden fell unjustly and preponderantly on weaker strata of the targeted country's population. Resolution 986 (1995) might show a way of refining the generally blunt instrument of sanctions for other situations around the world.¹⁰⁰

Decision of 23 June 1995: letter from the President to the Secretary-General

By a letter dated 1 June 1995 addressed to the President of the Council,¹⁰¹ the Secretary-General reported that he had been informed, on 15 May 1995, by the Minister for Foreign Affairs of Iraq that his Government would not implement resolution 986 (1995) because it objected, *inter alia*, to the proportion of petroleum to be exported via the Kirkuk-Yumurtalik pipeline and to the modalities for distribution of humanitarian relief in three northern governorates. After conducting a thorough review of the steps required to implement the resolution, the Secretary-General had concluded that cooperation from the Government of Iraq was an essential prerequisite. He believed it appropriate, therefore, to postpone preparation of the report required of him pursuant to resolution 986 (1995) until further progress had been made in discussions on the subject with Iraq.

By a letter dated 23 June 1995,¹⁰² the President of the Council (Germany) informed the Secretary-General of the following:

The members of the Security Council are grateful for your letter of 1 June 1995 about the implementation of resolution 986 (1995).

The members of the Council accept your conclusions, including that cooperation from the Government of Iraq is an essential prerequisite for the implementation of the resolution and, in the absence of such cooperation, they endorse your decision to postpone preparation of the report requested in paragraph 13 of the resolution.

¹⁰⁰ *Ibid.*, pp. 14-15.

¹⁰¹ S/1995/495.

¹⁰² S/1995/507.

The members of the Council hope that you will take the opportunity of your contacts with the Government of Iraq to obtain its agreement to the implementation of the resolution, which represents a temporary measure to provide for the humanitarian needs of the Iraqi people.

Decision of 6 October 1995: letter from the President to the Secretary-General

On 2 October 1995, the Secretary-General submitted to the Council a report on UNIKOM covering the period from 1 April to 30 September 1995.¹⁰³ The Secretary-General reported that during the period under review, the Iraq-Kuwait border and the demilitarized zone had been generally calm. He noted that in carrying out its tasks UNIKOM had enjoyed the effective cooperation of the Iraqi and Kuwaiti authorities. He recommended that the Mission be maintained.

By a letter dated 6 October 1995,¹⁰⁴ the President of the Council (Nigeria) informed the Secretary-General of the following:

In accordance with the provisions of Security Council resolution 689 (1991) and in the light of your report of 2 October 1995, the members of the Council have reviewed the question of termination or continuation of the United Nations Iraq-Kuwait Observation Mission, as well as its modalities of operation.

I have the honour to inform you that the members of the Council concur with your recommendation that the Mission be maintained. In accordance with resolution 689 (1991) they have decided to review the question once again by 6 April 1996.

I should also like to inform you that the members of the Council agree with your proposal to have Germany become a contributor to the Mission.

B. United States notification of 26 June 1993 measures against Iraq

Deliberations of 27 June 1993 (3245th meeting)

By a letter dated 26 June 1993 addressed to the President of the Council,¹⁰⁵ the representative of the United States reported, that, in accordance with Article 51 of the Charter, her country had exercised its right of self-defence by responding to the Government of Iraq's unlawful attempt to murder the former

¹⁰³ S/1995/836.

¹⁰⁴ S/1995/847.

¹⁰⁵ S/26003.

President of the United States and to its continuing threat to United States nationals. Based on clear and compelling evidence, the United States had reached the conclusion that the Government of Iraq bore direct responsibility for the failed assassination attempt. It had decided to respond, as a last resort, to the attempted attack and the threat of further attacks, by striking at an Iraqi military and intelligence target, so as to minimize risks of collateral damage to civilians. It hoped that such limited and proportionate action might frustrate future unlawful actions on the part of the Government of Iraq and discourage or preempt such activities. In light of the above, the United States Government requested an urgent meeting of the Security Council.

By a letter dated 27 June 1993 addressed to the President of the Council,¹⁰⁶ the representative of Iraq transmitted a letter of the same date from the Minister for Foreign Affairs of Iraq, in which the latter alleged that the United States had committed, on that day, an act of military aggression against Iraq, which had left a large number of dead and wounded among the Iraqi civilian population. The Minister for Foreign Affairs stated that that was a deliberate terrorist act perpetrated by the Government of the United States with the complicity of Kuwait on grounds which were spurious and unjustified. He also contended that the flight of an American U-2 spy plane over Baghdad, on the pretext of carrying out reconnaissance operations as part of the activities of the United Nations Special Commission, constituted irrefutable evidence of espionage operations in preparation for the American attack. Iraq condemned the act of aggression and called on the Council and the international community to associate themselves with such condemnation and to assume their responsibilities by halting the repeated attacks against Iraq and other countries.

At its 3245th meeting, on 27 June 1993, held in response to the request of the United States, the Council included in its agenda the item entitled "United States notification of 26 June 1993 measures against Iraq" and the letter from the representative of the United States. Following the adoption of the agenda, the Council invited the representative of Iraq, at his request, to participate in the discussion without the right to vote. The President (Spain) drew the

¹⁰⁶ S/26004.

attention of the members of the Council to the letter dated 27 June 1993 from the representative of Iraq.

The representative of the United States charged that the attempt against the life of the President of the United States, during his visit to Kuwait in April 1993, was an attack on the United States. Describing in detail the planned attack on the former President, she specified that she was not asking the Council for any action, but, in her delegation's judgment, every Member State would regard an assassination attempt against its former Head of State as an attack against itself, and would react. The United States responded directly, as it was entitled to do under Article 51 of the Charter, which provided for the exercise of self-defence in such cases. The response had been proportionate and aimed at a target directly linked to the operation against the former President of the United States. It was designed to damage the terrorist infrastructure of the Iraqi regime, reduce its ability to promote terrorism and deter further acts of aggression against the United States. She stressed that the action of the United States had not been directed against the Iraqi people and expressed regret for the loss of civilian life. However, one had to keep in mind that, had the Iraqi attempt in Kuwait succeeded, hundreds of civilians could have died. Although the United States had taken action under Article 51 of the Charter, there was the broader context of Iraq's repeated and consistent refusal to comply with the resolutions of the Council since its invasion of Kuwait in 1990. Only recently, Iraq was found again to be in material breach of resolution 687 (1990). Through a policy of firmness and consistency, including readiness to use force if necessary, the international community had to frustrate Iraq's efforts to ignore the will of the Council.¹⁰⁷

The representative of Iraq stated that, on 27 June 1993, the United States had committed another act of aggression against Iraq and had tried to justify it by linking it to the story of the alleged attempt to assassinate its former President, a story which was completely fabricated by the Kuwaiti regime. The Government of Iraq had denied, and continued to deny, any role with respect to the alleged attempt and challenged the parties concerned to produce any clear evidence acceptable to an impartial third party. Pointing out that the United States Government had accused and sentenced Iraq without providing evidence

¹⁰⁷ S/PV.3245, pp. 3-9.

against it or inviting it to clarify its position, he stated that the rules of international law gave the United States no right to overlook the principle of due process of law or the provisions of the Charter. With that act of aggression, the United States had breached its responsibility as a permanent member of the Council and had violated the norms of international law and of the Charter. Iraq believed that the Council must not allow some of its members, by taking military action, to usurp its principal role of maintaining international peace and security. That could threaten peace and security world-wide and impose on the world an unprecedented case of blackmail and terrorism. Noting that Iraq had both rights and duties under the Charter, he stressed that the resolutions of the Council could not deny it its rights. Iraq therefore appealed to the Council to safeguard its rights as a Member State and called upon it to condemn the act of aggression of the United States and take the action necessary to prevent a repetition in the future.¹⁰⁸

The representative of France stated that his Government fully understood the reasons for the unilateral action by the United States forces, in the circumstances under which it was carried out. Having always condemned all forms of terrorism, it approved policies that combat it. He specified that the Government of France sought neither the destabilization nor the dismemberment of the Iraqi State, whose territorial integrity was a factor for regional balance. It supported United Nations action to induce the Government of Iraq to moderate its behaviour and, fulfilling all the obligations imposed on it by the resolutions of the Council, to renounce all aggressive and terrorist conduct and cease to be a threat to the security of the region and the world.¹⁰⁹

Speaking on behalf of the non-aligned countries members of the Council, the representative of Cape Verde stated that the caucus was firmly opposed to, and condemned, terrorism in all its forms and manifestations, whether directed or promoted by or against individuals or States. Its members called for restraint by all States,

¹⁰⁸ Ibid., pp. 9-13.

¹⁰⁹ Ibid., pp. 13-15.

consistent with the principles of the Charter and, in particular, for the maintenance of international peace and security and the avoidance of the use of force inconsistent with the purposes of the United Nations. They also stood for the full and faithful implementation of all Council resolutions and believed that they should be implemented in a non-discriminatory manner in the interests of preserving the credibility and moral authority of the Council.¹¹⁰

The representative of China stated that China had always held that disputes between or among countries should be settled through peaceful means of dialogue and consultation. China was opposed to any action that could contravene the Charter and norms of international relations. It did not endorse any action that might intensify the tension in the region, including the use of force.¹¹¹

The representative of the United Kingdom said that his Government viewed the action by the United States as proper and proportionate. He also drew attention to the following points: first, pursuant to resolution 687 (1991), Iraq had given an undertaking that it would in no way support State terrorism; secondly, at the Security Council meeting of Heads of State or Government on 31 January 1992, the Council had decided that State terrorism was a threat to international peace and security.¹¹²

The representative of the Russian Federation stated that the actions by the United States were justified since they arose from the right of States to individual and collective self-defence, in accordance with Article 51 of the Charter.¹¹³

The President adjourned the meeting, noting that no proposal had been submitted on which the Council was required to take action.

¹¹⁰ Ibid., pp. 16-17.

¹¹¹ Ibid., p. 21.

¹¹² Ibid., pp. 21-22.

¹¹³ Ibid., p. 22.